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Contents

Federal Register

Vol. 91, No. 93

Thursday, May 14, 2026

Agricultural Marketing Service

NOTICES

Designation Opportunities for United States Grain Standards Act, 27237–27238

Agriculture Department

See Agricultural Marketing Service

See Animal and Plant Health Inspection Service

NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals, 27238–27239

Animal and Plant Health Inspection Service

NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals:

Restrictions on Importation of Live Poultry, Poultry Meat, and Other Poultry Products from Specified Regions, 27239–27240

Requests for Nominations:

General Conference Committee of the National Poultry Improvement Plan, 27240–27241

Census Bureau

NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals:

The American Community Survey and Puerto Rico Community Survey, 27241–27242

Centers for Medicare & Medicaid Services

NOTICES

Medicare and Medicaid Programs:

Quarterly Listing of Program Issuances—January through March 2026, 27339–27351

Children and Families Administration

NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals:

Community Services Block Grant Disaster Supplemental Annual Report, 27352–27353

Guidance for Tribal Temporary Assistance for Needy Families Program, 27351–27352

Coast Guard

RULES

Safety Zone:

Gulf Intracoastal Waterway; Florida Avenue Bridge; Temporary Waterway Closure, 27204–27205

NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals, 27356–27361

Commerce Department

See Census Bureau

See Foreign-Trade Zones Board

See Industry and Security Bureau

See International Trade Administration

See National Oceanic and Atmospheric Administration

See National Telecommunications and Information Administration

Commission of Fine Arts

NOTICES

Hearings, Meetings, Proceedings, etc., 27303–27304

Committee for Purchase From People Who Are Blind or Severely Disabled

NOTICES

Procurement List; Additions and Deletions, 27304–27305

Commodity Futures Trading Commission

RULES

Order Granting Conditional Substituted Compliance in Connection with Certain Capital and Financial Reporting Requirements Applicable to a Nonbank Swap Dealer Domiciled in the French Republic, etc., 27792–27825

NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals, 27306–27308

Comptroller of the Currency

NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals:

Securities Offering Disclosure Rules, 27485–27487

Consumer Product Safety Commission

RULES

Safety Standard:

Toddler Beds, 27199–27204

NOTICES

Guidance:

Referrals for Potential Criminal Enforcement, 27308–27309

Corporation for National and Community Service

NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals:

AmeriCorps Education Award Transfer Forms, 27309–27310

Application Package for Current Population Survey Civic Engagement and Volunteering Supplement, 27309

Defense Department

NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals:

Acquisition 360 Voluntary Survey, 27339

Arms Sales, 27310–27321

Education Department

NOTICES

Competition Announcement:

Ready to Learn Programming Program, 27322

Tests Determined to Be Suitable for Use in the National Reporting System for Adult Education, 27321–27322

Energy Department

See Federal Energy Regulatory Commission

NOTICES

Assistance to Foreign Atomic Energy Activities Secretarial Determination, 27322–27323

Environmental Protection Agency**RULES**

- Air Quality State Implementation Plans; Approvals and Promulgations:
- Illinois; Moderate Attainment Plan Elements for the Chicago and Metro East Areas for the 2015 Ozone Standard, 27207–27209
 - Indiana; Indiana NOx Emissions Monitoring, 27214–27217
 - Michigan; Infrastructure State Implementation Plan Requirements for the 2015 Ozone NAAQS; Michigan State Board Requirements, 27205–27207
 - Minnesota; Metropolitan Council Wastewater Treatment Plant Title I PM10 State Implementation Plan Revisions, 27217–27219
 - Montana; Revisions to Western Sugar Stipulation, 27209–27211
 - Ohio; Clean Data Determination for the Cleveland, OH Area for the 2015 Ozone Standard, 27211–27214
- State Plans for Designated Facilities and Pollutants; Approvals and Promulgations:
- Washington; Northwest Clean Air Agency, 27219–27222
- PROPOSED RULES**
- Air Quality State Implementation Plans; Approvals and Promulgations:
- Determination of Attainment by the Attainment Date and Clean Data Determination for the 2012 Annual Fine Particulate Standard; Plumas County, CA, 27224–27229
- State Hazardous Waste Management Program:
- Alaska; Tentative Determination on Final Authorization, 27229–27234
- NOTICES**
- Draft Fiscal Year 2027 Evidence Plan, 27330
- Hearings, Meetings, Proceedings, etc.:
- Ozone Transport Commission and the Mid-Atlantic Northeast Visibility Union, 27332
- Permits; Applications, Issuances, etc.:
- Jamul Casino Resort, Clean Air Act Tribal Minor New Source Review, 27331
- Proposed Settlement Agreement, Stipulation, Order, and Judgment, etc.:
- CERCLA; Cost Recovery for the Desha Road Superfund Site, Tappahannock, Essex County, VA, 27331–27332

Federal Aviation Administration**RULES**

- Airspace Designations and Reporting Points:
- Palm Beach International Airport, West Palm Beach, FL, 27198–27199
- Airworthiness Directives:
- Airbus SAS Airplanes, 27183–27187, 27189–27193
 - ATR—GIE Avions de Transport Regional Airplanes, 27187–27189
 - Dassault Aviation Airplanes, 27193–27198

PROPOSED RULES

- Airspace Designations and Reporting Points:
- Westfield, MA, 27223–27224

Federal Communications Commission**NOTICES**

- Agency Information Collection Activities; Proposals, Submissions, and Approvals, 27332–27333
- Radio Broadcasting Services:
- AM or FM Proposals to Change the Community of License, 27333

Federal Energy Regulatory Commission**NOTICES**

- Combined Filings, 27323–27324, 27329–27330
- Environmental Assessments; Availability, etc.:
- Texas Gas Transmission, LLC, Proposed Carnation Project, 27324–27325
- Request under Blanket Authorization:
- Transcontinental Gas Pipe Line Co., LLC, 27325–27327
- Scoping Period:
- On-Site Environmental Review for the Proposed Line Section 32 Expansion Project, 27327–27329

Federal Maritime Commission**NOTICES**

- Request for Membership Application:
- National Shipper Advisory Committee, 27334

Federal Motor Carrier Safety Administration**NOTICES**

- Agency Information Collection Activities; Proposals, Submissions, and Approvals:
- Request for Revocation of Authority Granted, 27483–27484
- Exemption Application:
- Commercial Driver's License; State of Hawaii Department of Transportation, 27481–27483

Federal Procurement Policy Office**NOTICES**

- Agency Information Collection Activities; Proposals, Submissions, and Approvals:
- Acquisition 360 Voluntary Survey, 27339

Federal Trade Commission**NOTICES**

- Agency Information Collection Activities; Proposals, Submissions, and Approvals, 27338–27339
- Granting of Requests for Early Termination of the Waiting Period under the Premerger Notification Rules, 27334–27338

Foreign Assets Control Office**NOTICES**

- Sanctions Action, 27487–27490

Foreign-Trade Zones Board**NOTICES**

- Application for Subzone:
- BASF Agricultural Solutions US LLC, Foreign-Trade Zone 102, Fenton and Palmyra, MO, 27243
 - Tesla, Inc., Foreign-Trade Zone 18, Tracy, CA, 27242–27243
- Approval of Subzone Expansion:
- Wabtec Transportation Systems, LLC; Erie and Grove City, PA, 27243

General Services Administration**NOTICES**

- Agency Information Collection Activities; Proposals, Submissions, and Approvals:
- Acquisition 360 Voluntary Survey, 27339

Geological Survey**NOTICES**

- Agency Information Collection Activities; Proposals, Submissions, and Approvals:
- Turtle Distribution Database, 27361–27362

Health and Human Services Department

See Centers for Medicare & Medicaid Services
 See Children and Families Administration
 See National Institutes of Health

Homeland Security Department

See Coast Guard

Industry and Security Bureau**NOTICES**

Hearings, Meetings, Proceedings, etc.:
 Emerging Technology Technical Advisory Committee,
 27243–27244

Institute of Museum and Library Services**NOTICES**

Agency Information Collection Activities; Proposals,
 Submissions, and Approvals:
 Guidelines for IMLS Grants to States Five-Year
 Evaluation, 27372–27373
 IMLS Grants to States Program State Reporting System,
 27373–27374

Interior Department

See Geological Survey
 See Land Management Bureau
 See National Park Service

International Trade Administration**NOTICES**

Antidumping or Countervailing Duty Investigations, Orders,
 or Reviews:
 Certain Carbon and Alloy Steel Cut-to-Length Plate from
 the Republic of Korea, 27264–27266
 Certain Cold Drawn Mechanical Tubing of Carbon and
 Alloy Steel from Italy, 27267–27268
 Certain Corrosion-Resistant Steel Products from the
 Republic of Korea, 27252–27254
 Certain Frozen Warmwater Shrimp from Thailand,
 27255–27259
 Certain Hot-Rolled Steel Flat Products from the Republic
 of Korea, 27268–27270
 Certain Quartz Surface Products from the People's
 Republic of China, 27261–27262
 Certain Steel Nails from Malaysia, 27248–27250
 Chromium Trioxide from India, 27244–27246
 Circular Welded Carbon Steel Standard Pipe and Tube
 Products from the Republic of Türkiye, 27259–27261
 Common Alloy Aluminum Sheet from Taiwan, 27250–
 27252
 Glycine from India, 27262–27264
 Large Diameter Welded Pipe from the Republic of Korea,
 27246–27248
 Prestressed Concrete Steel Wire Strand from the United
 Arab Emirates; Final Rescission of New Shipper
 Review; 2024, 27254–27255
 Sales at Less Than Fair Value; Determinations,
 Investigations, etc.:
 Polytetramethylene Ether Glycol from the People's
 Republic of China, the Republic of Korea, Taiwan,
 and the Socialist Republic of Vietnam; Correction,
 27266–27267

International Trade Commission**NOTICES**

Complaint, 27367–27368

Investigations; Determinations, Modifications, and Rulings,
 etc.:
 Certain Integrated Circuits, Electronic Devices Containing
 the Same, and Components Thereof, 27368–27369

Justice Department**NOTICES**

Agency Information Collection Activities; Proposals,
 Submissions, and Approvals:
 Semi-Annual Progress Report for the Technical
 Assistance Program, 27369
 Semi-Annual Progress Report for the Tribal Sexual
 Assault Services Program, 27369–27370

Labor Department**NOTICES**

Agency Information Collection Activities; Proposals,
 Submissions, and Approvals:
 Slope and Shaft Sinking Plans (Pertains to the Surface
 Work Areas of Underground Coal Mines), 27370–
 27371

Land Management Bureau**NOTICES**

Application:
 Withdrawal Extension for Fort Carson and Pinon Canyon
 Maneuver Site, CO; Public Meeting, 27362–27366

Management and Budget Office

See Federal Procurement Policy Office

Maritime Administration**NOTICES**

Use of Foreign-built Small Passenger Vessel in United
 States Coastwise Trade:
 M/V Alolkoy, 27484–27485

National Aeronautics and Space Administration**NOTICES**

Agency Information Collection Activities; Proposals,
 Submissions, and Approvals:
 Acquisition 360 Voluntary Survey, 27339

National Archives and Records Administration**NOTICES**

Records Schedules, 27371–27372

National Foundation on the Arts and the Humanities

See Institute of Museum and Library Services

National Institutes of Health**NOTICES**

Hearings, Meetings, Proceedings, etc.:
 Center for Scientific Review, 27353–27356
 National Heart, Lung, and Blood Institute, 27354

National Oceanic and Atmospheric Administration**RULES**

Fisheries of the Exclusive Economic Zone off Alaska:
 Pacific Cod by Catcher/Processors using Hook-and-Line
 Gear in the Western Regulatory Area of the Gulf of
 Alaska, 27222

PROPOSED RULES

Fisheries of the Northeastern United States:
 Omnibus Management Flexibility Amendment to New
 England Fishery Management Council Fishery
 Management Plans, 27234–27236

NOTICES

Endangered and Threatened Species:

12-Month Finding on a Petition to List Gulf of Alaska
Chinook Salmon as Threatened or Endangered under
the Endangered Species Act, 27271–27283

Hearings, Meetings, Proceedings, etc.:

North Pacific Fishery Management Council, 27270–27271
Pacific Fishery Management Council, 27270

Taking or Importing of Marine Mammals:

Research, Monitoring, and Management Activities on the
South Farallon Islands, Farallon Islands National
Wildlife Refuge, CA, 27283–27302

U.S. Marine Corps Training Activities at Cherry Point
Range Complex, NC, 27302–27303

National Park Service**NOTICES**

Requests for Nominations:

Acadia National Park Advisory Commission, 27366–
27367

**National Telecommunications and Information
Administration****NOTICES**Agency Information Collection Activities; Proposals,
Submissions, and Approvals:

Tribal Broadband Connectivity Program and Native
Entities Grant Program, 27303

Nuclear Regulatory Commission**NOTICES**Agency Information Collection Activities; Proposals,
Submissions, and Approvals:

Nondiscrimination on the Basis of Sex in Educational
Programs or Activities Receiving Federal Financial
Assistance, 27377–27378

Notice of Enforcement Discretion for Operating Power
Reactors and Gaseous Diffusion Plants, NRC
Enforcement Policy, 27375–27376

NRC Form 974, Privacy Act Compliant Form, 27378–
27379

NUREG/BR-0254, Payment Methods and NRC Form 629,
Authorization for Payment by Credit Card, 27376–
27377

Request for Visit, 27374–27375

Personnel Management Office**NOTICES**Agency Information Collection Activities; Proposals,
Submissions, and Approvals:

Declaration for Federal Employment, 27379–27380

Postal Regulatory Commission**NOTICES**

New Postal Products, 27380–27381

Postal Service**NOTICES**

Change in Rates and Classifications of General

Applicability for Competitive Products, 27381–27382

Presidential Documents**PROCLAMATIONS**

Special Observances:

Peace Officers Memorial Day and Police Week (Proc.
11029), 27827–27830

Securities and Exchange Commission**NOTICES**

Application:

AQR Delphi Long-Short Fund and AQR Capital
Management, LLC, 27405–27406

GoldenTree Opportunistic Credit Fund, et al., 27474–
27475

Precidian ETF Trust II, et al., 27472–27474

Self-Regulatory Organizations; Proposed Rule Changes:

Cboe BYX Exchange, Inc., 27406–27419, 27592–27639

Cboe BZX Exchange, Inc., 27742–27789

Cboe C2 Exchange, Inc., 27492–27539

Cboe EDGA Exchange, Inc., 27692–27739

Cboe EDGX Exchange, Inc., 27642–27689

Cboe Exchange, Inc., 27444–27449, 27542–27589

Nasdaq GEMX, LLC, 27449–27472, 27478–27481

Nasdaq PHLX LLC, 27421–27444

National Securities Clearing Corp., 27475–27478

NYSE Texas, Inc., 27420–27421

The Nasdaq Stock Market LLC, 27382–27405

Transportation Department

See Federal Aviation Administration

See Federal Motor Carrier Safety Administration

See Maritime Administration

Treasury Department

See Comptroller of the Currency

See Foreign Assets Control Office

Separate Parts in This Issue**Part II**

Securities and Exchange Commission, 27492–27539

Part III

Securities and Exchange Commission, 27542–27589

Part IV

Securities and Exchange Commission, 27592–27639

Part V

Securities and Exchange Commission, 27642–27689

Part VI

Securities and Exchange Commission, 27692–27739

Part VII

Securities and Exchange Commission, 27742–27789

Part VIII

Commodity Futures Trading Commission, 27792–27825

Part IX

Presidential Documents, 27827–27830

Reader Aids

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

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CFR PARTS AFFECTED IN THIS ISSUE

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

3 CFR**Proclamations:**

11029 27829

14 CFR

39 (6 documents) 27183,
27185, 27187, 27189, 27193,
27195

71 27198

Proposed Rules:

71 27223

16 CFR

1217 27199

17 CFR

Ch. I 27792

33 CFR

165 27204

40 CFR

52 (6 documents) 27205,
27207, 27209, 27211, 27214,
27217

62 27219

Proposed Rules:

52 27224

81 27224

271 27229

50 CFR

679 27222

Proposed Rules:

648 27234

Rules and Regulations

Federal Register

Vol. 91, No. 93

Thursday, May 14, 2026

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

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2026-0009; Project Identifier MCAI-2025-00436-T; Amendment 39-23338; AD 2026-09-16]

RIN 2120-AA64

Airworthiness Directives; Airbus SAS Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Airbus SAS Model A319-111, -112, -113, -114, -115, -131, -132, and -133 airplanes; Model A320 series airplanes; and Model A321-211, -212, -213, -231, -232, -251N, -251NX, -252N, -252NX, -253N, -253NX, -271N, -271NX, -272N, and -272NX airplanes. This AD was prompted by a review of the cold working process on the assembly line that detected a deviation to the manufacturing process. This AD requires repetitive inspections for the nominal design condition of the fastener holes in the pressure deck membrane to center wing box attachment and, as applicable, an inspection for cracking at the affected area and corrective actions. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective June 18, 2026.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of June 18, 2026.

ADDRESSES:

AD Docket: You may examine the AD docket at [regulations.gov](https://www.regulations.gov) under Docket No. FAA-2026-0009; 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 final rule, the mandatory

continuing airworthiness information (MCAI), any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590.

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.

- 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. It is also available at [regulations.gov](https://www.regulations.gov) under Docket No. FAA-2026-0009.

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:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain Airbus SAS Model A319-111, -112, -113, -114, -115, -131, -132, and -133 airplanes; Model A320 series airplanes; and Model A321-211, -212, -213, -231, -232, -251N, -251NX, -252N, -252NX, -253N, -253NX, -271N, -271NX, -272N, and -272NX airplanes. The NPRM was published in the **Federal Register** on January 12, 2026 (91 FR 1101). The NPRM was prompted by EASA AD 2025-0066, dated March 28, 2025 (EASA AD 2025-0066) (also referred to as the MCAI), issued by EASA, which is the Technical Agent for the Member States of the European Union. The MCAI states that, during a review of the cold working process on the assembly line, a deviation to the manufacturing process was detected, which could adversely affect the fatigue life of the pressure deck membrane to center wing box attachment. This condition, if not addressed, could lead to crack initiation and propagation, resulting in reduced structural integrity of the airplane.

In the NPRM, the FAA proposed to require repetitive inspections for the nominal design condition of the fastener holes in the pressure deck membrane to center wing box attachment and, as applicable, an inspection for cracking at the affected area and corrective actions, as specified in EASA AD 2025-0066. The FAA is issuing this AD to address the unsafe condition on these products.

You may examine the MCAI in the AD docket at [regulations.gov](https://www.regulations.gov) under Docket No. FAA-2026-0009.

Discussion of Final Airworthiness Directive

Comments

The FAA received one comment from Delta Air Lines (Delta). The following presents the comments received on the NPRM and the FAA's response to each comment.

Request To Add an Exception To Clarify Nominal Diameter of Fasteners

Delta requested that the FAA add an exception to the proposed AD clarifying the nominal design condition requirement is that the fasteners installed have a nominal diameter of less than or equal to 4.8 mm (0.189 in.). Delta stated a note in the service information referenced in EASA AD 2025-0066 specifies that the fasteners installed have a nominal diameter of 4.8 mm (0.189 in.), but Airbus TechRequest 81741919 clarified the nominal design condition must be less than or equal to 4.8 mm (0.189 in.).

FAA disagrees that an exception is needed. The FAA notes that nominal design condition is that fasteners installed have a nominal diameter as specified in the material referenced in EASA AD 2025-0066. A nominal diameter of 4.8 mm (0.189 in.) does not mean the diameter must be exactly of 4.8 mm (0.189 in.). Therefore, the FAA has not revised this AD in response to this comment.

Conclusion

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 reviewed the relevant data, considered any

comments received, and determined that air safety requires adopting this AD as proposed. Accordingly, the FAA is issuing this AD to address the unsafe condition on these products. Except for minor editorial changes, this AD is adopted as proposed in the NPRM. None of the changes will increase the economic burden on any operator.

Material Incorporated by Reference Under 1 CFR Part 51

EASA AD 2025–0066 specifies procedures for repetitive special detailed inspections (SDI) for any

discrepancy of the fastener holes (*i.e.*, fastener holes that are not in nominal design condition) in the pressure deck membrane to the center wing box attachment, under titanium angle connection and corner brackets at frame 36, at stringer 30, both left hand and right hand sides. EASA AD 2025–0066 also specifies procedures for a rototest inspection for any discrepancy (*i.e.*, cracking) at the affected area and corrective actions, as applicable. Corrective actions include contacting Airbus for approved repair instructions and accomplishing those instructions.

EASA AD 2025–0066 also specifies procedures for repairing fastener holes, which would terminate the repetitive inspections.

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.

Costs of Compliance

The FAA estimates that this AD affects 477 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Up to 76 work-hours × \$85 per hour = \$6,460	Up to \$183	Up to \$6,643	Up to \$3,168,711

The FAA estimates the following costs to do any necessary on-condition actions 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 these on-condition actions:

ESTIMATED COSTS OF ON-CONDITION ACTIONS *

Labor cost	Parts cost	Cost per product
1 work-hour × \$85 per hour = \$85 (rototest inspection)	\$0	\$85

*The FAA has received no definitive data on which to base the cost estimates for the on-condition repairs specified in this AD.

The FAA has included all known costs in its cost estimate. According to the manufacturer, however, some or all of the costs of this AD may be covered under warranty, thereby reducing the cost impact on affected operators.

The FAA has received no definitive data on which to base the cost estimates for the optional actions specified in this AD.

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

This AD will not have federalism implications under Executive Order 13132. This AD will 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 that this AD:

- (1) Is not a “significant regulatory action” under Executive Order 12866,
- (2) Will not affect intrastate aviation in Alaska, and
- (3) Will 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 Amendment

Accordingly, under the authority delegated to me by the Administrator,

the FAA amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2026–09–16 Airbus SAS: Amendment 39–23338; Docket No. FAA–2026–0009; Project Identifier MCAI–2025–00436–T.

(a) Effective Date

This airworthiness directive (AD) is effective June 18, 2026.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Airbus SAS Model airplanes specified in paragraphs (c)(1) through (3) of this AD, certificated in any category, as identified in European Union Aviation Safety Agency (EASA) AD 2025–0066, dated March 28, 2025 (EASA AD 2025–0066).

- (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, –271N, –271NX, –272N, and –272NX airplanes.

(d) Subject

Air Transport Association (ATA) of America Code 53, Fuselage.

(e) Unsafe Condition

This AD was prompted by a review of the cold working process on the assembly line that detected a deviation to the manufacturing process. The FAA is issuing this AD to address a deviation to the manufacturing process, which could adversely affect the fatigue life of the pressure deck membrane to center wing box attachment. This condition, if not addressed, could lead to crack initiation and propagation, resulting in reduced structural integrity of the airplane.

(f) Compliance

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

(g) Requirements

Except as specified in paragraphs (h) and (i) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, EASA AD 2025–0066.

(h) Exceptions to EASA AD 2025–0066

(1) Where paragraph (2) of EASA AD 2025–0066 specifies “any discrepancy, as defined in the SB”, this AD requires replacing that text with “any fastener hole is not in nominal design condition, as defined in the SB”.

(2) Where paragraph (3) of EASA AD 2025–0066 specifies “no discrepancy is detected”, this AD requires replacing that text with “fastener holes are in nominal design condition, as defined in the SB”.

(3) Where paragraph (4) of EASA AD 2025–0066 specifies if “any discrepancy is detected, as defined in the SB, before next flight, contact Airbus for approved repair instructions and, within the compliance time specified therein, accomplish those instructions accordingly”, this AD requires replacing that text with “any cracking is detected, repair the cracking before further flight 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”.

(4) Where paragraph (6) of EASA AD 2025–0066 specifies “no discrepancy”, this AD requires replacing that text with “no cracking”.

(5) This AD does not adopt the “Remarks” section of EASA AD 2025–0066.

(i) No Reporting Requirement

Although the material referenced in EASA AD 2025–0066 specifies to submit certain information to the manufacturer, this AD does not include that requirement.

(j) 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 the Continued Operational Safety Branch, send it to the attention of the person identified in paragraph (k) 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 DOA. If approved by the DOA, the approval must include the DOA-authorized signature.

(3) *Required for Compliance (RC)*: Except as required by paragraphs (h), (i), and (j)(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.

(k) 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.

(l) 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 2025–0066, dated March 28, 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 30, 2026.

Brian Knaup,

Acting Deputy Director, Integrated Certificate Management Division, Aircraft Certification Service.

[FR Doc. 2026–09662 Filed 5–13–26; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2026–1323; Project Identifier MCAI–2025–01190–T; Amendment 39–23336; AD 2026–09–14]

RIN 2120–AA64

Airworthiness Directives; Airbus SAS Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all Airbus SAS Model A350–941 and –1041 airplanes. This AD was prompted by the obsolescence of the clamp holding in place the oxygen generator in the container and introduction of a new clamp from another manufacturer with different locking torque specifications, which were not properly reflected in Airbus documentation. This AD requires replacing each affected part, prohibits accomplishing maintenance actions using certain versions of a maintenance procedure task, and also prohibits the installation of affected parts. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective June 18, 2026.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of June 18, 2026.

ADDRESSES:

AD Docket: You may examine the AD docket at regulations.gov under Docket No. FAA–2026–1323; 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 final rule, the mandatory continuing airworthiness information

(MCAI), any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590.

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.

- 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. It is also available at regulations.gov under Docket No. FAA-2026-1323.

FOR FURTHER INFORMATION CONTACT: Dan Rodina, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 206-231-3225; email: Dan.Rodina@faa.gov.

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to all Airbus SAS Model A350-941 and -1041 airplanes. The NPRM was published in the **Federal Register** on February 13, 2026 (91 FR 6801). The NPRM was prompted by EASA AD 2025-0138, dated July 1, 2025 (EASA AD 2025-0138) (also referred to as the MCAI), issued by EASA, which is the Technical Agent for the Member States of the European Union. The MCAI states

that due to the obsolescence of the clamp holding in place the oxygen generator in the container, Collins introduced a new clamp from another manufacturer with different locking torque specifications. This new torque value was not properly reflected in Airbus documentation. Installing a part using the incorrect torque value (not updated with new specifications) could lead to damage of the chemical oxygen generator housing. This condition, if not corrected, could lead to a reduction of the available oxygen capacity of the airplane when needed, possibly resulting in injury to the airplane occupants.

In the NPRM, the FAA proposed to require replacing each affected part and prohibiting accomplishing maintenance actions using certain versions of a maintenance procedure task, as specified in EASA AD 2025-0138. The NPRM also proposed to prohibit the installation of affected parts, as specified in EASA AD 2025-0138. The FAA is issuing 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-2026-1323.

Discussion of Final Airworthiness Directive

Comments

The FAA received comments from Air Line Pilots Association, International (ALPA) who supported the NPRM without change.

Clarification of Exception in Paragraph (h)(2) of This AD

The FAA revised paragraph (h)(2) of this AD to clarify the text in EASA 2025-0138 that must be replaced.

Conclusion

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 reviewed the relevant data, considered any comments received, and determined that air safety requires adopting this AD as proposed. Accordingly, the FAA is issuing this AD to address the unsafe condition on these products. Except for minor editorial changes, and any other changes described previously, this AD is adopted as proposed in the NPRM. None of the changes will increase the economic burden on any operator.

Material Incorporated by Reference Under 1 CFR Part 51

EASA AD 2025-0138 specifies procedures for replacing each affected chemical oxygen generator. EASA AD 2025-0138 also prohibits accomplishing maintenance actions using maintenance procedure task A350-A-35-21-36-A0001-720A-A dated earlier than October 2024 and prohibits the installation of affected parts.

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.

Costs of Compliance

The FAA estimates that this AD affects 38 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Up to 350 work-hour × \$85 per hour = \$29,750.	Up to \$230,300	Up to \$260,050	Up to \$9,881,900.

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

This AD will not have federalism implications under Executive Order

13132. This AD will 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 that this AD:

- (1) Is not a "significant regulatory action" under Executive Order 12866,
- (2) Will not affect intrastate aviation in Alaska, and

(3) Will 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 Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2026–09–14 Airbus SAS: Amendment 39–23336; Docket No. FAA–2026–1323; Project Identifier MCAI–2025–01190–T.

(a) Effective Date

This airworthiness directive (AD) is effective June 18, 2026.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all Airbus SAS Model A350–941 and –1041 airplanes, certificated in any category.

(d) Subject

Air Transport Association (ATA) of America Code 35, Oxygen.

(e) Unsafe Condition

This AD was prompted by the obsolescence of the clamp holding in place the oxygen generator in the container and introduction of a new clamp from another manufacturer with different locking torque specifications, which were not properly reflected in Airbus documentation. Installing a part using the incorrect torque value (not updated with new specifications) could lead to damage of the chemical oxygen generator housing. This condition, if not addressed, could result in a reduction of the available oxygen capacity of the airplane when needed, possibly resulting in injury to the airplane occupants.

(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 2025–0138, dated July 1, 2025 (EASA AD 2025–0138).

(h) Exceptions to EASA AD 2025–0138

(1) Where EASA AD 2025–0138 refers to its effective date, this AD requires using the effective date of this AD.

(2) Where EASA AD 2025–0138 defines the affected parts as those meeting certain conditions listed in “Table 1 of the AOT, as defined in this AD”, this AD requires replacing that text with “Table 1 of Airbus Alert Operator Transmission (AOT) A35P024–24, dated April 22, 2025”.

(3) Where EASA AD 2025–0138 defines a serviceable part as “Any chemical oxygen generator, eligible for installation in accordance with Airbus approved instructions, that is not an affected part”, this AD requires replacing that text with “Any chemical oxygen generator, eligible for installation that is not an affected part”.

(4) This AD does not adopt the “Remarks” section of EASA AD 2025–0138.

(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 the 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 referenced in EASA AD 2025–0138 contains paragraphs that are labeled as RC, the instructions in RC paragraphs, including subparagraphs under an RC paragraph, must be done to comply with this AD; any paragraphs, including subparagraphs under those paragraphs, that are not identified as RC are recommended. The instructions in paragraphs, including subparagraphs under those paragraphs, 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 instructions identified as RC can be done and the airplane can be put back in an airworthy condition. Any substitutions or changes to instructions

identified as RC require approval of an AMOC.

(j) Additional Information

For more information about this AD, contact Dan Rodina, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 206–231–3225; email: Dan.Rodina@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 2025–0138, dated July 1, 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 28, 2026.

Brian Knaup,

Acting Deputy Director, Integrated Certificate Management Division, Aircraft Certification Service.

[FR Doc. 2026–09659 Filed 5–13–26; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2026–2278; Project Identifier MCAI–2025–00628–T; Amendment 39–23335; AD 2026–09–13]

RIN 2120–AA64

Airworthiness Directives; ATR—GIE Avions de Transport Régional Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all ATR—GIE Avions de Transport Régional Model ATR42–200, –300, and –320 airplanes. This AD was prompted by a report of an occurrence of a flap

asymmetry detector and flap interconnection shaft having worn splines and not engaging mechanically. This AD requires a special detailed inspection (SDI) of the affected flap asymmetry detection mechanism, and applicable corrective actions. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective June 18, 2026.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of June 18, 2026.

ADDRESSES:

AD Docket: You may examine the AD docket at *regulations.gov* under Docket No. FAA–2026–2278; 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 final rule, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

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*.

- 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. It is also available at *regulations.gov* under Docket No. FAA–2026–2278.

FOR FURTHER INFORMATION CONTACT:
Fatin Saumik, Aviation Safety Engineer,

FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: 516–228–7350; email: *9-AVS-AIR-BACO-COS@faa.gov*.

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to all ATR—GIE Avions de Transport Régional Model ATR42–200, –300, and –320 airplanes. The NPRM was published in the **Federal Register** on February 26, 2026 (91 FR 9510). The NPRM was prompted by EASA AD 2025–0087, dated April 16, 2025 (EASA AD 2025–0087) (also referred to as the MCAI), issued by EASA, which is the Technical Agent for the Member States of the European Union. The MCAI states an occurrence of flap asymmetry detector and flap interconnection shaft having worn splines and not engaging mechanically was reported during maintenance. This condition, if not detected and corrected, could lead to the loss of flap asymmetry monitoring, which, in case of asymmetrical flaps extension or retraction, could possibly result in reduced control of the airplane.

In the NPRM, the FAA proposed to require an SDI of the affected flap asymmetry detection mechanism, and applicable corrective actions, as specified in EASA AD 2025–0087. The FAA is issuing 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–2026–2278.

Discussion of Final Airworthiness Directive

Comments

The FAA received comments from Air Line Pilots Association, International (ALPA) and one other individual who supported the NPRM without change.

Conclusion

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 reviewed the relevant data, considered any comments received, and determined that air safety requires adopting this AD as proposed. Accordingly, the FAA is issuing this AD to address the unsafe condition on these products. Except for minor editorial changes, this AD is adopted as proposed in the NPRM. None of the changes will increase the economic burden on any operator.

Material Incorporated by Reference Under 1 CFR part 51

EASA AD 2025–0087 specifies procedures for an SDI of the affected flap asymmetry detection mechanism for any discrepancy (*i.e.*, any findings, which includes any flap asymmetry detector that is not mechanically engaged to the flap interconnection shaft and any findings, such as worn parts, corrosion, and cracking, found during the removal of the flap asymmetry detection mechanism) and to contact the manufacturer for approved repair instructions as corrective action when any discrepancy is detected.

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.

Costs of Compliance

The FAA estimates that this AD affects 17 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS			
Labor cost	Parts cost	Cost per product	Cost on U.S. operators
2 work-hours × \$85 per hour = \$170	\$0	\$170	\$2,890

The FAA has received no definitive data on which to base the cost estimates for the on-condition actions specified in this AD.

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

This AD will not have federalism implications under Executive Order 13132. This AD will 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 that this AD:

- (1) Is not a “significant regulatory action” under Executive Order 12866,
- (2) Will not affect intrastate aviation in Alaska, and
- (3) Will 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 Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2026–09–13 ATR—GIE Avions de Transport Régional: Amendment 39–23335; Docket No. FAA–2026–2278; Project Identifier MCAI–2025–00628–T.

(a) Effective Date

This airworthiness directive (AD) is effective June 18, 2026.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all ATR—GIE Avions de Transport Régional Model ATR42–200, –300, and –320 airplanes, certificated in any category.

(d) Subject

Air Transport Association (ATA) of America Code 27, Flap controls.

(e) Unsafe Condition

This AD was prompted by a report of a flap asymmetry detector and flap interconnection shaft having worn splines and not engaging mechanically. The FAA is issuing this AD to

address this condition, which, if not addressed, could result in the loss of flap asymmetry monitoring and reduced control of the airplane in case of asymmetrical flaps extension or retraction.

(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 2025–0087, dated April 16, 2025 (EASA AD 2025–0087).

(h) Exceptions to EASA AD 2025–0087

(1) Where EASA AD 2025–0087 refers to its effective date, this AD requires using the effective date of this AD.

(2) This AD does not adopt the “Remarks” section of EASA AD 2025–0087.

(i) No Reporting Requirement

Although the material referenced in EASA AD 2025–0087 specifies to submit certain information to the manufacturer, this AD does not include that requirement.

(j) Additional AD Provisions

The following provisions also apply to this AD:

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

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

(k) Additional Information

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

(l) 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 2025–0087, dated April 16, 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 28, 2026.

Steven W. Thompson,

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

[FR Doc. 2026–09658 Filed 5–13–26; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2025–2552; Project Identifier MCAI–2025–00623–T; Amendment 39–23339; AD 2026–09–17]

RIN 2120–AA64

Airworthiness Directives; Airbus SAS Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is superseding Airworthiness Directive (AD) 2025–03–07, which applied to certain Airbus SAS Model A318, A319, and A320 series airplanes; and Model A321–111, –112, –131, –211, –212, –213, –231, –232, –251N, –252N, –253N, –271N, –272N, –251NX, –252NX, –253NX, –271NX, and –272NX airplanes. AD 2025–03–07 required revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations. Since the FAA issued AD 2025–03–07, the FAA has determined that new or more restrictive airworthiness limitations are necessary. This AD continues to require certain actions in AD 2025–03–07 and requires revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations, and expands the

applicability. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective June 18, 2026.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of June 18, 2026.

The Director of the Federal Register approved the incorporation by reference of a certain other publication listed in this AD as of March 21, 2025 (90 FR 9592, February 14, 2025).

ADDRESSES:

AD Docket: You may examine the AD docket at *regulations.gov* under Docket No. FAA–2025–2552; 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 final rule, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

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.

- 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. It is also available at *regulations.gov* under Docket No. FAA–2025–2552.

FOR FURTHER INFORMATION CONTACT: Tak Kobayashi, Aviation Safety Engineer, FAA, 2200 South 216th Street, Des Moines, WA 98198; phone: 206–231–3553; email: takahisa.kobayashi@faa.gov.

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2025–03–07, Amendment 39–22955 (90 FR 9592, February 14, 2025) (AD 2025–03–07). AD 2025–03–07 applied to certain Airbus SAS Model A318, A319, and A320 series airplanes; and Model A321–111, –112, –131, –211, –212, –213, –231, –232, –251N, –252N, –253N, –271N, –272N, –251NX, –252NX, –253NX, –271NX, and –272NX airplanes. AD

2025–03–07 required revising the existing maintenance or inspection program, as applicable, to incorporate additional new or more restrictive airworthiness limitations. The FAA issued AD 2025–03–07 to address the potential of ignition sources inside fuel tanks, which, in combination with flammable fuel vapors, could result in a fuel tank explosion and consequent loss of the airplane.

The NPRM was published in the **Federal Register** on September 24, 2025 (90 FR 45924). The NPRM was prompted by AD 2025–0033, dated February 10, 2025 (EASA AD 2025–0033) (also referred to as the MCAI), issued by EASA, which is the Technical Agent for the Member States of the European Union. The MCAI states that new or more restrictive airworthiness limitations have been developed.

In the NPRM, the FAA proposed to require revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations, and expand the applicability, which includes adding Airbus SAS Model A319–173N and A321–253NY airplanes, as specified in EASA AD 2025–0033. The FAA is issuing 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–2025–2552.

Discussion of Final Airworthiness Directive

Comments

The FAA received comments from the Air Line Pilots Association, International (ALPA) and two individuals who supported the NPRM without change.

The FAA received additional comments from The Citizens Rulemaking Alliance. The following presents the comments received on the NPRM and the FAA’s response to each comment.

Request To Justify Forgoing Notice and Comment or Issue an NPRM

The Citizens Rulemaking Alliance requested that the FAA either provide its justification for finding good cause to bypass notice and comment procedures, or convert non-immediate actions to an NPRM. The commenter asserted the FAA has not adequately justified use of the good cause exemption to bypass notice and comment and the 30-day delayed effective date.

The FAA notes the comment was submitted in response to an NPRM for which the FAA provided a 45-day comment period. This final rule is

effective 35 days after its publication in the **Federal Register**. Therefore, no change to this AD is necessary.

Request To Make Incorporation By Reference (IBR) Materials Reasonably Available

The Citizens Rulemaking Alliance requested that the FAA add to the AD docket Airbus service information that appears to be incorporated by reference and include instructions in the **Federal Register** about how to obtain and review that material at no cost. The commenter stated that all IBR materials should be freely accessible to the public during the comment period.

The FAA clarifies that this AD incorporates by reference EASA AD 2025–0033, not the manufacturer service information referenced in EASA AD 2025–0033. The FAA posted EASA AD 2025–0033 to the AD docket when the NPRM was published in the **Federal Register**. The FAA notes this AD also retains EASA AD 2024–0047, dated February 19, 2024 (for the actions retained from FAA AD 2025–03–07), which was previously approved for incorporation by reference. That material is available under Docket No. FAA–2024–2138. The material referenced in EASA AD 2025–0033 may only be posted before the final rule’s publication if it is already publicly available or if there is written consent from the owner of that material. Additionally, the FAA provided notice in the NPRM that the material referenced in EASA AD 2025–0033 will be available in the AD docket after this AD is published. The FAA did not change this AD as a result of this comment.

Request To Comply With the Paperwork Reduction Act (PRA)

The Citizens Rulemaking Alliance requested that the FAA revise the AD to comply with the PRA if reporting is required.

The FAA notes this AD does not require reporting. If an AD were to require reporting, the preamble of the AD would include a paragraph titled “Paperwork Reduction Act” that would provide the applicable OMB control number, required PRA statements, and the estimated time to collect the required information (burden). Any costs associated with the reporting requirement would be included in the Costs of Compliance section in the preamble of the AD. Therefore, the FAA did not change this AD as a result of this comment.

Request To Consider Impact on Small Entities

The Citizens Rulemaking Alliance requested that the FAA either provide the factual basis for its Regulatory Flexibility Act (RFA) certification that the AD will not have a significant economic impact on a substantial number of small entities, or prepare an initial regulatory flexibility analysis.

The FAA provides the following clarification. The RFA of 1980 (5 U.S.C.

601–612), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121) and the Small Business Jobs Act of 2010 (Pub. L. 111–240), requires Federal agencies to consider the effects of the regulatory action on small business and other small entities and to minimize any significant economic impact. The term “small entities” comprises small businesses and not-for-profit organizations that are independently

owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

This AD will affect 23 domestic entities, of which 8 are small entities. The table below displays the industries of the small entities, their average annual revenue, and the AD’s estimated cost burden relative to average annual revenue.

NUMBER OF SMALL ENTITIES AFFECTED BY INDUSTRY AND COST SIGNIFICANCE

NAICS ¹ Code	Description	Affected small entities	Average annual revenue	Cost per AD/ annual revenue (%)
336412	Aircraft Engine and Engine Parts Manufacturing	1	\$5,200,000	0.15
336413	Other Aircraft Part and Auxiliary Equipment Manufacturing ..	3	1,565,310	0.49
481211	Nonscheduled Chartered Passenger Air Transportation	1	246,350,000	0.00
532411	Commercial Air, Rail, and Water Transportation Equipment Rental and Leasing.	3	769,443	0.99
Total .....	.....	8	32,319,283	0.02

¹ North American Industrial Classification System.

While FAA has determined that this final AD affects a substantial number of small entities, the compliance cost of the AD relative to each small entity’s annual revenue is minimal. The FAA estimates the total cost per affect entity to be \$7,650 (90 work-hours × \$85 per work-hour), which is 0.02% of the average small entity’s annual revenue. Therefore, as provided in section 605(b), the FAA certifies this AD will not result in a significant economic impact on a substantial number of small entities. The FAA did not change this AD as a result of this comment.

Request To Provide Additional Cost Information

The Citizens Rulemaking Alliance requested that the FAA add to the AD docket the methodology and assumptions supporting the estimated cost of the proposed AD and reopen the comment period for public input on the additional cost information. The commenter stated that the FAA should also provide the fleet size, per airplane labor and parts cost, any assumed downtime or out-of-service impacts, and aggregate costs.

In the Cost of Compliance section of the proposed AD, the FAA disclosed the number of airplanes affected on the U.S. registry, estimated number of work hours provided by the manufacturer, and the aggregate costs. The FAA did not disclose an estimated parts cost since this AD does not require any parts. Additionally, the FAA considered the impact that this AD will have on

affected operators and determined this AD will not trigger any downtime costs because revising the existing maintenance or inspection program, as applicable, is an administrative action that can be performed without impacting operations. Since the FAA has assessed and disclosed the total known costs of the AD requirements in the Costs of Compliance section of the proposed AD, and the commenter did not provide additional cost data for the FAA to consider in its cost analysis, it is not necessary to reopen the comment period or provide additional information in the AD docket. The FAA did not change this AD as a result of this comment.

Conclusion

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 reviewed the relevant data, considered any comments received, and determined that air safety requires adopting this AD as proposed. Accordingly, the FAA is issuing this AD to address the unsafe condition on these products. Except for minor editorial changes, this AD is adopted as proposed in the NPRM. None of the changes will increase the economic burden on any operator.

Material Incorporated by Reference Under 1 CFR Part 51

The FAA reviewed EASA AD 2025–0033. This material specifies new or more restrictive airworthiness limitations for airplane structures and safe life limits.

This AD also requires EASA AD 2024–0047, dated February 19, 2024, which the Director of the Federal Register approved for incorporation by reference as of March 21, 2025 (90 FR 9592, February 14, 2025).

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.

Costs of Compliance

The FAA estimates that this AD affects 1,945 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

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

Authority for This Rulemaking

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

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

Regulatory Findings

This AD will not have federalism implications under Executive Order 13132. This AD will 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 that this AD:

- (1) Is not a "significant regulatory action" under Executive Order 12866,
- (2) Will not affect intrastate aviation in Alaska, and
- (3) Will 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 Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 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) 2025–03–07, Amendment 39–

22955 (90 FR 9592, February 14, 2025); and

- b. Adding the following new AD:

2026–09–17 Airbus SAS: Amendment 39–23339; Docket No. FAA–2025–2552; Project Identifier MCAI–2025–00623–T.

(a) Effective Date

This airworthiness directive (AD) is effective June 18, 2026.

(b) Affected ADs

This AD replaces AD 2025–03–07, Amendment 39–22955 (90 FR 9592, February 14, 2025) (AD 2025–03–07).

(c) Applicability

This AD applies to Airbus SAS airplanes identified in paragraphs (c)(1) through (4) of this AD, certificated in any category, with an original airworthiness certificate or original export certificate of airworthiness issued on or before November 4, 2024.

(1) Model A318–111, –112, –121, and –122 airplanes.

(2) Model A319–111, –112, –113, –114, –115, –131, –132, –133, –151N, –153N, –171N, and –173N airplanes.

(3) Model A320–211, –212, –214, –216, –231, –232, –233, –251N, –252N, –253N, –271N, and –273N airplanes.

(4) Model A321–111, –112, –131, –211, –212, –213, –231, –232, –251N, –252N, –253N, –271N, –272N, –251NX, –252NX, –253NX, –253NY, –271NX, and –272NX airplanes.

(d) Subject

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

(e) Unsafe Condition

This AD was prompted by a determination that new or more restrictive airworthiness limitations are necessary. The FAA is issuing this AD to address the potential of ignition sources inside fuel tanks, which, in combination with flammable fuel vapors, could result in a fuel tank explosion and consequent loss of the airplane.

(f) Compliance

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

(g) Retained Revision of the Existing Maintenance or Inspection Program, With a New Terminating Action

This paragraph restates the requirements of paragraph (i) of AD 2025–03–07, with a new terminating action. For airplanes with an original airworthiness certificate or original export certificate of airworthiness issued on or before November 6, 2023: 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 2024–0047, dated February 19, 2024 (EASA AD 2024–0047). Accomplishing the revision of the existing maintenance or inspection program required by paragraph (j) of this AD terminates the requirements of this paragraph.

(h) Retained Exceptions to EASA AD 2024–0047, With no Changes

This paragraph restates the requirements of paragraph (i) of AD 2025–03–07, with no changes.

(1) This AD does not adopt the requirements specified in paragraphs (1) and (2) of EASA AD 2024–0047.

(2) Paragraph (3) of EASA AD 2024–0047 specifies revising “the AMP” within 12 months after its effective date, but this AD requires revising the existing maintenance or inspection program, as applicable, within 90 days after March 21, 2025 (the effective date of AD 2025–03–07).

(3) The initial compliance time for doing the tasks specified in paragraph (3) of EASA AD 2024–0047 is at the applicable “limitations” and “associated thresholds” as incorporated by the requirements of paragraph (3) of EASA AD 2024–0047, or within 90 days after March 21, 2025 (the effective date of AD 2025–03–07), whichever occurs later.

(4) This AD does not adopt the provisions specified in paragraphs (4) and (5) of EASA AD 2024–0047.

(5) This AD does not adopt the “Remarks” section of EASA AD 2024–0047.

(i) Retained Restrictions on Alternative Actions, Intervals, and Critical Design Configuration Control Limitations (CDCCLs), With a New Exception

This paragraph restates the requirements of paragraph (k) of AD 2025–03–07, with a new exception. Except as required by paragraph (j) of this AD, after the existing maintenance or inspection program has been revised as required by paragraph (g) of this AD, no alternative actions (e.g., inspections), intervals, and CDCCLs are allowed unless they are approved as specified in the provisions of the “Ref. Publications” section of EASA AD 2024–0047.

(j) New Revision of the Existing Maintenance or Inspection Program

Except as specified in paragraph (k) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, EASA AD 2025–0033, dated February 10, 2025 (EASA AD 2025–0033). Accomplishing the revision of the existing maintenance or inspection program required by this paragraph terminates the requirements of paragraph (g) of this AD.

(k) New Exceptions to EASA AD 2025–0033

(1) This AD does not adopt the requirements specified in paragraphs (1) and (2) of EASA AD 2025–0033.

(2) Paragraph (3) of EASA AD 2025–0033 specifies revising “the approved AMP,” within 12 months after its effective date, but this AD requires revising the existing maintenance or inspection program, as applicable, within 90 days after the effective date of this AD.

(3) The initial compliance time for doing the tasks specified in paragraph (3) of EASA AD 2025–0033 is at the applicable “limitations” and “associated thresholds” as incorporated by the requirements of paragraph (3) of EASA AD 2025–0033, or within 90 days after the effective date of this AD, whichever occurs later.

(4) This AD does not adopt the provisions specified in paragraphs (4) and (5) of EASA AD 2025–0033.

(5) This AD does not adopt the “Remarks” section of EASA AD 2025–0033.

(l) New Provisions for Alternative Actions, Intervals, and CDCCLs

After the existing maintenance or inspection program has been revised as required by paragraph (j) of this AD, no alternative actions (e.g., inspections), intervals, and CDCCLs are allowed unless they are approved as specified in the provisions of the “Ref. Publications” section of EASA AD 2025–0033.

(m) 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 the Continued Operational Safety Branch, send it to the attention of the person identified in paragraph (n) of this AD and email to: AMOC@faa.gov.

(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.

(n) Additional Information

For more information about this AD, contact Tak Kobayashi, Aviation Safety Engineer, FAA, 2200 South 216th Street, Des Moines, WA 98198; phone: 206–231–3553; email: takahisa.kobayashi@faa.gov.

(o) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) 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.

(3) The following material was approved for IBR on June 18, 2026.

(i) European Union Aviation Safety Agency (EASA) AD 2025–0033, dated February 10, 2025.

(ii) [Reserved]

(4) The following material was approved for IBR on March 21, 2025 (90 FR 9592, February 14, 2025).

(i) EASA AD 2024–0047, dated February 19, 2024.

(ii) [Reserved]

(5) 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.

(6) 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.

(7) 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 May 1, 2026.

Brian Knaup,

Acting Deputy Director, Integrated Certificate Management Division, Aircraft Certification Service.

[FR Doc. 2026–09663 Filed 5–13–26; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. **FAA–2026–0738**; Project Identifier **MCAI–2025–01039–T**; Amendment **39–23331**; AD **2026–09–10**]

RIN 2120–AA64

Airworthiness Directives; Dassault Aviation Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is superseding Airworthiness Directive (AD) 2023–22–05, which applied to certain Dassault Aviation Model FAN JET FALCON and FAN JET FALCON SERIES C, D, E, F, and G airplanes. AD 2023–22–05 required revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations. Since the FAA issued AD 2023–22–05, the FAA has determined that new or more restrictive airworthiness limitations are necessary. This AD continues to require certain actions in AD 2023–22–05 and requires revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective June 18, 2026.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of June 18, 2026.

The Director of the Federal Register approved the incorporation by reference of a certain other publications listed in

this AD as of December 26, 2023 (88 FR 80570, November 20, 2023).

ADDRESSES:

AD Docket: You may examine the AD docket at regulations.gov under Docket No. FAA–2026–0738; 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 final rule, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

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.

- 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. It is also available at regulations.gov under Docket No. FAA–2026–0738.

FOR FURTHER INFORMATION CONTACT:

Kimi Kim, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: 781–238–7693; email: 9-AVS-AIR-BACO-COS@faa.gov.

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2023–22–05, Amendment 39–22589 (88 FR 80570, November 20, 2023) (AD 2023–22–05). AD 2023–22–05 applied to certain Dassault Aviation Model FAN JET FALCON and FAN JET FALCON SERIES C, D, E, F, and G airplanes. AD 2023–22–05 required revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations. The FAA issued AD 2023–22–05 to address, among other things, fatigue cracking and damage in principal structural elements. The unsafe condition, if not addressed, could result in reduced structural integrity of the airplane.

The NPRM was published in the **Federal Register** on February 6, 2026 (91 FR 5368). The NPRM was prompted by EASA AD 2025–0125, dated May 28,

2025; corrected June 3, 2025 (EASA AD 2025–0125) (also referred to as the MCAI), issued by EASA, which is the Technical Agent for the Member States of the European Union. The MCAI states that new or more restrictive airworthiness limitations have been developed.

In the NPRM, the FAA proposed to continue to require certain actions in AD 2023–22–05 and to require revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations, as specified in EASA AD 2025–0125. The FAA is issuing this AD to address the unsafe condition on these products.

You may examine the MCAI in the AD docket at [regulations.gov](https://www.regulations.gov) under Docket No. FAA–2026–0738.

Discussion of Final Airworthiness Directive

Comments

The FAA received no comments on the NPRM or on the determination of the cost to the public.

Conclusion

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 reviewed the relevant data, considered any comments received, and determined that air safety requires adopting this AD as proposed. Accordingly, the FAA is issuing this AD to address the unsafe condition on these products. Except for minor editorial changes, this AD is adopted as proposed in the NPRM. None of the changes will increase the economic burden on any operator.

Material Incorporated by Reference Under 1 CFR Part 51

The FAA reviewed EASA AD 2025–0125, which specifies new or more restrictive airworthiness limitations for airplane structures and safe life limits.

This AD also requires EASA AD 2023–0060, dated March 16, 2023, which the Director of the Federal Register approved for incorporation by reference as of December 26, 2023 (88 FR 80570, November 20, 2023).

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.

Costs of Compliance

The FAA estimates that this AD affects 32 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

The FAA estimates the total cost per operator for the retained actions from AD 2023–22–05 to be \$7,650 (90 work-hours × \$85 per work-hour).

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

The FAA estimates the total cost per operator for the new actions to be \$7,650 (90 work-hours × \$85 per work-hour).

Authority for This Rulemaking

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

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

Regulatory Findings

This AD will not have federalism implications under Executive Order 13132. This AD will 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 that this AD:

- (1) Is not a “significant regulatory action” under Executive Order 12866,
- (2) Will not affect intrastate aviation in Alaska, and
- (3) Will 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 Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 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) 2023–22–05, Amendment 39–22589 (88 FR 80570, November 20, 2023); and
 - b. Adding the following new AD:

2026–09–10 Dassault Aviation:

Amendment 39–23331; Docket No. FAA–2026–0738; Project Identifier MCAI–2025–01039–T.

(a) Effective Date

This airworthiness directive (AD) is effective June 18, 2026.

(b) Affected ADs

This AD replaces AD 2023–22–05, Amendment 39–22589 (88 FR 80570, November 20, 2023) (AD 2023–22–05).

(c) Applicability

This AD applies to Dassault Aviation Model FAN JET FALCON and FAN JET FALCON SERIES C, D, E, F, and G airplanes, certificated in any category, as identified in European Union Aviation Safety Agency (EASA) AD 2025–0125, dated May 28, 2025; corrected June 3, 2025 (EASA AD 2025–0125).

(d) Subject

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

(e) Unsafe Condition

This AD was prompted by a determination that new or more restrictive airworthiness limitations are necessary. The FAA is issuing this AD to address fatigue cracking, damage, and corrosion in principal structural elements. The unsafe condition, if not addressed, could result in reduced structural integrity of the airplane.

(f) Compliance

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

(g) Retained Revision of the Existing Maintenance or Inspection Program, With a New Terminating Action

This paragraph restates the requirements of paragraph (j) of AD 2023–22–05, with a new terminating action. Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, EASA AD 2023–0060, dated March 16, 2023 (EASA AD 2023–0060). Accomplishing the revision of the existing maintenance or inspection program required by paragraph (j) of this AD terminates the requirements of this paragraph.

(h) Retained Exceptions to EASA AD 2023–0060, With No Changes

This paragraph restates the exceptions specified in paragraph (k) of AD 2023–22–05, with no changes.

(1) This AD does not adopt the requirements specified in paragraphs (1) and (2) of EASA AD 2023–0060.

(2) Paragraph (3) of EASA AD 2023–0060 specifies revising “the approved AMP” within 12 months after its effective date, but this AD requires revising the existing maintenance or inspection program, as applicable, within 90 days after December 26, 2023 (the effective date of AD 2023–22–05).

(3) The initial compliance time for doing the tasks specified in paragraph (3) of EASA AD 2023–0060 is at the applicable “limitations” and “associated thresholds” as incorporated by the requirements of paragraph (3) of EASA AD 2023–0060, or within 90 days after December 26, 2023 (the effective date of AD 2023–22–05), whichever occurs later.

(4) This AD does not adopt the provisions specified in paragraphs (4) and (5) of EASA AD 2023–0060.

(5) This AD does not adopt the “Remarks” section of EASA AD 2023–0060.

(i) Retained Restrictions on Alternative Actions and Intervals, With a New Exception

This paragraph restates the requirements of paragraph (l) of AD 2023–22–05, with a new exception. Except as required by paragraph (j) of this AD, after the maintenance or inspection program has been revised as required by paragraph (g) of this AD, no alternative actions (e.g., inspections) or intervals are allowed unless they are approved as specified in the provisions of the “Ref. Publications” section of EASA AD 2023–0060.

(j) New Revision of the Existing Maintenance or Inspection Program

Except as specified in paragraph (k) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, EASA AD 2025–0125. Accomplishing the revision of the existing maintenance or inspection program required by this paragraph terminates the requirements of paragraph (g) of this AD.

(k) Exceptions to EASA AD 2025–0125

(1) This AD does not adopt the requirements specified in paragraphs (1) and (2) of EASA AD 2025–0125.

(2) Paragraph (3) of EASA AD 2025–0125 specifies revising “the approved AMP,”

within 12 months after its effective date, but this AD requires revising the existing maintenance or inspection program, as applicable, within 90 days after the effective date of this AD.

(3) The initial compliance time for doing the tasks specified in paragraph (3) of EASA AD 2025–0125 is at the applicable “limitations” and “associated thresholds” as incorporated by the requirements of paragraph (3) of EASA AD 2025–0125, or within 90 days after the effective date of this AD, whichever occurs later.

(4) This AD does not adopt the provisions specified in paragraphs (4) and (5) of EASA AD 2025–0125.

(5) This AD does not adopt the “Remarks” section of EASA AD 2025–0125.

(l) New Provisions for Alternative Actions and Intervals

After the existing maintenance or inspection program has been revised as required by paragraph (j) of this AD, no alternative actions (e.g., inspections) and intervals are allowed unless the actions and intervals are approved as specified in the provisions of the “Ref. Publications” section of EASA AD 2025–0125.

(m) Additional AD Provisions

The following provisions also apply to this AD:

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

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

(n) Additional Information

For more information about this AD, contact Kimi Kim, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: 781–238–7693; email: 9-AVS-AIR-BACO-COS@faa.gov.

(o) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) 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.

(3) The following material was approved for IBR on June 18, 2026.

(i) European Union Aviation Safety Agency (EASA) AD 2025–0125, dated May 28, 2025; corrected June 3, 2025.

(ii) [Reserved]

(4) The following material was approved for IBR on December 26, 2023 (88 FR 80570, November 20, 2023).

(i) EASA AD 2023–0060, dated March 16, 2023.

(ii) [Reserved]

(5) 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.

(6) 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.

(7) 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 28, 2026.

Steven W. Thompson,

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

[FR Doc. 2026–09661 Filed 5–13–26; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Part 39**

[Docket No. FAA–2026–0739; Project Identifier MCAI–2025–01040–T; Amendment 39–23332; AD 2026–09–11]

RIN 2120–AA64

Airworthiness Directives; Dassault Aviation Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is superseding Airworthiness Directive (AD) 2023–20–05, which applied to certain Dassault Aviation Model MYSTERE–FALCON 20–C5, 20–D5, 20–E5, and 20–F5 airplanes. AD 2023–20–05 required revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations. Since the FAA issued AD 2023–20–05, the FAA has determined that new or more restrictive airworthiness limitations are necessary. This AD continues to require certain actions in AD 2023–20–05 and

requires revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective June 18, 2026.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of June 18, 2026.

The Director of the Federal Register approved the incorporation by reference of a certain other publication listed in this AD as of November 8, 2023 (88 FR 68454, October 4, 2023).

ADDRESSES:

AD Docket: You may examine the AD docket at [regulations.gov](https://www.regulations.gov) under Docket No. FAA–2026–0739; 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 final rule, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

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.

- 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. It is also available at [regulations.gov](https://www.regulations.gov) under Docket No. FAA–2026–0739.

FOR FURTHER INFORMATION CONTACT:

Kimi Kim, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: 781–238–7693; email: 9-AVS-AIR-BACO-COS@faa.gov.

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2023–20–05, Amendment 39–22564 (88 FR 68454, October 4, 2023) (AD 2023–20–05). AD 2023–20–05 applied to certain Dassault Aviation Model MYSTERE–FALCON 20–C5, 20–D5, 20–E5, and 20–F5 airplanes. AD 2023–20–05 required

revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations. The FAA issued AD 2023–20–05 to address fatigue cracking, damage, and corrosion in principal structural elements, which could result in reduced structural integrity of the airplane.

The NPRM was published in the **Federal Register** on February 6, 2026 (91 FR 5371). The NPRM was prompted by EASA AD 2025–0126, dated May 28, 2025 (EASA AD 2025–0126) (also referred to as the MCAI), issued by EASA, which is the Technical Agent for the Member States of the European Union. The MCAI states that new or more restrictive airworthiness limitations have been developed.

In the NPRM, the FAA proposed to continue to require certain actions in AD 2023–20–05 and to require revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations, as specified in EASA AD 2025–0126. The FAA is issuing this AD to address fatigue cracking, damage, and corrosion in principal structural elements, which could result in reduced structural integrity of the airplane.

You may examine the MCAI in the AD docket at [regulations.gov](https://www.regulations.gov) under Docket No. FAA–2026–0739.

Discussion of Final Airworthiness Directive

Comments

The FAA received no comments on the NPRM or on the determination of the cost to the public.

Conclusion

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 reviewed the relevant data, considered any comments received, and determined that air safety requires adopting this AD as proposed. Accordingly, the FAA is issuing this AD to address the unsafe condition on these products. Except for minor editorial changes, this AD is adopted as proposed in the NPRM. None of the changes will increase the economic burden on any operator.

Material Incorporated by Reference Under 1 CFR Part 51

The FAA reviewed EASA AD 2025–0126, which specifies new or more

restrictive airworthiness limitations for airplane structures and safe life limits.

This AD also requires EASA AD 2023–0062, dated March 20, 2023, which the Director of the Federal Register approved for incorporation by reference as of November 8, 2023 (88 FR 68454, October 4, 2023).

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.

Costs of Compliance

The FAA estimates that this AD affects 61 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

The FAA estimates the total cost per operator for the retained actions from AD 2023–20–05 to be \$7,650 (90 work-hours × \$85 per work-hour).

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

The FAA estimates the total cost per operator for the new actions to be \$7,650 (90 work-hours × \$85 per work-hour).

Authority for This Rulemaking

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

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

Regulatory Findings

This AD will not have federalism implications under Executive Order 13132. This AD will 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 that this AD:

- (1) Is not a “significant regulatory action” under Executive Order 12866,
- (2) Will not affect intrastate aviation in Alaska, and
- (3) Will 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 Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 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) 2023–20–05, Amendment 39–22564 (88 FR 68454, October 4, 2023); and
 - b. Adding the following new AD:

2026–09–11 Dassault Aviation:

Amendment 39–23332; Docket No. FAA–2026–0739; Project Identifier MCAI–2025–01040–T.

(a) Effective Date

This airworthiness directive (AD) is effective June 18, 2026.

(b) Affected ADs

This AD replaces AD 2023–20–05, Amendment 39–22564 (88 FR 68454, October 4, 2023) (AD 2023–20–05).

(c) Applicability

This AD applies to Dassault Aviation Model MYSTERE–FALCON 20–C5, 20–D5, 20–E5, and 20–F5 airplanes, certificated in any category, as identified in European Union Aviation Safety Agency (EASA) AD 2025–0126, dated May 28, 2025 (EASA AD 2025–0126).

(d) Subject

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

(e) Unsafe Condition

This AD was prompted by a determination that new or more restrictive airworthiness limitations are necessary. The FAA is issuing this AD to address fatigue cracking, damage, and corrosion in principal structural elements. The unsafe condition, if not addressed, could result in reduced structural integrity of the airplane.

(f) Compliance

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

(g) Retained Revision of the Existing Maintenance or Inspection Program, With a New Terminating Action

This paragraph restates the requirements of paragraph (i) of AD 2023–20–05, with a new terminating action. Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, EASA AD 2023–0062, dated March 20, 2023 (EASA AD 2023–0062). Accomplishing the revision of the existing maintenance or inspection program required by paragraph (j) of this AD terminates the requirements of this paragraph.

(h) Retained Exceptions to EASA AD 2023–0062, With No Changes

This paragraph restates the exceptions specified in paragraph (j) of AD 2023–20–05, with no changes.

(1) This AD does not adopt the requirements specified in paragraphs (1) and (2) of EASA AD 2023–0062.

(2) Paragraph (3) of EASA AD 2023–0062 specifies revising “the approved AMP” within 12 months after its effective date, but this AD requires revising the existing maintenance or inspection program, as applicable, within 90 days after November 8, 2023 (the effective date of AD 2023–20–05).

(3) The initial compliance time for doing the tasks specified in paragraph (3) of EASA AD 2023–0062 is at the applicable “limitations” and “associated thresholds” as incorporated by the requirements of paragraph (3) of EASA AD 2023–0062, or within 90 days after November 8, 2023 (the effective date of AD 2023–20–05), whichever occurs later.

(4) This AD does not adopt the provisions specified in paragraphs (4) and (5) of EASA AD 2023–0062.

(5) This AD does not adopt the “Remarks” section of EASA AD 2023–0062.

(i) Retained Restrictions on Alternative Actions and Intervals, With a New Exception

This paragraph restates the requirements of paragraph (k) of AD 2023–20–05, with a new exception. Except as required by paragraph (j) of this AD, after the maintenance or inspection program has been revised as required by paragraph (g) of this AD, no alternative actions (e.g., inspections) or intervals are allowed unless they are approved as specified in the provisions of the “Ref. Publications” section of EASA AD 2023–0062.

(j) New Revision of the Existing Maintenance or Inspection Program

Except as specified in paragraph (k) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, EASA AD 2025–0126. Accomplishing the revision of the existing maintenance or inspection program required by this paragraph terminates the requirements of paragraph (g) of this AD.

(k) Exceptions to EASA AD 2025–0126

(1) This AD does not adopt the requirements specified in paragraphs (1) and (2) of EASA AD 2025–0126.

(2) Paragraph (3) of EASA AD 2025–0126 specifies revising “the approved AMP,” within 12 months after its effective date, but this AD requires revising the existing maintenance or inspection program, as applicable, within 90 days after the effective date of this AD.

(3) The initial compliance time for doing the tasks specified in paragraph (3) of EASA AD 2025–0126 is at the applicable “limitations” and “associated thresholds” as incorporated by the requirements of paragraph (3) of EASA AD 2025–0126, or within 90 days after the effective date of this AD, whichever occurs later.

(4) This AD does not adopt the provisions specified in paragraphs (4) and (5) of EASA AD 2025–0126.

(5) This AD does not adopt the “Remarks” section of EASA AD 2025–0126.

(l) New Provisions for Alternative Actions and Intervals

After the existing maintenance or inspection program has been revised as required by paragraph (j) of this AD, no alternative actions (e.g., inspections) and intervals are allowed unless the actions and intervals are approved as specified in the provisions of the “Ref. Publications” section of EASA AD 2025–0126.

(m) Additional AD Provisions

The following provisions also apply to this AD:

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

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

(n) Additional Information

For more information about this AD, contact Kimi Kim, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: 781-238-7693; email: 9-AVS-AIR-BACO-COS@faa.gov.

(o) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) 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.

(3) The following material was approved for IBR on June 18, 2026.

(i) European Union Aviation Safety Agency (EASA) AD 2025-0126, dated May 28, 2025.

(ii) [Reserved]

(4) The following material was approved for IBR on November 8, 2023 (88 FR 68454, October 4, 2023).

(i) EASA AD 2023-0062, dated March 20, 2023.

(ii) [Reserved]

(5) 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.

(6) 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.

(7) 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 28, 2026.

Steven W. Thompson,

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

[FR Doc. 2026-09660 Filed 5-13-26; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Part 71**

[Docket No. FAA-2026-4532; **Airspace**
Docket No. 26-AWA-4]

RIN 2120-AA66

Amendment of Class C Airspace and Class E Airspace; Palm Beach International Airport, West Palm Beach, FL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends the Class C and Class E airspace descriptions for

the former Palm Beach International Airport, West Palm Beach, FL, to update the airport name to the “President Donald J. Trump International Airport” to match the FAA National Airspace System Resources (NASR) database information. This action does not change the boundaries, altitudes, or operating requirements of the Class C airspace or Class E airspace areas.

DATES: Effective date 0901 UTC, July 9, 2026. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order JO 7400.11 and publication of conforming amendments.

ADDRESSES: A copy of this final rule and all background material may be viewed online at www.regulations.gov using the FAA Docket number. Electronic retrieval help and guidelines are available on the website. It is available 24 hours each day, 365 days each year. An electronic copy of this document may also be downloaded from www.federalregister.gov.

FAA Order JO 7400.11K, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at www.faa.gov/air_traffic/publications/. You may also contact the Rules and Regulations Group, Policy Directorate, Federal Aviation Administration, 600 Independence Avenue SW, Washington, DC 20597; telephone: (202) 267-8783.

FOR FURTHER INFORMATION CONTACT: Brian Vidis, Rules and Regulations Group, Policy Directorate, Federal Aviation Administration, 600 Independence Avenue SW, Washington, DC 20597; telephone: (202) 267-8783.

SUPPLEMENTARY INFORMATION:**Authority for This Rulemaking**

The FAA’s authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. 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. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it updates the airport name in the affected Class C airspace and Class E airspace descriptions.

History

On May 4, 2026, the FAA received a request from the Board of County Commissioners, Palm Beach County Department of Airports, to revise the Palm Beach International Airport name by updating it to the “President Donald J. Trump International Airport”. When an airport reports updated aeronautical data, including an airport name, the FAA takes the necessary administrative actions to implement the necessary updates to the NASR database and the airspace descriptions associated with that airport. The former name, Palm Beach International Airport, is associated with an area of Class C airspace and an area of Class E airspace around West Palm Beach, FL. Accordingly, this action implements the update to the airport name in these two airspace areas from “Palm Beach International Airport” to “President Donald J. Trump International Airport” to match the updated airport name listed in the NASR database.

Incorporation by Reference

Class C airspace areas are published in paragraph 4000 and Class E airspace areas are published in paragraph 6005 of FAA Order JO 7400.11, Airspace Designations and Reporting Points, which is incorporated by reference in 14 CFR 71.1 on an annual basis. This document amends the current version of that order, FAA Order JO 7400.11K, dated August 4, 2025, and effective September 15, 2025. FAA Order JO 7400.11K, which lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points, is publicly available as listed in the **ADDRESSES** section of this document.

The Rule

This action amends 14 CFR part 71 by updating the Class C airspace and Class E airspace descriptions for the former Palm Beach International Airport, West Palm Beach, FL, as published in FAA Order JO 7400.11, Airspace Designations and Reporting Points. Specifically, the airport name “Palm Beach International Airport” is changed to “President Donald J. Trump International Airport” to match the NASR database.

Good Cause for Bypassing Notice and Comment

Under the Administrative Procedure Act (APA), 5 U.S.C. 553, federal agencies engaged in informal rulemaking must provide the public with a notice of proposed rulemaking and an opportunity for public participation. A rule may be exempt from these requirements “when the

agency for good cause finds (and incorporates the finding and a brief statement of reasons therefor in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.” 5 U.S.C. 553(b)(B). Courts have held that the good cause exemption should be narrowly construed, and that the “unnecessary” exception should be “confined to those situations in which the administrative rule is a routine determination, insignificant in nature and impact, and inconsequential to the industry and to the public.” *Mack Trucks, Inc. v. EPA*, 682 F.3d 87, 94 (*quoting Util. Solid Waste Activities Grp. v. EPA*, 236 F.3d 749, 755).

This action is an administrative change and will not impose any additional substantive restrictions or requirements on the persons affected by these regulations. The action implements an update to the airport name initiated by the airport operator. The affected airspace boundaries and operating requirements remain unchanged. Although the public may be interested in the airport name change, any comments would not have the potential to substantively alter the FAA’s action, which is triggered by a request from the airport operator. Therefore, the FAA finds good cause that notice and public procedure under 5 U.S.C. 553(b) is unnecessary.

Regulatory Notices and Analyses

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) is not a “significant regulatory action” under Executive Order 12866; (2) is not a “significant rule” under DOT Order 2100.6B, “Rulemaking and Guidance Procedure” (March 10, 2025); and (3) is expected to result in at most de minimis costs because it is administrative in nature. Since this is a routine matter that only affects air traffic procedures and air navigation, it is certified that this rule, when promulgated, does not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

The FAA has determined that this action of amending the Palm Beach International Airport, West Palm Beach, FL, Class C airspace and Class E airspace descriptions, to update the Palm Beach International Airport name to match the FAA’s NASR database

information, qualifies for categorical exclusion under the National Environmental Policy Act (42 U.S.C. 4321, *et seq.*) as amended, and in accordance with FAA Order 1050.1G, *FAA National Environmental Policy Act Implementing Procedures*, paragraph B–2.5(a), which categorically excludes from further environmental impact review rulemaking actions that designate or modify classes of airspace areas, airways, routes, and reporting points (*see* 14 CFR part 71, Designation of Class A, B, C, D, and E Airspace Areas; Air Traffic Service Routes; and Reporting Points). As such, this action is not expected to result in any potentially significant environmental impacts. In accordance with the FAA’s NEPA implementation policy and procedures regarding extraordinary circumstances, the FAA has reviewed this action for factors and circumstances in which a normally categorically excluded action may have a significant environmental impact requiring further analysis. The FAA has determined that no extraordinary circumstances exist that warrant preparation of an environmental assessment or environmental impact statement.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p.389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order JO 7400.11K, Airspace Designations and Reporting Points, dated August 4, 2025, effective September 15, 2025, is amended as follows:

Paragraph 4000 Class C Airspace.

* * * * *

ASO FL C West Palm Beach, FL [Amended]

President Donald J. Trump International Airport, FL
(Lat. 26°40′59″ N, long. 080°05′44″ W)
Palm Beach County Park Airport
(Lat. 26°35′35″ N., long. 080°05′06″ W)

Boundaries

Area A. That airspace extending upward from the surface to and including 4,000 feet MSL within a 5-mile radius of the President Donald J. Trump International Airport, excluding that airspace within a 2-mile radius of the Palm Beach County Park Airport.

Area B. That airspace extending upward from 1,600 feet MSL to and including 4,000 feet MSL within an area bounded on the north by a line direct from the intersection of the Florida Turnpike (highway 91) and Lantana Road to the intersection of a 5-mile radius of the President Donald J. Trump International Airport and a 2-mile radius west of the Palm Beach County Park Airport and a 2-mile radius north of the Palm Beach County Park Airport, on the east by a line direct from the intersection of a 5-mile radius of the President Donald J. Trump International Airport and a 2-mile radius east of the Palm Beach County Park Airport to the intersection of a 10-mile radius of the President Donald J. Trump International Airport and U.S. 1, on the south by a 10-mile radius of the President Donald J. Trump International Airport, and on the west by the Florida Turnpike.

Area C. That airspace extending upward from 1,200 feet MSL to and including 4,000 feet MSL within a 10-mile radius of the President Donald J. Trump International Airport, excluding area B.

* * * * *

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.

* * * * *

ASO FL E5 West Palm Beach, FL [Amended]

President Donald J. Trump International Airport, FL
(Lat. 26°40′59″ N, long. 080°05′44″ W)
Palm Beach County Park Airport
(Lat. 26°35′35″ N, long. 080°05′06″ W)

That airspace extending upward from 700 feet above the surface within a 10-mile radius of President Donald J. Trump International Airport and a 6.7-mile radius of Palm Beach County Park Airport.

* * * * *

Issued in Washington, DC, on May 12, 2026.

Alex W. Nelson,

Manager, Rules and Regulations Group.

[FR Doc. 2026–09656 Filed 5–12–26; 4:15 pm]

BILLING CODE 4910–13–P

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1217

[Docket No. CPSC–2017–0012]

Safety Standard for Toddler Beds

AGENCY: Consumer Product Safety Commission.

ACTION: Direct final rule.

SUMMARY: In October 2019, the U.S. Consumer Product Safety Commission (CPSC or Commission) published an update to the consumer product safety standard for toddler beds under the Consumer Product Safety Improvement Act of 2008 (CPSIA). The standard incorporated by reference ASTM F1821–19^{e1}, *Standard Consumer Safety Specification for Toddler Beds*, the voluntary standard for toddler beds that was in effect at the time. ASTM has now issued a revised standard, ASTM F1821–26. Consistent with the CPSIA, this direct final rule updates the mandatory standard to incorporate by reference ASTM's 2026 version of the voluntary standard.

DATES: The rule is effective on August 29, 2026, unless CPSC receives a significant adverse comment by June 15, 2026. If CPSC receives such a comment, it will publish a document in the **Federal Register**, withdrawing this direct final rule before its effective date. The incorporation by reference of certain material listed in this rule is approved by the Director of the Federal Register as of August 29, 2026.

ADDRESSES: You can submit comments, identified by Docket No. CPSC–2017–0012, by any of the following methods:

Electronic Submissions: Submit electronic comments to the Federal eRulemaking Portal at: <https://www.regulations.gov>. Follow the instructions for submitting comments. CPSC typically does not accept comments submitted by email, except as described below. CPSC encourages you to submit electronic comments by using the Federal eRulemaking Portal.

Mail/Hand Delivery/Courier/Confidential Written Submissions: Submit comments by mail, hand delivery, or courier to: Office of the Secretary, Consumer Product Safety Commission, 4330 East-West Highway, Bethesda, MD 20814; telephone: (301) 504–7479. If you wish to submit confidential business information, trade secret information, or other sensitive or protected information that you do not want to be available to the public, you may submit such comments by mail, hand delivery, or courier, or you may email them to: cpsc-os@cpsc.gov.

Instructions: All submissions must include the agency name and docket number. CPSC may post all comments without change, including any personal identifiers, contact information, or other personal information provided, to: <https://www.regulations.gov>. Do not submit through this website: confidential business information, trade secret information, or other sensitive or

protected information that you do not want to be available to the public. If you wish to submit such information, please submit it according to the instructions for mail/hand delivery/courier/confidential written submissions.

Docket: For access to the docket to read background documents or comments received, go to: <https://www.regulations.gov>, and insert the docket number, CPSC–2017–0012, into the “Search” box, and follow the prompts.

FOR FURTHER INFORMATION CONTACT: Joseph Williams, Compliance Officer, U.S. Consumer Product Safety Commission, 4330 East-West Highway, Bethesda, MD 20814; telephone: (301) 504–7585; email: jfwilliams@cpsc.gov; or Daniel Taxier, Project Manager, Division of Mechanical and Combustion Engineering, U.S. Consumer Product Safety Commission, 5 Research Place, Rockville, MD 20850; telephone: (301) 987–2211; email: dtaxier@cpsc.gov.

SUPPLEMENTARY INFORMATION:

I. Background

A. Statutory Authority

Section 104(b)(1) of the CPSIA requires the Commission to assess the effectiveness of voluntary standards for durable infant or toddler products and adopt mandatory standards for these products. 15 U.S.C. 2056a(b)(1). The mandatory standard must be “substantially the same as” the voluntary standard, or “more stringent than” the voluntary standard, if the Commission determines that more stringent requirements would further reduce the risk of injury associated with the product. *Id.*

Section 104(b)(4)(B) of the CPSIA specifies the process for updating the Commission's rules when a voluntary standards organization revises a standard that the Commission incorporated by reference under section 104(b)(1). First, the voluntary standards organization must notify the Commission of the revision. Once the Commission receives this notification, the Commission may reject or accept the revised standard. The Commission may reject the revised standard by notifying the voluntary standards organization, within 90 days of receiving notice of the revision, that it has determined that the revised standard does not improve the safety of the consumer product and that it is retaining the existing standard. If the Commission does not take this action to reject the revised standard, then the revised voluntary standard will be considered a consumer product safety standard issued under section 9 of the Consumer Product Safety Act

(CPSA; 15 U.S.C. 2058), effective 180 days after the Commission received notification of the revision or on a later date specified by the Commission in the **Federal Register**. 15 U.S.C. 2056a(b)(4)(B).

B. Safety Standard for Toddler Beds

Under section 104(b)(1) of the CPSIA, the Commission published a mandatory standard for toddler beds, codified in 16 CFR part 1217, “Safety Standard for Toddler Beds.” The rule incorporated by reference the then-current voluntary standard, ASTM F1821–09, *Standard Consumer Safety Specification for Toddler Beds*, with certain modifications to make the standard more stringent. 76 FR 22019 (Apr. 20, 2011).¹ After the Commission adopted the mandatory standard in 2011, ASTM subsequently revised the voluntary standard ten times. In accordance with the procedures set out in section 104(b)(4)(B) of the CPSIA, three of these revised standards became the new mandatory standard for toddler beds.² In this regard, the Commission published direct final rules to update 16 CFR part 1217, incorporating by reference ASTM F1821–13, ASTM F1821–16, and ASTM F1821–19^{e1}, respectively, without modification. 78 FR 73692 (Dec. 9, 2013), 82 FR 11317 (Feb. 22, 2017), 84 FR 57315 (Oct. 25, 2019). The mandatory standard currently incorporates by reference ASTM F1821–19^{e1}, an editorial version of ASTM F1821–19.³ In 2022, ASTM published another editorial version of the 2019 standard, ASTM F1821–19^{e2}, which removed a figure that was no longer relevant or being used in the standard. This editorial revision otherwise made no changes to the content of ASTM F1821–19^{e1}.

In February 2026, ASTM approved another revision to the voluntary

¹ A correction notice was published because the Office of the Federal Register inadvertently omitted the last two sections and figures from the April 20, 2011, **Federal Register** Notice. 76 FR 27882 (May 13, 2011).

² ASTM revised the voluntary standard three times in 2011 (ASTM F1821–11, ASTM F1821–11a, and ASTM F1821–11b) and once in 2015 (ASTM F1821–15). ASTM notified CPSC of ASTM F1821–11b and ASTM F1821–15, however, in each instance, the Commission voted to retain the existing consumer product safety standard at the time (ASTM F1821–09 and ASTM F1821–13). ASTM approved another revision in 2018 (ASTM F1821–18); however, ASTM did not notify CPSC of this revision under CPSIA section 104(b)(4)(B). Consequently, this revised voluntary standard did not become the mandatory standard by operation of law, and the Commission did not update the mandatory standard to incorporate by reference this revised ASTM standard.

³ ASTM F1821–19^{e1} corrected two typographical errors but did not otherwise change the content of ASTM F1821–19.

standard for toddler beds, ASTM F1821–26. The revised voluntary standard includes performance requirements and test methods, as well as requirements for warning labels and instructions, to address hazards to children associated with toddler beds. On March 2, 2026, ASTM notified CPSC of the revision. On March 11, 2026, the Commission published in the **Federal Register** a notice of availability of the revised voluntary standard and sought comments on the effect of the revisions. 91 FR 11944. CPSC received six comments on the notice of availability.

Five of the commenters, all individuals, expressed support for the revised voluntary standard. Two of these five commenters also suggested improving labeling by requiring additional information that informs parents when to transition their child to a toddler bed. The sixth commenter, also an individual, asked whether the changes are necessary and if they help children. CPSC acknowledges the support for the revised standard and appreciates the comments received. Regarding the improved labeling comment, currently, the standard includes requirements for marking, labeling, and instructions addressing that the minimum age of the intended user shall not be less than 15 months. Staff will discuss the comment with ASTM to consider whether additional guidance should be addressed in the standard. Regarding the latter comment, the Commission explains below the impact of the revision on the safety of toddler beds. In addition, the Commission explains above the statutory requirements for updating mandatory standards when a voluntary standards organization revises a voluntary standard that the Commission incorporated by reference under section 104(b)(1) of the CPSIA.

Based on staff's review of ASTM F1821–26, as discussed below, and the public comments received, the Commission is allowing the revised voluntary standard to become the mandatory standard for toddler beds. Pursuant to section 104(b)(4)(B) of the CPSIA, the Commission may reject the revised voluntary standard if it “has determined that the proposed revision does not improve the safety of the consumer product covered by the standard.” 15 U.S.C. 2056a(b)(4)(B). For the reasons discussed below, the Commission has not determined that “the proposed revision does not improve the safety of the consumer product covered by the standard.”

Accordingly, by operation of law under section 104(b)(4)(B) of the CPSIA, ASTM F1821–26 will become the

mandatory consumer product safety standard for toddler beds on August 29, 2026. 15 U.S.C. 2056a(b)(4)(B). This direct final rule updates part 1217 to incorporate by reference the revised voluntary standard, ASTM F1821–26.

II. Revisions to ASTM F1821

ASTM has revised the voluntary standard for toddler beds twice since its adoption of ASTM F1821–19^{e1}, which is the current mandatory standard. In March 2022, ASTM issued an editorial version of the 2019 standard, ASTM F1821–19^{e2}; and on February 1, 2026, ASTM approved a revision of the standard, ASTM F1821–26. ASTM F1821–19^{epsiv}:2 removed a figure showing a head probe because the probe was not being used in any of the requirements in the standard. ASTM F1821–26 includes clarifications regarding the standard's introduction and scope, as well as editorial revisions that do not alter substantive requirements in the standard or impact safety. The newly revised 2026 version includes the editorial revision that ASTM made in 2022. This section further describes the changes in ASTM F1821–26.

A. Introduction

ASTM F1821–26 adds the following statement in the introduction section of the standard: “[t]his specification is intended to cover normal use and reasonably foreseeable misuse or abuse of the products.” A similar statement appears in the scope section of the standard (section 1.2). In particular, section 1.2 provides that “[t]his consumer safety specification is intended to minimize incidents to children resulting from normal use and reasonably foreseeable misuse of toddler beds. It does not address incidents resulting from alteration or unreasonable misuse.” This revision in ASTM F1821–26 only repeats what is already stated in the scope section of the standard. As a result, the revision has no impact on the safety of toddler beds.

B. Scope

ASTM F1821–19^{e1} stated that “[f]or purposes of this consumer safety specification, a toddler bed is a bed that is sized to accept a full-size crib mattress and is intended for use by a child not less than 15 months of age and who weighs no more than 50 lb (27.7 kg)” (section 1.3). ASTM F1821–26 replaces the word “sized” with “intended” to clarify that a toddler bed is a bed that is intended, rather than sized, to accept a full-size crib mattress. This clarification can be useful because, for example, it can be interpreted that a

twin bed is “sized” such that it can accept a full-size crib mattress because the frame is large enough to do so, but it is not intended to accept such a mattress because it would leave large gaps between the mattress and the bed frame.

While this revision may help to clarify the scope of the standard, it does not impact the safety of toddler beds. This is because it is otherwise clear from the rest of the standard that the standard only applies to beds that fit only a full-size crib mattress. In this regard, in the test methods section of the standard, the test mattress is required to have the dimensions of a full-size crib mattress (section 7.1). Additionally, under the terminology section of the standard, toddler bed is specifically defined as accommodating the dimensions of a full-size crib mattress (section 3.1.2). Section 3.1.2 defines toddler bed as “any bed sized to accommodate a full-size crib mattress having minimum dimensions of 51⁵/₈ in. (1310 mm) in length and 27¹/₄ in. (690 mm) in width and is intended to provide free access and egress to a child not less than 15 months of age and who weighs no more than 50 pounds (27.7 kg).”

Notably, in ASTM F1821–26, the word “sized” remains unchanged in the terminology section of the standard. Although the word “sized” is replaced with “intended” in the scope section, such change is necessary there, where no dimensions are provided and the description of the term “toddler bed” is truncated. Therefore, notwithstanding the fact that the same change is not reflected in the terminology section, the revision continues to have no impact on safety because the definition of toddler bed in the terminology section and the equipment used in the test methods is otherwise clear that a toddler bed is a bed fitted for a full-size crib mattress.

C. Other Revisions

ASTM F1821–26 also includes various minor revisions that are editorial in nature and do not alter any substantive requirements in the standard. For example, these changes include removing the editorial notes for ASTM F1821–19^{e1} and ASTM F1821–19^{e2}; replacing the word “pounds” with “lb”; replacing the word “gage” with “gauge”; replacing “seconds” with “s”; reformatting text of warning statements; and other spacing and stylistic edits. Also, as previously mentioned, ASTM F1821–19^{e2} removed an obsolete figure of a head probe that was no longer relevant to the standard, which is also reflected in ASTM F1821–26. Because these revisions do not change any

substantive requirements, they do not impact the safety of toddler beds.

III. Incorporation by Reference

Section 1217.2 of the direct final rule incorporates by reference ASTM F1821–26. The Office of the Federal Register (OFR) has regulations regarding incorporation by reference. 1 CFR part 51. Under these regulations, agencies must discuss, in the preamble of the final rule, ways in which the material the agency incorporates by reference is reasonably available to interested parties, and how interested parties can obtain the material. In addition, the preamble to the final rule must summarize the material. 1 CFR 51.5(b).

In accordance with the OFR regulations, sections I and II of this preamble summarize ASTM F1821–26, which the Commission incorporates by reference into 16 CFR part 1217. The standard is reasonably available to interested parties in several ways. Until the direct final rule takes effect, a read-only copy of ASTM F1821–26 is available for viewing on ASTM's website at: <https://www.astm.org/cpsc.htm>. Once the rule takes effect, a read-only copy of the standard will be available for viewing on the ASTM website at: www.astm.org/READINGLIBRARY/. Additionally, interested parties can purchase a copy of ASTM F1821–26 from ASTM International, 100 Barr Harbor Drive, P.O. Box C700, West Conshohocken, PA 19428–2959; telephone: (610) 832–9585; www.astm.org. Finally, interested parties can schedule an appointment to inspect a copy of the standard at CPSC's Office of the Secretary, U.S. Consumer Product Safety Commission, 4330 East-West Highway, Bethesda, MD 20814; telephone: (301) 504–7479; email: cpsc-os@cpsc.gov.

IV. Certification

Section 14(a) of the CPSA (15 U.S.C. 2063(a)) requires manufacturers, including importers, of products subject to a consumer product safety rule under the CPSA, or to a similar rule, ban, standard, or regulation under any other act enforced by the Commission, to certify that the products comply with all applicable CPSC requirements. 15 U.S.C. 2063(a). Such certification must be based on a test of each product, or on a reasonable testing program, or, for children's products, on tests of a sufficient number of samples by a CPSC-accepted third party conformity assessment body accredited to test according to the applicable requirements. As noted, standards issued under section 104(b)(1)(B) of the CPSIA are “consumer product safety

standards.” Thus, they are subject to the testing and certification requirements of section 14 of the CPSA.

Because toddler beds are children's products, a CPSC-accepted third party conformity assessment body must test samples of the products. Products subject to part 1217 must also comply with all other applicable CPSC requirements, such as the lead content requirements in section 101 of the CPSIA,⁴ the phthalates prohibitions in section 108 of the CPSIA⁵ and 16 CFR part 1307, the tracking label requirements in section 14(a)(5) of the CPSA,⁶ and the consumer registration form requirements in 16 CFR part 1130. ASTM F1821–26 makes no changes that would impact any of these existing requirements.

V. Notice of Requirements

In accordance with section 14(a)(3)(B)(vi) of the CPSA (15 U.S.C. 2063(a)(3)(B)(vi)), the Commission previously published a notice of requirements (NOR) for accreditation of third party conformity assessment bodies (third party labs) for testing toddler beds. 76 FR 22030 (Apr. 20, 2011). The NOR provided the criteria and process for CPSC to accept accreditation of third party conformity assessment bodies for testing toddler beds to 16 CFR part 1217. The NORs for all mandatory standards for durable infant or toddler products are listed in the Commission's rule, “Requirements Pertaining to Third Party Conformity Assessment Bodies,” codified in 16 CFR part 1112. The NOR for accreditation of third party labs for testing toddler beds is codified at 16 CFR 1112.15(b)(4).

ASTM F1821–26 did not change the testing requirements, testing equipment, or testing protocols for toddler beds. Accordingly, the revisions in ASTM F1821–26 do not change the way that third party conformity assessment bodies test these products for compliance with the safety standard for toddler beds. Testing laboratories that have demonstrated competence for testing in accordance with ASTM F1821–19^{e1} will have the competence to test in accordance with the revised standard ASTM F1821–26. Therefore, the Commission considers the existing CPSC-accepted laboratories for testing to ASTM F1821–19^{e1} to be capable of testing to ASTM F1821–26 as well. Accordingly, the existing NOR for this standard will remain in place, and CPSC-accepted third party conformity assessment bodies are expected to

update the scope of the testing laboratories' accreditations to reflect the revised standard in the normal course of renewing their accreditations.

VI. Direct Final Rule Process

On March 11, 2026, the Commission published in the **Federal Register** a notice of availability regarding the 2026 revision to ASTM F1821 and requested comment on whether the revision improves the safety of toddler beds covered by the standard. 91 FR 11944. CPSC received six comments. The Commission is issuing this rule as a direct final rule. Although the Administrative Procedure Act (APA; 5 U.S.C. 551–559) generally requires agencies to provide notice of a rule and an opportunity for interested parties to comment on it, section 553 of the APA provides an exception when the agency “for good cause finds” that notice and comment are “impracticable, unnecessary, or contrary to the public interest.” *Id.* 553(b)(B). The Commission concludes that when it updates a reference to an ASTM standard that the Commission previously incorporated by reference under section 104(b) of the CPSIA, notice and comment are not necessary.

The purpose of this direct final rule is to update the reference in the Code of Federal Regulations (CFR) so that it reflects the version of the standard that takes effect by statute. This rule updates the reference in the CFR, but under the terms of the CPSIA, ASTM F1821–26 would take effect as the new CPSC standard for toddler beds in the absence of any action by the Commission. Thus, public comments would not lead to substantive changes to the standard or to the effect of the revised standard as a consumer product safety rule under section 104(b) of the CPSIA. Under these circumstances, notice and comment are unnecessary.

In Recommendation 2024–6, the Administrative Conference of the United States (ACUS) endorses direct final rulemaking as an appropriate procedure to expedite rules that are unlikely to elicit any significant adverse comments. *See* 89 FR 106406 (Dec. 30, 2024). ACUS recommends that agencies use the direct final rule process when they act under the “unnecessary” prong of the good cause exemption in 5 U.S.C. 553(b)(B). *Id.* at 106409. ACUS also explains that notice and comment may be “unnecessary” when the agency lacks discretion regarding the substance of the rule. *Id.* at 106408. As noted, this rule updates a reference in the CFR to reflect a change that occurs by operation of law. Consistent with the ACUS recommendation, the Commission is

⁴ 15 U.S.C. 1278a.

⁵ 15 U.S.C. 2057c.

⁶ 15 U.S.C. 2063(a)(5).

publishing this rule as a direct final rule because CPSC does not expect any significant adverse comments.

Unless CPSC receives a significant adverse comment within 30 days of this notification, the rule will become effective on August 29, 2026. In accordance with ACUS's recommendation, the Commission considers a significant adverse comment to be one where the commenter explains why the rule would be inappropriate, "including challenges to the rule's underlying premise or approach," or where the commenter explains why the rule would be ineffective or unacceptable without change. *Id.* at 106409. As noted, this rule updates a reference in the CFR to reflect a change that occurs by statute.

If the Commission receives a significant adverse comment, the Commission will withdraw this direct final rule. Depending on the comment and other circumstances, the Commission may then incorporate the adverse comment into a subsequent direct final rule or publish a notice of proposed rulemaking, providing an opportunity for public comment.

VII. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA; 5 U.S.C. 601–612) generally requires agencies to review proposed and final rules for their potential economic impact on small entities, including small businesses, and prepare regulatory flexibility analyses. 5 U.S.C. 603, 604. The RFA applies to any rule that is subject to notice and comment procedures under section 553 of the APA. *Id.* As discussed in section VI of this preamble, the Commission has determined that notice and the opportunity to comment are unnecessary for this rule. Therefore, the RFA does not apply. CPSC also notes the limited nature of this document, which merely updates the incorporation by reference to reflect the mandatory CPSC standard that takes effect under section 104 of the CPSIA.

VIII. Paperwork Reduction Act

The current mandatory standard includes requirements for marking, labeling, and instructional literature that constitute a "collection of information," as defined in the Paperwork Reduction Act (PRA; 44 U.S.C. 3501–3521). The Commission took the steps required by the PRA for information collections when it promulgated 16 CFR part 1217, and the marking, labeling, and instructional literature for toddler beds are currently approved under OMB Control Number 3041–0159. The revision does not affect the information

collection requirements or approval related to the standard.

IX. Environmental Considerations

The Commission's regulations provide for a categorical exclusion from any requirement to prepare an environmental assessment or an environmental impact statement where they "have little or no potential for affecting the human environment." 16 CFR 1021.5(c). This rule falls within the categorical exclusion, so no environmental assessment or environmental impact statement is required.

X. Preemption

Section 26(a) of the CPSA provides that where a consumer product safety standard is in effect and applies to a product, no state or political subdivision of a state may either establish or continue in effect a requirement dealing with the same risk of injury unless the state requirement is identical to the Federal standard. 15 U.S.C. 2075(a). Section 26(c) of the CPSA also provides that states or political subdivisions of states may apply to CPSC for an exemption from this preemption under certain circumstances. Section 104(b) of the CPSIA deems rules issued under that provision "consumer product safety standards." Therefore, once a rule issued under section 104 of the CPSIA takes effect, it will preempt in accordance with section 26(a) of the CPSA.

XI. Effective Date

Under the procedure set forth in section 104(b)(4)(B) of the CPSIA, when a voluntary standards organization revises a standard that the Commission adopted as a mandatory standard, the revision becomes the CPSC standard 180 days after notification to the Commission, unless the Commission determines that the revision does not improve the safety of the product, or the Commission sets a later date in the **Federal Register**. 15 U.S.C. 2056a(b)(4)(B). The Commission is taking neither of those actions with respect to the revised standard for toddler beds. Therefore, ASTM F1821–26 automatically will take effect as the new mandatory standard for toddler beds on August 29, 2026, 180 days after the Commission received notice of the revision. As a direct final rule, unless the Commission receives a significant adverse comment within 30 days of this document, the rule will become effective on August 29, 2026, and will apply to products manufactured after the rule's effective date.

XII. Congressional Review Act and Executive Order 12866

Pursuant to the Congressional Review Act (CRA) and Executive Order (E.O.) 12866, the Office of Management and Budget's Office of Information and Regulatory Affairs has determined that this rule does not qualify as a "major rule," as defined in 5 U.S.C. 804(2), and is not a significant regulatory action, as defined under section 2(f) of E.O. 12866. To comply with the CRA, CPSC will submit the required information to each House of Congress and the Comptroller General.

List of Subjects in 16 CFR Part 1217

Consumer protection, Imports, Incorporation by reference, Infants and children, Law enforcement, Safety, Toys.

For the reasons discussed in the preamble, the Commission amends 16 CFR chapter II as follows:

PART 1217—SAFETY STANDARD FOR TODDLER BEDS

■ 1. The authority citation for part 1217 is revised to read as follows:

Authority: 15 U.S.C. 2056a.

■ 2. Revise § 1217.2 to read as follows:

§ 1217.2 Requirements for toddler beds.

Each toddler bed must comply with all applicable provisions of ASTM F1821–26, Standard Consumer Safety Specification for Toddler Beds, approved on February 1, 2026. The Director of the Federal Register approves this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. This incorporation by reference material is available for inspection at the U.S. Consumer Product Safety Commission (CPSC) and at the National Archives and Records Administration (NARA). Contact CPSC at: the Office of the Secretary, U.S. Consumer Product Safety Commission, 4330 East-West Highway, Bethesda, MD 20814, telephone: (301) 504–7479, email: cpsc-os@cpsc.gov. 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. A read-only copy of the standard is available for viewing on the ASTM website at www.astm.org/READINGLIBRARY/. You may also obtain a copy from ASTM International, 100 Barr Harbor Drive, P.O. Box C700, West Conshohocken, PA 19428–2959;

telephone: (610) 832-9585; website: www.astm.org.

Alberta E. Mills,

Secretary, Consumer Product Safety Commission.

[FR Doc. 2026-09640 Filed 5-13-26; 8:45 am]

BILLING CODE 6355-01-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG-2026-0030]

RIN 1625-AA00

Safety Zone; Gulf Intracoastal Waterway; Florida Avenue Bridge; Temporary Waterway Closure

AGENCY: Coast Guard, Department of Homeland Security.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for navigable waters extending from MM 6.5 East of Harvey Lock to MM 10 East of Harvey Lock along the Gulf Intracoastal Waterway (GIWW) which includes the Inner Harbor Navigational Canal (IHNC) Lock. The safety zone is needed to protect personnel, vessels, and the marine environment from potential hazards associated with an ongoing sewage leak in the vicinity of the Florida Avenue Bridge at position 29°58.860 N, 90°01.300 W. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port, Sector New Orleans, or their designated representative.

DATES: This rule is effective without actual notice from May 14, 2026 through May 22, 2026. For the purposes of enforcement, actual notice will be used from May 5, 2026, until May 14, 2026.

ADDRESSES: To view available documents go to <https://www.regulations.gov> and search for USCG-2026-0030.

FOR FURTHER INFORMATION CONTACT: If you have questions about this rule, contact Lieutenant Commander Jacob Gamble, Sector New Orleans Waterways Management Division, U.S. Coast Guard; telephone (504)269-7251 or email Jacob.S.Gamble@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations

COTP Captain of the Port

DHS Department of Homeland Security

FR Federal Register

NPRM Notice of proposed rulemaking

§ Section

U.S.C. United States Code

II. Background and Authority

The Coast Guard received notification of an ongoing sewage leak in the vicinity of the Florida Avenue Bridge at position 29°58.860 N, 90°01.300 W. The Captain of the Port (COTP) New Orleans has determined that potential hazards associated with the sewage leak are a safety concern for anyone transiting within MM 6.5 East of Harvey Lock to MM 10 East of Harvey Lock along the Gulf Intracoastal Waterway (GIWW) which includes the Inner Harbor Navigational Canal (IHNC) Lock. These hazards include exposure to harmful substances and the presence of response vessels and personnel working in the area.

Therefore, the COTP is issuing this rule under the authority in 46 U.S.C. 70034, which is needed to protect personnel, vessels, and the marine environment in the navigable waters within the safety zone. The COTP previously established a safety zone for this response on April 18, 2026. The effective date for that temporary rule has expired but the response is continuing, therefore the COTP is issuing this temporary rule to extend the effective period of the safety zone.

Because of these potential hazards, the Coast Guard is issuing this rule without prior notice and comment. As is authorized by 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it is impracticable and contrary to the public interest. Additionally, the Coast Guard was notified of this event on April 18, 2026, and issued a temporary safety zone rule that expired May 2, 2026. However, we must issue this temporary rule immediately due to continuing response operations, to extend enforcement of the previously established safety zone until May 22, 2026, to continue to protect personnel, vessels, and the marine environment. Therefore, we do not have enough time to solicit and respond to comments.

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

III. Discussion of the Rule

This rule establishes a safety zone from May 5, 2026 through May 22, 2026. The safety zone will cover all navigable waters within MM 6.5 East of Harvey

Lock to MM 10 East of Harvey Lock along the Gulf Intracoastal Waterway (GIWW) which includes the Inner Harbor Navigational Canal (IHNC) Lock. Vessels and persons will not be allowed to enter the zone during this time, unless authorized by the COTP. The COTP will also issue public advisories to notify the public of the safety zone location and enforcement schedule.

IV. Regulatory Analyses

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

A. Impact on Small Entities

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

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121), if this rule will affect your small business, organization, or governmental jurisdiction and you have questions, contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

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

B. Collection of Information

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

C. Federalism and Indian Tribal Governments

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

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial

direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

D. Unfunded Mandates Reform Act

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

E. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment.

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T08–0030 to read as follows:

§ 165.T08–0030 Safety Zone; Gulf Intracoastal Waterway, Inner Harbor Navigation Canal to Florida Avenue Bridge, New Orleans, LA.

(a) *Location.* The following area is a safety zone: All waters extending MM 6.5 East of Harvey Lock to MM 10 East

of Harvey Lock along the Gulf Intracoastal Waterway (GIWW) which includes the Inner Harbor Navigational Canal (IHNC) Lock.

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

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

(2) To seek permission to enter, contact the COTP or the COTP's representative on VHF–FM channel 16 or by telephone at (504) 365–2545. Those in the safety zone must comply with all lawful orders or directions given to them by the COTP or the COTP's designated representative.

(d) *Enforcement period.* This section will be enforced from May 5, 2026 until May 22, 2026. In addition, the COTP will also inform the public of the enforcement area via Marine Safety Information Bulletin (MSIB), Broadcast Notice to Mariners (BNMs), and/or Safety Marine Information Broadcast (SMIB), as appropriate. The COTP may reduce the size and enforcement period of the emergency safety zone based on the pollution response activity occurring within the safety zone location.

G.A. Callaghan,

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

[FR Doc. 2026–09625 Filed 5–13–26; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2019–0215; FRL–13010–04–R5]

Air Plan Approval; Michigan; Infrastructure SIP Requirements for the 2015 Ozone NAAQS; Michigan State Board Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving an element of a State Implementation Plan (SIP)

submission from the Michigan Department of Environment, Great Lakes, and Energy (Michigan) 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 ensure that the structural components of each State's air quality management program are adequate to meet CAA requirements. This action pertains to CAA section 110(a)(2)(E)(ii). The EPA received comments on its November 20, 2025, proposed rule and withdrew the accompanying direct final rule. After considering the comments, the EPA is approving this element of Michigan's March 8, 2019, SIP submission.

DATES: This final rule is effective on June 15, 2026.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–R05–OAR–2019–0215. All documents in the docket are listed on the <https://www.regulations.gov> website. Although listed in the index, some information is not publicly available, *i.e.*, Confidential Business Information (CBI), Proprietary Business Information (PBI), or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available either through <https://www.regulations.gov> or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional information.

FOR FURTHER INFORMATION CONTACT: Kelsey Foss, Air and Radiation Division (AR–18), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, telephone number: (312) 886–6008, email address: foss.kelsey@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document whenever “we,” “us,” or “our” is used, we mean the EPA.

I. Background

On November 20, 2025, (90 FR 52238), the EPA published a direct final rule approving an element of an infrastructure SIP revision submitted by Michigan on March 8, 2019, to address the infrastructure requirements of CAA sections 110(a)(1) and (2) for the 2015 ozone NAAQS. An explanation of the CAA requirements, a detailed analysis of the SIP submission, and the EPA's reasons for proposing approval were provided in the direct final rule and will not be restated here.

In the direct final rule, the EPA stated that if adverse comments were received by December 22, 2025, the rule would be withdrawn and not take effect. On December 5, 2025, the EPA received two sets of adverse comments and, as a result, withdrew the direct final rule on January 6, 2026 (91 FR 335). Both sets of comments were from the Citizens Rulemaking Alliance (CRA). The EPA is addressing the comments in this final action based on the notice of proposed rulemaking also published on November 20, 2025 (90 FR 52311).

II. The EPA's Response to Comments

A summary of the comments, and the EPA's response, are provided below.

Comment: CRA states that the docket is incomplete according to Administrative Procedures Act (APA) requirements, and that the EPA did not provide sufficient explanations of how the rulemaking complies with the Regulatory Flexibility Act (RFA); the Small Business Regulatory Enforcement Fairness Act (SBREFA); the Paperwork Reduction Act (PRA); Executive Order 12866; and the Unfunded Mandates Reform Act (UMRA). CRA argues that this action is subject to the laws and executive order listed above because it "renders Michigan conflict-of-interest and disclosure provisions federally enforceable and establishes EPA's controlling interpretation of section 128 for Michigan." CRA also claims that the rulemaking does not meet the incorporation-by-reference requirements of 1 CFR part 51. CRA requests that the EPA provide additional documentation, analyses, and detailed explanations to ensure compliance with the APA, RFA, SBREFA, PRA, UMRA, and Executive Order 12866; add a "corrected, specific incorporation-by-reference package" to the record; add all documents demonstrating Michigan's fulfillment of CAA section 128 to the docket; and then reopen the comment period for at least 30 days "to allow meaningful public participation after the record is complete."

Response: The EPA disagrees with these comments. The comments mischaracterize the EPA's action. This rulemaking is not incorporating any new material into the regulatory portion of Michigan's SIP. As explained in the direct final rule, CAA section 128(a)(1) does not apply to Michigan, and the Michigan rule fulfilling the conflict-of-interest disclosure requirement of CAA section 128(a)(2) is already contained in Michigan's SIP. Thus, the incorporation-by-reference requirements of 1 CFR part 51 do not apply to this rulemaking and no new State provisions are rendered

federally enforceable by this rulemaking.

The EPA disagrees with the comment that the docket is incomplete. All materials reviewed by the EPA as part of this rulemaking are publicly available. In the direct final rulemaking, the EPA identified and provided website addresses for the Michigan actions that created and abolished the State boards that were subject to CAA section 128(a)(1). The EPA also identified the Michigan rule that fulfills the conflict-of-interest disclosure requirement of CAA section 128(a)(2). The proposed rulemaking to incorporate this Michigan rule into the State's SIP contains a detailed explanation of how the rule meets the requirement of CAA section 128(a)(2). See 80 FR 36306 (June 24, 2015).

The EPA has complied with the UMRA by making its own determination that this rule will not result in expenditures of \$100M or more, and therefore the EPA does not need to complete a statement under 2 U.S.C. 1532.

The RFA and SBREFA are inapplicable to this rulemaking because the EPA has certified that this rule will not have a significant economic impact on a substantial number of small entities. The regulatory analysis provisions of the RFA are only triggered by a threshold determination by the EPA that this rule will have a significant economic impact on a substantial number of small entities. Because the EPA has certified that this rule will not have a significant economic impact, sections 603 and 604 of the RFA do not apply to this rulemaking. 5 U.S.C. 605(b). In section IV of the direct final rule, the EPA provided the factual basis for our certification, which is that this action merely approves State law as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law. The full explanation is repeated in section IV of this final rulemaking.

The EPA has complied with the PRA by certifying in the rule that the PRA does not apply because the action does not involve an information collection burden as defined by the CAA. See 44 U.S.C. 3502(2).

Lastly, the EPA has complied with Executive Order 12866 by determining that this rulemaking is not a significant regulatory action as defined in Executive Order 12866. This rulemaking does not impose any new Federal or State requirements on any entities.

III. What action is the EPA taking?

The EPA is approving Michigan's March 8, 2019, submission as satisfying

the requirement of CAA section 110(a)(2)(E)(ii) for the 2015 ozone NAAQS.

IV. Statutory and Executive Order Reviews.

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, 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 an Executive Order 14192 (90 FR 9065, February 6, 2025) regulatory action because this action is not significant under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the PRA (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 RFA (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the UMRA 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).

This action is subject to the Congressional Review Act, and the 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).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 13, 2026. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not

postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen oxides, Ozone, Volatile organic compounds.

Dated: May 4, 2026.

Anne Vogel,

Regional Administrator, Region 5.

For the reasons stated in the preamble, title 40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

■ 1. The authority citation for part 52 continues to read as follows:

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

■ 2. In § 52.1170, the table in paragraph (e) is amended under the heading “Infrastructure,” by revising the entry for “Section 110(a)(2) infrastructure requirements for the 2015 ozone NAAQS” to read as follows:

§ 52.1170 Identification of plan.

* * * * *

(e) * * *

EPA-APPROVED—MICHIGAN NONREGULATORY AND QUASI-REGULATORY PROVISIONS

Name of nonregulatory SIP provision	Applicable geographic or nonattainment area	State submittal date	EPA Approval date	Comments
*	*	*	*	*
Infrastructure				
*	*	*	*	*
Section 110(a)(2) infrastructure requirements for the 2015 ozone NAAQS.	Statewide	3/8/2019	5/14/2026, 91 FR [INSERT FEDERAL REGISTER PAGE WHERE THE DOCUMENT BEGINS].	Approved CAA elements: 110(a)(2)(A), (B), (C), (D)(i)(II) Prong 3, D(ii), (E), (F), (G), (H), (J), (K), (L), and (M). Disapproved CAA elements: 110(a)(2)(D)(i)(I) Prongs 1 and 2, and 110(a)(2)(D)(i)(II) Prong 4.
*	*	*	*	*

* * * * *

[FR Doc. 2026–09616 Filed 5–13–26; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2024–0617; EPA–R05–OAR–2024–0618; FRL–13163–02–R5]

Air Plan Approval; Illinois; Moderate Attainment Plan Elements for the Chicago and Metro East Areas for the 2015 Ozone Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving portions of Illinois’ 2015 ozone National Ambient Air Quality Standard (NAAQS or standard) Moderate nonattainment area State Implementation Plan (SIP) submittal for the Chicago and the Metro East St. Louis areas. The portions being

approved are the reasonable further progress (RFP) demonstration, including the associated motor vehicle emissions budgets for 2023; the motor vehicle inspection and maintenance (I/M) program; the nonattainment new source review (NNSR) program; and the updated 2017 base year emissions inventories. The EPA is approving these portions of the State’s SIP submittal pursuant to section 110 and part D of the Clean Air Act (CAA), and the EPA’s regulations. The EPA is also finding adequate and approving the 2023 motor vehicle emissions budgets (budgets) for the Chicago and Metro East St. Louis Moderate ozone nonattainment RFP demonstration included in this SIP submittal. The EPA proposed to approve this action on February 12, 2026, and received no adverse comments.

DATES: This final rule is effective on June 15, 2026.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–R05–OAR–2024–0617 or EPA–R05–OAR–2024–0618. All documents in the docket are listed on the [https://](https://www.regulations.gov)

www.regulations.gov website. Although listed in the index, some information is not publicly available, *i.e.*, Confidential Business Information (CBI), Proprietary Business Information (PBI), or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available either through <https://www.regulations.gov> or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional information.

FOR FURTHER INFORMATION CONTACT:

Nicole Naber, Air and Radiation Division (AR18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, telephone number: (312) 886–6609, email address: naber.nicole@epa.gov.

SUPPLEMENTARY INFORMATION:

Throughout this document whenever “we,” “us,” or “our” is used, we mean the EPA.

I. Background Information

The Illinois Environmental Protection Agency (Illinois EPA) submitted SIP revisions on December 18, 2024, to address Moderate area requirements for the Chicago and Metro East areas under the 2015 ozone NAAQS. These submittals contained several nonattainment plan elements, including an updated 2017 base year emissions inventory for volatile organic compounds (VOC) and oxides of nitrogen (NO_x), a 15% RFP plan with 2023 VOC and NO_x motor vehicle emissions budgets, an I/M program certification, and an NNSR certification. The submittals also included an attainment demonstration, a reasonably available control measures demonstration, and contingency measures, which are not being addressed in this action. Illinois' SIP submittals and associated supporting documents are available in the docket for this action. On February 12, 2026 (91 FR 6568), the EPA proposed to approve portions of Illinois' attainment plan SIP revision request, dated December 18, 2024, pursuant to section 110 and part D of CAA. An explanation of the CAA requirements, a detailed analysis of the revisions, and the EPA's reasons for proposing approval were provided in the notice of proposed rulemaking and will not be restated here. The public comment period for this proposed rule ended on March 16, 2026. The EPA received no comments on the proposal; therefore, we are finalizing our action as proposed.

II. Final Action

The EPA is approving portions of Illinois' attainment plan SIP revision request, dated December 18, 2024, pursuant to section 110 and part D of CAA. The EPA is approving Illinois' updated 2017 base year emissions inventory, RFP demonstration including 2023 budgets, I/M certification, and NNSR requirements of the CAA for the Chicago and Metro East nonattainment areas for the 2015 ozone NAAQS. The EPA is also finding adequate and approving the 2023 motor vehicle emissions budgets for the Chicago and Metro East St. Louis Moderate ozone nonattainment areas included in this SIP submittal.

III. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submittal 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 submittals, 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 an Executive Order 14192 (90 FR 9065, February 6, 2025) regulatory action because this action is not significant 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).

This action is subject to the Congressional Review Act, and the 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).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 13, 2026. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen oxides, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: May 4, 2026.

Anne Vogel,

Regional Administrator, Region 5.

For the reasons stated in the preamble, title 40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

- 1. The authority citation for part 52 continues to read as follows:

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

- 2. In § 52.720, amend the table in paragraph (e):

- a. Adding a new entry for “Ozone (8-hour, 2015) Nonattainment New Source Review Requirements” before the entry for “Regional haze plan”;
- b. Under “Emission Inventories” by revising the entry for “Emission Inventory—2017 (2015 8-hour ozone)”;
- and
- c. Under “Moderate Area & Above Ozone Requirements” by adding an entry for “2015 8-hour Ozone Moderate Planning Elements” after the entry for “2008 8-hour Ozone Serious Planning Elements”.

The additions and revision read as follows:

§ 52.720 Identification of plan.

* * * * *

(e) * * *

EPA-APPROVED ILLINOIS NONREGULATORY AND QUASI-REGULATORY PROVISIONS

Name of SIP provision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Comments
* Ozone (8-hour, 2015) Non-attainment New Source Review Requirements.	* Chicago and St. Louis areas ..	* 10/09/2024	* 5/14/2026, 91 FR [INSERT FEDERAL REGISTER PAGE WHERE THE DOCUMENT BEGINS].	*
* 	* 	* 	* 	*
Emissions Inventories				
* Emissions inventory—2017 (2015 8-hour ozone).	* Chicago and St. Louis areas ..	* 10/09/2024	* 5/14/2026, 91 FR [INSERT FEDERAL REGISTER PAGE WHERE THE DOCUMENT BEGINS].	*
* 	* 	* 	* 	*
Moderate Area & Above Ozone Requirements				
* 2015 8-hour Ozone Moderate Planning Elements.	* Chicago and St. Louis areas ..	* 10/09/2024	* 5/14/2026, 91 FR [INSERT FEDERAL REGISTER PAGE WHERE THE DOCUMENT BEGINS].	* 2023 VOC and NO _x Motor Vehicle Emissions Budgets, Motor Vehicle Inspection and Maintenance Program certification.
* 	* 	* 	* 	*

[FR Doc. 2026–09613 Filed 5–13–26; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R08–OAR–2025–2070; FRL–13177–02–R8]

Air Plan Approval; Montana; Revisions to Western Sugar Stipulation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving revisions to the Montana State Implementation Plan (SIP). These revisions specifically address sulfur dioxide (SO₂) emission limits and associated requirements related to the Western Sugar Cooperative facility in Billings, Montana. The EPA is taking this action pursuant to the Clean Air Act (CAA).

DATES: This rule is effective on June 15, 2026.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–R08–OAR–2025–2070. All

documents in the docket are listed on the <https://www.regulations.gov> website. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available through <https://www.regulations.gov>, or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

FOR FURTHER INFORMATION CONTACT: Adam Clark, Air and Radiation Division, EPA, Region 8, Mailcode 8ARD–IO, 1595 Wynkoop Street, Denver, Colorado 80202–1129, telephone number: (303) 312–7104, email address: clark.adam@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document “we,” “us,” and “our” means the EPA.

I. Background

The background for this action is discussed in detail in our January 23, 2026 proposal (91 FR 2892). In that document we proposed to approve

Montana’s September 25, 2025 revisions to Exhibit A of a 1998 Stipulation adopting an SO₂ control plan for the Billings Western Sugar Cooperative facility (hereon “Western Sugar Stipulation”) into the Montana SIP. These revisions included the removal of the continuous emission monitor and flow rate monitor requirements on the boiler house stack, replacement of the 190-day annual campaign limit with a heat input limit, removal of the SO₂ emission limits and monitoring and reporting requirements for the pulp dryer units and the addition of a requirement to burn natural gas, and the removal of “facility modifications” requirements, which have already been completed.

We received four comments, all from individuals, on our January 23, 2026 proposed approval. Our responses to the comments are below.

II. Response to Comments

Comment: All of the commenters expressed support for the EPA’s proposed action.

Response: The EPA acknowledges and appreciates the comments in support of this rulemaking action.

Comment: One commenter generally stated that there should be more

resources allocated to the regulation and monitoring of methane.

Response: The EPA acknowledges the comment. However, we do not find the comment to be sufficiently specific or relevant to the action we are taking today to warrant a specific response.

III. Final Action

The EPA is approving Montana's September 25, 2025 revisions to Exhibit A of the Western Sugar Stipulation into the Montana SIP. The EPA is taking this action pursuant to the CAA.

IV. Incorporation by Reference

In this document, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference "Western Sugar June 12, 1998 Exhibit A. Emission Limitations and Other Conditions," as discussed in section I. of this preamble. The EPA has made, and will continue to make, these materials generally available through <https://www.regulations.gov> and at the EPA Region 8 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been approved by the EPA for inclusion in the SIP, have been incorporated by reference by the EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of the EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.¹

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 Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve State choices, provided 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 an Executive Order 14192 (90 FR 9065, February 6, 2025) regulatory action because this action is not significant 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).

The Congressional Review Act (CRA), 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, 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. Section 804, however, exempts from section 801 the following types of rules: rules of

particular applicability; rules relating to agency management or personnel; and rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties. 5 U.S.C. 804(3). Because this is a rule of particular applicability, the EPA is not required to submit a rule report regarding this action under section 801.

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 13, 2026. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

List of Subjects in 40 CFR Part 52

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

Dated: May 5, 2026.

Cyrus M. Western,
Regional Administrator, Region 8.

For the reasons set forth in the preamble, 40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

- 1. The authority citation for part 52 continues to read as follows:

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

Subpart BB—Montana

- 2. In § 52.1370, amend the table in paragraph (d) under the entry "(11) Yellowstone County:" by revising the entry "Western Sugar June 12, 1998 Exhibit A. Emission Limitations and Other Conditions" to read as follows:

§ 52.1370 Identification of plan.

* * * * *

(d) * * *

¹ 62 FR 27968 (May 22, 1997).

Title/subject	State effective date	Notice of final rule date	NFR citation
(11) Yellowstone County:			
Western Sugar June 12, 1998 Exhibit A. Emission Limitations and Other Conditions.	8/29/2025	5/14/2026	91 FR [insert FEDERAL REGISTER page where the document begins].

* * * * *

[FR Doc. 2026–09619 Filed 5–13–26; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 52**

[EPA–R05–OAR–2026–0562; FRL–13213–02–R5]

Air Plan Approval; Ohio; Clean Data Determination for the Cleveland, Ohio Area for the 2015 Ozone Standard**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is determining under the Clean Air Act (CAA) that the Cleveland, Ohio nonattainment area (hereafter also referred to as “Cleveland area” or “area”) has attained the 2015 ozone National Ambient Air Quality Standard (NAAQS or standard). This determination is based upon complete, quality-assured, and certified ambient air monitoring data for the 2023–2025 design period showing that the Cleveland area achieved attainment of the 2015 ozone NAAQS. This determination relies on an exceptional events request submitted by the Ohio Environmental Protection Agency (Ohio EPA) on December 8, 2025, and concurred on by the EPA on January 12, 2026. The EPA is taking final agency action on Ohio’s exceptional events request and the EPA’s concurrence. As a result of this determination, the EPA is suspending the requirements for the State to submit an attainment demonstration and associated Reasonable Available Control Measures (RACM), Reasonable Further Progress (RFP) plans, contingency measures for failure to attain or make reasonable progress, and other planning SIPs related to attainment of the 2015 ozone NAAQS, for as long as the area continues to attain the 2015 ozone NAAQS. The EPA proposed to approve this action on February 27, 2026.

DATES: This final rule is effective on May 14, 2026.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–R05–OAR–2026–0562. All documents in the docket are listed on the <https://www.regulations.gov> website. Although listed in the index, some information is not publicly available, *i.e.*, Confidential Business Information (CBI), Proprietary Business Information (PBI), or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available either through <https://www.regulations.gov> or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional information.

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.

I. Background Information

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).¹ 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

¹ See 80 FR 65292, (October 26, 2015).

40 CFR 50.19 and appendix U at 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 area violating the NAAQS, based on the most recent three years of quality-assured ozone monitoring data. The Cleveland area, consisting of Cuyahoga, Geauga, Lake, Lorain, Medina, Portage, and Summit Counties, 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 standard 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 standard by the Moderate attainment date, and the area was reclassified as Serious by operation of law.

On February 27, 2026 (91 FR 9800), the EPA proposed to approve a determination under the CAA that the Cleveland area has attained the 2015 ozone NAAQS based upon complete, quality-assured, and certified ambient air monitoring data for the 2023–2025 design period. Such a determination, based upon the EPA’s Clean Data Policy, is known informally as a clean data determination (CDD). The EPA’s proposed CDD relied upon the EPA’s concurrence on an exceptional events request submitted by Ohio EPA on December 8, 2025. The EPA also proposed to take final agency action on Ohio EPA’s exceptional events request concurred on by the EPA on January 12, 2026. As a result of this determination and pursuant to 40 CFR 51.1318, the EPA proposed to suspend the requirements for the area to submit attainment demonstrations and associated RACM, RFP plans, contingency measures for failure to attain or make reasonable progress, and other planning SIPs related to attainment of the 2015 ozone NAAQS,

for as long as the area continues to attain the 2015 ozone NAAQS.

An explanation of CAA requirements, a detailed analysis of the revisions, and the EPA's reasons for proposing approval were provided in the notice of proposed rulemaking and will not be restated here. The public comment period for this proposed rule ended on March 30, 2026.

II. Response to Comments

The EPA received one supportive and five adverse comments. Summaries of the adverse comments and the EPA's responses are provided below. All comments submitted during the public comment period are available in the docket of this action.

Comment: Five commenters raised concerns over the suspension of the planning requirements, specifically RACM, RFP, and contingency measures, in the Cleveland area related to the attainment of the 2015 ozone standard. Some commenters note that suspending requirements is a premature action that will not ensure continued progress, can lead to downgrades in air quality in the area, incentivize temporary attainment, or disproportionately affect vulnerable communities. Other commenters also mention planning requirements should remain in place to ensure air quality improvements are permanent and affirm the State's ability to respond to emerging issues.

Response: In this rule, the EPA is determining that the Cleveland area has attained the 2015 ozone NAAQS and is suspending requirements for the area to submit attainment demonstrations and the associated RACM, RFP plans, contingency measures for failure to attain or make reasonable progress, and other planning SIPs related to the attainment of the 2015 ozone NAAQS, for as long as the area continues to attain the standard in accordance with the provisions set forth at 40 CFR 51.1318. The commenters raise structural and statutory objections to the Clean Data Policy provisions of 40 CFR 51.1318.² These comments are not relevant to the EPA's determination of attainment with respect to the Cleveland area, and should more properly have been raised in the context of the 2015

Ozone NAAQS Implementation Rule containing that provision.³

The 2015 Ozone NAAQS Implementation Rule was promulgated through notice and comment rulemaking and subject to the judicial review provisions of section 307(b) of the CAA. The commenters did not submit comments regarding the provisions of 40 CFR 51.1318 during the comment period for the 2015 Ozone NAAQS Implementation rule. Therefore, these comments fall outside the scope of this action. The EPA does acknowledge, as codified at 40 CFR 51.1318, that State planning SIPs related to the attainment of the ozone NAAQS for which the determination has been made may be required in the event that "the EPA determines that the area has violated that NAAQS."

Comment: One commenter stated that the EPA should provide more transparent data and not fully rely on wildfire data in making determinations of attainment since it does not accurately reflect the air quality experienced by residents in the Cleveland area. Similarly, another commenter encouraged the EPA to more fully consider the lived experiences of local communities rather than the technical adjustment of the data excluded per the exceptional events demonstration when determining attainment of the standard.

Response: Under the Clean Data Policy, the EPA may issue a CDD if a nonattainment area meets the 2015 ozone NAAQS based on three complete, consecutive calendar years of quality-assured air quality data for all monitoring sites in the area. The EPA reviews exceptional events demonstrations on a case-by-case basis using a weight of evidence approach considering the specifics of the individual event. This means the EPA considers all relevant evidence submitted with a demonstration or otherwise known to the EPA and qualitatively "weighs" this evidence based on its relevance to the Exceptional Events Rule criterion being addressed, the degree of certainty, the persuasiveness, and other considerations appropriate to the individual pollutant and the nature and type of event before acting to approve or disapprove an air agency's request to exclude data. The underlying policy behind the Exceptional Events Rule is that there may be external sources of air pollution, such as wildfires, that are not attributable to any activities in the area and are likewise not remediable through the mechanisms being suspended under

40 CFR 51.1318. The EPA acknowledges the experiences of Cleveland area residents alongside long-term overall improvement in ozone air quality trends in the area, while affirming that the technical data exclusions for wildfire impacts were appropriately applied under the Exceptional Events Rule. The factors raised by the commenter about particulate matter fall outside the scope of a CDD for ozone and this action. The EPA's technical support document and Ohio EPA's exceptional events demonstration data are included in the docket of this action to provide transparency of the EPA's evaluation.

Comment: One commenter stated that removing exceptional event data obscures underlying air quality trends.

Response: The EPA does not agree with the commenter. According to the EPA's "Guidance on the Preparation of Exceptional Events Demonstrations for Wildfire Events that May Influence Ozone Concentrations" and the Exceptional Events Rule, demonstrations must address the technical element that "the event affected air quality in such a way that there exists a clear causal relationship between the specific event and the monitored exceedance or violation" supported, in part, by the comparison to historical concentrations and other analyses during the same season.⁴ Air agencies must include a comparison of ozone data requested for exclusion with historical concentrations at the air quality monitor and should further support the clear causal relationship criterion by demonstrating that a wildfire's emissions were transported to the monitor, that the emissions from the wildfire influenced the monitored concentrations, and, in some cases, quantifying the contribution of the wildfire's emissions to the monitored ozone exceedance or violation. The data used in the comparison of historical concentrations analysis should focus on concentrations of ozone at the influenced monitor and nearby monitors if appropriate. While the exceptional event-influenced data is excluded from regulatory calculations under the Exceptional Events Rule, this data is retained and flagged in the Air Quality System for continued non-regulatory use. Ohio EPA's exceptional events demonstration included a comparison of historical concentrations and air quality trends, as required by 40 CFR 50.14(c)(3)(iv)(C) and is included in the docket of this action.⁵

² The EPA initially issued the Clean Data Policy in 1995, "Reasonable Further Progress, Attainment Demonstration, and Related Requirements for Ozone Nonattainment Areas Meeting the Ozone National Ambient Air Quality Standard." Memorandum from John S. Seitz, Director, Office of Air Quality Planning and Standards, May 10, 1995. For purposes of the 1997 ozone NAAQS, we codified that policy at 40 CFR 51.918. This codified policy was upheld by the D.C. Circuit in *NRDC v. EPA*, 571 F.3d 1245 (D.C. 2009).

³ 83 FR 62998, December 6, 2018.

⁴ See 40 CFR 50.14(c)(3)(iv)(B)–(C).

⁵ See 91 FR 9800 (February 27, 2026), Cleveland Ozone Exceptional Event Concurrence Technical Support Document.

Comment: One commenter suggested requiring a more stringent standard of 60 parts per billion in order to suspend planning requirements in areas that have been historically non-compliant, like Cleveland, with significant at-risk populations. The commenter includes references to reports by the American Lung Association, the Asthma and Allergy Foundations of America, and the Ohio Department of Health.

Response: Similar to the responses above, the commenter raises structural and statutory objections to the Clean Data Policy provisions of 40 CFR 51.1318 and the 2015 Ozone Implementation Rule. These concerns also fall outside the scope of this action and the EPA's authority.

III. Final Action

The EPA is making a determination that the Cleveland area is attaining the 2015 ozone NAAQS, based upon complete, quality-assured, and certified ambient air monitoring data for the 2023–2025 design value period, after concurring on the exclusion of certain exceedances due to exceptional events. The EPA is also taking final agency action on an exceptional events request submitted by Ohio EPA on December 8, 2025, and concurred on by the EPA on January 12, 2026, based on the EPA's evaluation of the weight of evidence provided in Ohio EPA's exceptional event demonstration. As a result of the CDD, the EPA is suspending the requirements for the area to submit attainment demonstrations and associated RACM, RFP plans, contingency measures for failure to attain or make reasonable progress, and other planning SIPs related to attainment of the 2015 ozone NAAQS, for as long as the area continues to attain the 2015 ozone NAAQS.

In accordance with 5 U.S.C. 553(d) of the Administrative Procedure Act (APA), the EPA finds there is good cause for this action to become effective date for this action is authorized under 5 U.S.C. 553(d)(1).

Section 553(d)(1) of the APA provides that final rules shall not become effective until 30 days after publication in the **Federal Register** "except . . . a substantive rule which grants or recognizes an exemption or relieves a restriction." The purpose of this provision is to "give affected parties a reasonable time to adjust their behavior before the final rule takes effect." *Omnipoint Corp. v. Fed. Comm'n Comm'n*, 78 F.3d 620, 630 (D.C. Cir. 1996); see also *United States v. Gavrilovic*, 551 F.2d 1099, 1104 (8th Cir. 1977) (quoting legislative history). When the agency grants or recognizes an

exemption or relieves a restriction, however, affected parties do not need a reasonable time to adjust because the effect is not adverse. The EPA has determined that this rule relieves a restriction because this rule suspends the requirements for the State to submit attainment demonstrations and associated RACM, RFP plans, contingency measures for failure to attain or make reasonable progress, and other planning SIPs related to attainment of the 2015 ozone NAAQS, for as long as the area continues to attain the 2015 ozone NAAQS. For this reason, the EPA finds good cause under 5 U.S.C. 553(d)(1) for this action to become effective on the date of publication of this action.

IV. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, 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 an Executive Order 14192 (90 FR 9065, February 6, 2025) regulatory action because this action is not significant 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).

This action is subject to the Congressional Review Act, and the 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).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 13, 2026. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen oxides, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: May 4, 2026.

Anne Vogel,

Regional Administrator, Region 5.

For the reasons stated in the preamble, title 40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

■ 1. The authority citation for part 52 continues to read as follows:

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

■ 2. In § 52.1870, the table in paragraph (e) is amended by adding a new entry for "2015 Ozone Clean Data

Determination” after the entry for
 “Definition of Air Contaminant” to read
 as follows:

§ 52.1870 Identification of plan.

* * * * *
 (e) * * *

EPA-APPROVED OHIO NONREGULATORY AND QUASI-REGULATORY PROVISIONS

Title	Applicable geographical or non-attainment area	Start date	EPA approval	Comments
2015 Ozone Clean Data Determination.	Cleveland area (Cuyahoga, Geauga, Lake, Lorain, Medina, Portage, Summit Counties).	N/A	5/14/2026, 91 FR [INSERT FEDERAL REGISTER PAGE WHERE THE DOCUMENT BEGINS].	EPA's final determination suspends requirements for Ohio EPA to submit an attainment demonstration and other associated nonattainment planning requirements for the Cleveland area for as long as the area continues to attain the 2015 ozone NAAQS.

[FR Doc. 2026-09614 Filed 5-13-26; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R05-OAR-2021-0761; FRL-12258-02-R5]

Air Plan Approval; Indiana; Indiana NO_x Emissions Monitoring

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving under the Clean Air Act (CAA) a request from the Indiana Department of Environmental Management (IDEM) to revise the Indiana State Implementation Plan (SIP) to incorporate revisions to nitrogen oxides (NO_x) emissions monitoring, reporting, and recordkeeping requirements for new and existing large non-Electric Generating Units (non-EGUs) affected by the NO_x SIP Call. This SIP revision would approve monitoring, reporting, and recordkeeping requirements that are permissible as alternatives under Federal rules for these sources for purposes of the NO_x SIP Call.

DATES: This final rule is effective on June 15, 2026.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA-R05-OAR-2021-0761. All documents in the docket are listed on the <https://www.regulations.gov> website. Although listed in the index, some information is not publicly

available, *i.e.*, Confidential Business Information (CBI), Proprietary Business Information (PBI), or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available either through <https://www.regulations.gov> or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional information.

FOR FURTHER INFORMATION CONTACT: Cecilia Magos, Air and Radiation Division (AR-18J), 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.

I. Background

Under the “good neighbor provision” of the CAA section 110(a)(2)(D)(i)(I), States are required to prohibit emissions within their State that contribute significantly to nonattainment in, or interfere with the maintenance of, the National Ambient Air Quality Standards (NAAQS) in a downwind State. The EPA published a series of regulations requiring eastern States, including Indiana, to comply with statewide budgets limiting ozone season emissions of NO_x, a precursor to ozone, as well as annual emissions of NO_x and sulfur dioxide (SO₂), precursors to fine particulate matter (PM_{2.5}). On October 27, 1998 (63 FR 57356), the EPA

published the NO_x SIP Call pursuant to the good neighbor provision for the 1979 ozone NAAQS. The NO_x SIP Call required eastern States to submit SIPs that prohibit excessive emissions of ozone season NO_x by complying with statewide NO_x emissions budgets. The NO_x SIP Call also established the NO_x Budget Trading Program (NBTP), a regional allowance trading program that States could adopt to meet most of their obligations under the NO_x SIP Call.

On August 8, 2011 (76 FR 48208), the EPA published the Cross-State Air Pollution Rule (CSAPR), pursuant to the good neighbor provision of the 1997 ozone NAAQS, 1997 PM_{2.5} NAAQS, and the 2006 PM_{2.5} NAAQS, establishing new statewide budgets for eastern States for ozone season NO_x emissions and annual NO_x and SO₂ emissions. State EGUs participating in the CSAPR trading program for ozone season NO_x emissions generally addressed their NO_x SIP Call obligations for EGUs through the CSAPR trading program.

Indiana is meeting its obligation under the NO_x SIP Call for EGUs by participating in the CSAPR trading program for ozone season NO_x emissions. For large non-EGUs, Indiana is meeting its NO_x SIP Call obligations through the implementation of emissions cap and monitoring requirements under the SIP-approved (85 FR 44738, July 24, 2020) State rule at 326 Indiana Administrative Code (IAC) 10-2. Under 326 IAC 10-2, the affected large non-EGUs in the State are required to monitor, report, and keep records of their mass emissions of ozone season NO_x in accordance with 40 CFR part 75.

On March 8, 2019 (84 FR 8422), the EPA published final amendments to the

NO_x SIP Call regulations giving States flexibility to authorize other monitoring, recordkeeping and reporting requirements as alternatives to the requirements of 40 CFR part 75 for large non-EGUs for purposes of the NO_x SIP Call. Ultimately, such alternative monitoring requirements could be made available to sources through the EPA approval of their State SIP revisions. On October 21, 2021, IDEM submitted a request to revise the Indiana SIP at 326 IAC 10–2 to allow for alternative NO_x monitoring, recordkeeping and reporting requirements permitted under the newly published NO_x SIP Call amendments.

On April 21, 2025 (90 FR 16658), the EPA published a rulemaking proposing to approve IDEM's October 21, 2021, request addressing ongoing NO_x SIP Call requirements with respect to most of the State's affected large non-EGUs, specifically approve monitoring, reporting, and recordkeeping requirements that are permissible as alternatives to the part 75 monitoring requirements for purposes of the NO_x SIP Call. Public comments on the proposal were due by May 21, 2025.

II. The EPA's Response to Comments

The EPA received one supportive comment recommending the EPA finalize the proposed action and two adverse comments. Summaries of the adverse comments and the EPA's responses are provided below. The comments submitted during the public comment period are available in the docket of this action.

Comment: A commenter recommends Indiana be prohibited from revising its NO_x emissions monitoring, noting such revisions will lead to increased pollution.

Response: The EPA disagrees with this comment. An owner or operator of a large non-EGU is required to apply for an operating permit or a modification to an existing operating permit with an indication of the alternative monitoring to be used and procedures being requested. The request should demonstrate compliance sufficiently with existing ozone season NO_x emissions budgets established upon approval. The request does not modify the established ozone season NO_x emissions budgets; it only modifies the monitoring procedures utilized. As discussed in more detail in the proposed rule and below, the EPA does not expect alternative monitoring procedures either to be systematically biased toward understatement of emissions or to create any incentive leading to increased emissions, as the commenter states. IDEM must report all

NO_x emissions under this rule annually to the EPA.

Comment: A commenter requests information on provisions that prioritize air quality monitoring and target emissions reductions of NO_x and ozone pollution in communities of color and low-income neighborhoods, citing an EPA 2021 environmental justice web page.

Response: This rule does not establish new monitoring locations. It applies to all sources affected by the NO_x SIP Call and does not involve targeted monitoring in certain communities.

Comment: A commenter questions how IDEM and the EPA will “verify that alternative monitoring and reporting methods do not systematically underestimate NO_x emissions, especially when emission factors are used instead of continuous emissions monitoring systems (CEMS).” The commenter also references a journal article on occupational air pollution exposure in urban workers.

Response: As stated in the proposal, the EPA acknowledges alternative monitoring requirements may provide less detailed monitoring data and require less rigorous quality assurance with a consequently greater possibility that the total NO_x emissions amount reported by a source for a given ozone season might understate or overstate the source's actual total emissions for that ozone season to some degree. However, there is no reason to expect any approved alternative monitoring methodology, including the use of emission factors, either to be systematically biased toward understatement of emissions or to create any incentive leading to increased emissions. In the proposed rule, the EPA stated that no changes to air emissions or air quality are expected because no changes are being made to the NO_x SIP Call's emissions requirements. Additionally, the EPA does not find the cited journal article on occupational air pollution exposure in urban workers to be relevant to the concerns raised by the commenter. The cited article compares the differences in air pollution exposure across a range of occupations in urban workers, which the EPA does not find applicable for this action.

Comment: A commenter raised concerns on stack testing frequency and the availability of stack testing data, requesting IDEM's commitment to more frequent stack tests and public reporting. The commenter cited a U.S. Government Accountability Office (GAO) report that recommends identifying a federal entity to lead

efforts to update methodologies used to develop the social cost of carbon.

Response: This rulemaking is specific to the EPA's authority under CAA section 110, to approve amendments to the Indiana SIP. The EPA defers to States' choices regarding additional stack testing and reporting, as such additional testing and reporting are not required by Federal regulations. The cited report originates from the GAO, an office within the legislative branch, and does not apply to the authority of the EPA under the executive branch of the United States.

Comment: A commenter inquired about additional measures to prevent gaps in NO_x emissions data “during transitions between monitoring methods or when equipment malfunctions,” and the accessibility of such information to the public.

Response: IDEM's rule changes include revisions to monitoring procedures that describe how NO_x emissions will be accounted for during periods of missing data, such as maintenance and malfunctions, as inquired by the commenter. Additionally, if alternative monitoring and reporting is requested within an ozone control period, IDEM will require adequate description of the transition process to ensure there will be no gaps in data collection and reporting of ozone control period NO_x emissions. As stated, all alternative monitoring and reporting shall meet the conditions of recording and reporting data in accordance with the terms and conditions in the operating permit. These records must be made available upon request. The EPA finds the requirements for the use of approaches other than part 75 monitoring requests satisfactory. The commenter cites an online web page that is not available, so the EPA was unable to review that source.

Comment: A commenter questioned how the EPA and IDEM will ensure alternative monitoring options do not weaken enforcement of ozone season NO_x caps or attainment of the NAAQS.

Response: The original purpose of the emission monitoring requirements under the NO_x SIP Call was to ensure compliance with the control measures adopted to achieve the rule's emissions reduction requirements. This action does not change NO_x emission budgets or the emissions from the impacted facilities. The rule amendments to the NO_x SIP Call published on March 8, 2019 (84 FR 8422), expanded the options available to States for addressing the ongoing general requirements by allowing alternative monitoring methods other than methods

in 40 CFR part 75 monitoring. Alternative monitoring requirements are intended to potentially reduce monitoring costs. As stated previously, alternative monitoring requirements are not meant to impact emissions or air quality. Sources must submit an application for an operating permit or a modification to an existing one to implement alternative monitoring methods. And IDEM's rules require compliance with ozone season emissions budget to implement an alternative monitoring method. Alternative monitoring methods will provide adequate data to support enforcement of ozone season NO_x budgets as required under the NO_x SIP Call. Further, the commenter cites an online web page that is not available.

Comment: A commenter questioned whether IDEM conducted cumulative impact assessments ensuring alternative monitoring methods do not exacerbate local NO_x "hotspots" and asked about the public availability of these assessments.

Response: The commenter cited a United States White House web page that is no longer applicable nor available. This action is meant to support monitoring and enforcement of ozone season NO_x budgets as required under the NO_x SIP Call and does not change any emission limits for sources that might be contributing to local NO_x hotspots.

Comment: A commentor requested information pertaining to the reporting of worker safety and training associated with the installation, maintenance, and operation of new monitoring systems.

Response: The EPA notes these comments are outside the scope of this action and are not discussed further in this document. This rulemaking addresses compliance with NO_x SIP Call regulations, which do not contain provisions related to worker safety and training.

Comment: A commenter inquired whether the EPA or IDEM will track possible co-benefits for greenhouse gas reductions and climate resilience as a result of NO_x emission reductions in vulnerable communities.

Response: The commenter includes an online web page that is not available, and these concerns are outside the scope of this action. As previously stated, this rule does not change existing emission limits, rather it allows for the use of alternative monitoring requirements in compliance with NO_x SIP Call emissions reductions.

Comment: A commenter inquired about the availability of all monitoring and compliance data in a "centralized, accessible, and multilingual online

database to promote transparency and community engagement."

Response: The commenter cites an online web page that is no longer available. The EPA notes the changes in this rule pertain to the use of non-part 75 monitoring requirements for reporting NO_x ozone season emissions. These alternative monitoring approaches require data collection and reporting systems, in accordance with the terms and conditions of the approved operating permit.

Comment: A commenter inquired about the EPA and IDEM's commitment to re-evaluating "the effectiveness and equity of these alternative monitoring provisions every three years and updating the SIP accordingly," citing an invalid web page presumably on the evolution of the CAA.

Response: The comments fall outside the scope of this action and the commenter cites an invalid online web page. There is no Federal requirement for States to re-evaluate alternative monitoring provisions or update a SIP every three years.

III. What Action Is the EPA Taking?

The EPA is approving IDEM's request to modify its SIP to revise rule 326 IAC 10–2. Specifically, this includes revisions to 326 IAC 10–2–3, 326 IAC 10–2–4, and 326 IAC 10–2–8 and the addition of 326 IAC 10–2–8.5 to include alternative monitoring, recordkeeping and reporting requirements.

IV. Incorporation by Reference

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the Indiana Regulations described in section III of this preamble and set forth in the amendments to 40 CFR part 52 below. The EPA has made, and will continue to make, these documents generally available through <https://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). Therefore, these materials have been approved by the EPA for inclusion in the SIP, have been incorporated by reference by the EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of the EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.¹

¹ 62 FR 27968 (May 22, 1997).

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, 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 an Executive Order 14192 (90 FR 9065, February 6, 2025) regulatory action because this action is not significant 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).

This action is subject to the Congressional Review Act, and the 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).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 13, 2026. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be

challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen oxides, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: May 4, 2026.

Anne Vogel,

Regional Administrator, Region 5.

For the reasons stated in the preamble, 40 CFR part 52 is amended as follows:

EPA-APPROVED INDIANA REGULATIONS

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

■ 1. The authority citation for part 52 continues to read as follows:

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

■ 2. In § 52.770, the table in paragraph (c) is amended by revising the entry for “10–2” under the section titled “Article 10. Nitrogen Oxides” to read as follows:

§ 52.770 Identification of plan.

* * * * *

(c) * * *

Indiana citation	Subject	Indiana effective date	EPA approval date	Notes
*	*	*	*	*
Article 10. Nitrogen Oxides				
10–2	NO _x Emissions from Large Affected Units	10/21/2021	5/14/2026, 91 FR [INSERT FEDERAL REGISTER PAGE WHERE THE DOCUMENT BEGINS].	*
*	*	*	*	*

* * * * *

[FR Doc. 2026–09612 Filed 5–13–26; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2024–0268; FRL–12929–02–R5]

Air Plan Approval; Minnesota; Metropolitan Council Wastewater Treatment Plant Title I PM₁₀ SIP Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a request from the Minnesota Pollution Control Agency (MPCA) to revise its State Implementation Plan (SIP) by addressing changes at the Metropolitan Council Environmental Service (MCES) Metropolitan Council Wastewater Treatment Plant (Metro Plant) in Ramsey County, Minnesota, which is affected by title I SIP conditions. This

SIP revision is being approved in conjunction with an amendment to a part 70 permit maintaining federally enforceable title I SIP conditions. This SIP revision will result in a reduction of allowable emissions of particulate matter less than 10 microns (PM₁₀) emitted by the facility. The EPA proposed to approve this action on November 20, 2025.

DATES: This final rule is effective on June 15, 2026.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–R05–OAR–2024–0268. All documents in the docket are listed on the <https://www.regulations.gov> website. Although listed in the index, some information is not publicly available, *i.e.*, Confidential Business Information (CBI), Proprietary Business Information (PBI), or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available either through <https://www.regulations.gov> or please contact the person identified in the **FOR FURTHER**

INFORMATION CONTACT section for additional information.

FOR FURTHER INFORMATION CONTACT: Nicole Naber, Air and Radiation Division (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, telephone number: (312) 886–6609, email address: naber.nicole@epa.gov.

SUPPLEMENTARY INFORMATION:

Throughout this document whenever “we,” “us,” or “our” is used, we mean the EPA.

I. Background Information

On November 20, 2025 (90 FR 52303), the EPA proposed to approve revisions to the source-specific SIP for the MCES Metro Plant, incorporating changes including lower allowable PM₁₀ emissions at the facility through decreased emissions limits on several pieces of equipment and modifications to the ash-handling equipment. This action will result in a reduction of allowable PM₁₀ emissions at the facility. The EPA included an explanation of the Clean Air Act (CAA) requirements, a detailed analysis of the revisions, and its reasons for proposing approval in the

notice of proposed rulemaking (NPRM) and will not be restated here. The public comment period for this proposed rule ended on December 22, 2025.

II. Response to Public Comments

The EPA received one anonymous supportive comment and one adverse comment from the Citizens Rulemaking Alliance. A summary of the adverse comment and the EPA's response is provided below. All comments submitted during the public comment period are available in the docket of this action.

Comment: The EPA inappropriately issued a direct final rulemaking to supersede the comment process. The EPA should withdraw its direct final rulemaking and issue a proposed rulemaking that allows for public comment.

The EPA's Response: The EPA disagrees with the commenter. This claim relies on commenter's misunderstanding that the EPA issued a final rule with the November 20, 2025, action. The EPA published a NPRM on November 20, 2025, not a final rule, which included a 30-day public comment period on the proposed rulemaking that closed on December 22, 2025. In this action, we are finalizing the November 20, 2025, proposed action. Based on these facts, the proposed rule was not a final action for the commenter to petition the EPA for a stay or delay of a yet-to-be-established effective date. Finally, the EPA is not relying on section 553(b) of the Administrative Procedure Act in this action.

Comment: The EPA should develop an Initial Regulatory Flexibility Analysis (RFA) or revised certification with supporting evidence to demonstrate a lack of significant economic impact on a substantial number of small entities.

The EPA's Response: The EPA expects this rulemaking to only impact one source, the MCES Metro Plant. An RFA is inapplicable to this rulemaking because the regulatory analysis provisions of the RFA are only triggered by a threshold determination by the Agency that this rule will have a significant economic impact on a substantial number of small entities. Because the Agency has certified this rule will not have a significant economic impact, section 603 and 604 of the RFA do not apply to this rulemaking. 5 U.S.C. 605(b).

Comment: The EPA should provide a clear statement as to whether this action imposes a Federal intergovernmental mandate within the meaning of the Unfunded Mandates Reform Act

(UMRA) and should provide calculations to demonstrate that related expenditures do not exceed UMRA's \$100 million threshold.

The EPA's Response: The EPA has already complied with any UMRA obligation by including in the proposed rulemaking its determination that this rule will not result in expenditures exceeding \$100 million in any one year, pursuant to 2 U.S.C. 1532(a). The Agency need not complete any further statement under 2 U.S.C. 1532.

Comment: The EPA should repropose this rule to incorporate a clear Incorporation by Reference section that includes the complete title I permit including all terms, conditions, attachments, emission limits, testing/monitoring protocols, and any referenced technical support.

The EPA's Response: This action includes a clear Incorporation by Reference section in the proposal, and the EPA has already made all necessary materials available during the proposed rulemaking on the <https://www.regulations.gov> website Docket (EPA-R05-OAR-2024-0268).

Comment: The EPA should ensure that the docket contains the basis for its determination that this action is not a significant regulatory action under E.O. 12866.

The EPA's Response: Within the proposed rule, the Agency has already complied with E.O. 12866 by determining that this rulemaking is not a significant regulatory action as defined in E.O. 12866.

III. What action is the EPA taking?

The EPA is approving incorporation into Minnesota's SIP of all the conditions cited as "Title I Condition: 40 CFR 52.1220(PM₁₀ SIP)" in Permit No. 12300053-102. These revisions include both the changes in ash handling within the facility and the lower allowable PM₁₀ emissions for each Fluidized Bed Incinerator (EQUI 3, EQUI 4, EQUI 5), auxiliary boilers (EQUI 10, EQUI 11), and ash loadout vacuum (EQUI 50).

This SIP submittal includes Permit No. 12300053-102 and the supporting technical documentation.

IV. Incorporation by Reference

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the Minnesota Permit Provisions described in section III of this preamble and set forth in the amendments to 40 CFR part 52 below. The EPA has made, and will

continue to make, these documents generally available through <https://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). Therefore, these materials have been approved by the EPA for inclusion in the SIP, have been incorporated by reference by the EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of the EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.¹

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, 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 an Executive Order 14192 (90 FR 9065, February 6, 2025) regulatory action because this action is not significant 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;

¹ 62 FR 27968 (May 22, 1997).

- 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).

This rule is exempt from the Congressional Review Act because it is a rule of particular applicability.

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 13, 2026. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: May 4, 2026.

Anne Vogel,

Regional Administrator, Region 5.

For the reasons stated in the preamble, 40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

■ 1. The authority citation for part 52 continues to read as follows:

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

■ 2. In § 52.1220, the table in paragraph (d) is amended by revising the entry for “Metropolitan Council Environmental Services Metropolitan Wastewater Treatment Plan” to read as follows:

§ 52.1220 Identification of plan.

* * * * *

(d) * * *

EPA APPROVED MINNESOTA SOURCE-SPECIFIC PERMITS

Name of source	Permit No.	State effective date	EPA approval date	Comments
* * *	* * *	* * *	* * *	* * *
Metropolitan Council Environmental Services Metropolitan Wastewater Treatment.	12300053–102	1/4/2024	5/14/2026, 91 FR [INSERT FEDERAL REGISTER PAGE WHERE THE DOCUMENT BEGINS].	Only conditions cited as “Title I condition: SIP for PM ₁₀ NAAQS.”
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[FR Doc. 2026–09618 Filed 5–13–26; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[EPA–R10–OAR–2026–0694; FRL–13223–01–R10]

Approval and Promulgation of Delegation of Authority for Designated Facilities and Pollutants; Washington; Northwest Clean Air Agency

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving delegation of authority to the Northwest Clean Air Agency (NWCAA) for implementing and enforcing the Federal plan requirements for sewage sludge incineration (SSI) units. The Federal plan addresses the implementation and enforcement of emission limits and other control

requirements for designated air pollutants. On December 11, 2018, the EPA Region 10 Regional Administrator and the Executive Director of NWCAA signed a Memorandum of Agreement (MOA) concerning delegation of authority of the Federal plan to NWCAA, which became effective upon signature. The geographic area covered by this MOA comprises Island, Skagit, and Whatcom Counties in the State of Washington, except in Indian country. This document informs the public of the MOA, provides a copy of the signed document, and amends regulatory text in accordance with the Clean Air Act (CAA).

DATES: This final rule is effective on May 14, 2026.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–R10–OAR–2026–0694. All documents in the docket are listed on the website. Although listed in the index, some information is not publicly available, *e.g.*, Confidential Business Information, Proprietary Business Information, or other information whose disclosure is restricted by statute.

Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available electronically through <https://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: Jeff Hunt, EPA Region 10, 1200 Sixth Avenue, Suite 155, Seattle, WA 98101, at (206) 553–0256 or hunt.jeff@epa.gov.

SUPPLEMENTARY INFORMATION:

Throughout this document whenever “we,” “us,” or “our” is used, we mean “the EPA.”

I. Background

Section 129 of the CAA, titled, “Solid Waste Combustion,” requires the EPA to develop and adopt standards for solid waste incineration units pursuant to CAA section 111. Section 111 of the CAA, “Standards of Performance for New Stationary Sources,” directs the EPA to establish emission standards for stationary sources of air pollution that could potentially endanger public health or welfare. These standards are referred to as the New Source

Performance Standards (NSPS). Section 111(b) directs the EPA to publish and periodically revise a list of categories of stationary sources which cause or significantly contribute to air pollution, and to establish the NSPS within these categories. Section 111(d) addresses the process by which the EPA and States regulate standards of performance for existing sources belonging to those categories established in section 111(b). When the NSPS are promulgated for new sources, section 111(d) of this CAA and the EPA regulations require that the EPA publish an Emission Guideline (EG) to regulate the same pollutants from existing facilities. While the NSPS are directly applicable to new sources, an EG for an existing source (designated facility) is intended for States to use to develop a State plan to submit to the EPA. CAA section 111 and 40 CFR 60.27(c) and (d) require the EPA to develop, implement, and enforce a Federal plan for designated facilities located in any State or Indian country that does not have an approved State plan under CAA section 111 that implements the EG. These Federal plans are published in 40 CFR part 62.

Approval and Promulgation of State Plans for Designated Facilities and Pollutants.

A State, or local clean air agency in this case, may then meet its CAA section 111(d) obligations by submitting a formal written request for delegation of authority to implement and enforce the Federal plans. On July 26, 2017, NWCAA requested delegation of authority to implement and enforce the following Federal plan in 40 CFR part 62:

- Subpart LLL: *Federal Plan for Sewage Sludge Incineration Units Constructed on or before October 14, 2010*, in lieu of the requirement to submit a State plan pursuant to 40 CFR part 60, subpart MMMM: *Emission Guidelines and Compliance Times for Existing Sewage Sludge Incineration Units*.

The criteria for delegation of the Federal plan for SSI units are found in the emission guidelines for SSI units at 40 CFR 60.5045(a) and repeated in the Federal plan for SSI units at 40 CFR 62.15865(a). The framework for the EPA to transfer implementation and enforcement authority requires the State or local agency to request delegation through a letter that:

- Demonstrates the State or local agency has adequate resources, as well as the legal authority, to administer and enforce the program;
- Includes an inventory of designated facilities and an inventory of the designated units' air emissions;

- Certifies a public hearing was held on the State or local agency delegation request; and

- A commitment to enter into an MOA between the State or local agency and the EPA that sets forth the terms and conditions of the delegation, the effective date of the agreement, and the mechanism to transfer authority.

Upon signature of the agreement, the approved document will be published in the **Federal Register**, thereby incorporating the delegation of authority into the appropriate subpart of 40 CFR part 62.

II. Memorandum of Agreement Contents and the EPA Analysis

The EPA has evaluated NWCAA's Federal plan delegation request submittal to determine whether the package meets the applicable requirements. The EPA's detailed rationale and discussion on the submittal can be found in the Technical Support Document (TSD), located in the docket for this action. The applicable provisions and the EPA's analysis are briefly summarized as follows:

- NWCAA demonstrated adequate resources and legal authority to administer Federal plans. NWCAA is the operating permitting authority and the new source review permitting authority in non-Tribal land¹ in Island, Skagit, and Whatcom counties² and has the authority to implement and enforce delegated standards in 40 CFR parts 60, 61, and 63. NWCAA provided a letter from legal counsel identifying statutes in the Revised Code of Washington giving NWCAA the authority to promulgate rules and regulations; carry out the Federal plan; adopt emission limits and compliance schedules; enforce applicable laws, regulations standards and compliance schedules; obtain information to determine compliance; and require the installation of control equipment.

- NWCAA provided an inventory of SSI units subject to the SSI Federal plan and the results of recent emissions tests.

- NWCAA held a public comment period lasting from June 7 to July 14, 2017, ending with a public hearing on

¹ Our approval excludes Indian country as defined in 18 U.S.C. 1151. Under this definition, the EPA treats as reservations trust lands validly set aside for the use of a Tribe even if the trust lands have not been formally designated as a reservation.

² Under State law NWCAA's jurisdiction excludes facilities subject to Energy Facilities Site Evaluation Council (EFSEC) jurisdiction; facilities subject to the Washington Department of Ecology's direct jurisdiction under Chapters 173-405, 173-410, and 173-415 Washington Administrative Code (WAC); and the Prevention of Significant Deterioration (PSD) permitting of facilities subject to the applicability sections of WAC 173-400-700.

July 13, 2017. No member of the public attended the hearing and NWCAA received no comments during the public comment period.

- NWCAA committed to enter an MOA to meet the requirements for delegation of the Federal plan for SSI units.

The MOA was signed by the EPA Region 10 Regional Administrator and the NWCAA Executive Director on December 11, 2018, and became effective upon signature. The effective MOA applies to the designated facilities within NWCAA's jurisdiction and is not implemented and enforced on Indian land.

The EPA has evaluated NWCAA's submittal for consistency with the CAA, EPA regulations, and EPA policy. The EPA determined that NWCAA has met all the requirements of the EPA's guidance for obtaining the delegation of authority to implement and enforce the Federal plan.

III. Good Cause Findings

Section 553(b)(B) of the Administrative Procedure Act, 5 U.S.C. 553(b)(B), provides that, when an agency for good cause finds that public notice and comment procedures are impracticable, unnecessary, or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment. The EPA has determined that there is good cause for making this rule final without prior proposal and opportunity for comment because such notice and opportunity for comment is unnecessary.

The EPA conducted full notice and comment rulemaking in promulgating the Federal plan (40 CFR part 62, subpart LLL). The EPA has already approved the delegation of authority to implement and enforce the Federal plan to NWCAA, effective following the signature of both parties on the MOA. NWCAA also held a public hearing and solicited public comment about the request for delegation of authority, pursuant to the requirements in 40 CFR 60.23(d), 60.23(e), and 62.15865(a)(3). Notice and comment are "unnecessary" as this final rule only takes the ministerial action of updating the regulatory text in 40 CFR part 62 to reflect this transfer of authority. It does not alter the universe of sources regulated under the Federal plan and it does not change the regulatory requirements applicable to those sources.

Section 553(d)(3) of the Administrative Procedures Act, 5 U.S.C. 553(d)(3), provides that the required publication of service of a substantive

rule shall be made not less than 30 days before its effective date, except as otherwise provided by the agency for good cause found and published with the rule. The EPA has determined that there is good cause for this rule to become effective upon publication. Delaying the effective date is unnecessary and contrary to the public interest because the EPA has already approved the delegation of authority to implement and enforce the Federal plan to NWCAA, effective following the signature of both parties on the MOA. In addition, this rulemaking does not affect any of the substantive requirements in the delegated Federal plan nor impact the compliance obligations of any sources subject to the Federal plans.

IV. Final Action

The EPA is amending regulatory text at 40 CFR part 62, subpart WW—Washington, to promulgate the approved delegation of authority through the MOA to NWCAA for implementing and enforcing Federal plan requirements under 40 CFR part 62, subpart LLL.

V. Statutory and Executive Order Reviews

Under the CAA, the Administrator has the authority to delegate the authority to implement a CAA section 111(d) Federal plan that complies with the provisions of the CAA and applicable Federal regulations. (40 CFR 60.27). In reviewing CAA section 111(d) delegation requests, the EPA's role is to approve State choices, provided they meet the criteria of the CAA and the EPA's implementing regulations. Accordingly, this action merely codifies in the Code of Federal Regulations the EPA's delegation of authority to implement the Federal plan and does not impose additional requirements beyond those imposed by the already applicable Federal plan.

A. Executive Order 12866: Regulatory Planning and Review

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

B. Executive Order 14192: Unleashing Prosperity Through Deregulation

This action is not an Executive Order 14192 (90 FR 9065, February 6, 2025) regulatory action because this action is not significant under Executive Order 12866.

C. Paperwork Reduction Act

This rule does not impose an information collection burden under the

provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

D. Regulatory Flexibility Act

This action merely codifies in the approval of the transfer of authority from EPA to NWCAA for the SSI units Federal plan. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

E. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. This action does not impose additional requirements beyond those imposed by the already-applicable Federal plan. Accordingly, no additional costs to State, local, or Tribal governments, or to the private sector, will result from this action.

F. Executive Order 13132: Federalism

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

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

Executive Order 13175 (65 FR 67249, November 9, 2000), requires the EPA to develop an accountable process to ensure “meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.” This rule does not have Tribal implications, as specified in Executive Order 13175. It will not have substantial direct effects on Tribal governments. Thus, Executive Order 13175 does not apply to this rule.

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

This action is not subject to Executive Order 13045 because it is not 3(f)(1) significant as defined in Executive Order 12866, and because the EPA does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children.

I. Executive Order 13211: Actions 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

This rule does not involve technical standards and is therefore not subject to the requirements of section 1(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note).

K. Congressional Review Act

This action is subject to the Congressional Review Act, and the 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).

L. Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 13, 2026. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. See section 307(b)(2).

List of Subjects in 40 CFR Part 62

Environmental Protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Landfills, Reporting and recordkeeping requirements, Waste treatment and disposal.

Dated: May 5, 2026.

Emma Pokon,

Regional Administrator, Region 10.

For the reasons set forth in the preamble, 40 CFR part 62 is amended as follows:

PART 62—APPROVAL AND PROMULGATION OF STATE PLANS FOR DESIGNATED FACILITIES AND POLLUTANTS

■ 1. The authority citation for part 62 continues to read as follows:

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

Subpart WW—Washington

■ 2. Revise § 62.11893 to read as follows:

§ 62.11893 Identification of plan-delegation of authority.

(a) *Northwest Clean Air Agency*—(1) *Identification of plan—delegation of authority.* On December 11, 2018, the EPA signed a Memorandum of Agreement (MOA) that defines policies, responsibilities, and procedures pursuant to 40 CFR part 62, subpart LLL (the “Federal plan”) by which the Federal plan will be administered by the Northwest Clean Air Agency (NWCAA) for designated facilities under the agency’s jurisdiction in Island, Skagit, and Whatcom Counties in the State of Washington, excluding Indian Country as defined in 18 U.S.C. 1151.

(2) *Identification of sources.* The MOA and related Federal plan apply to all sewage sludge incineration (SSI) units, as defined in § 62.16045, that commenced construction on or before October 14, 2010. See § 62.15855. Subpart LLL does not apply to units that are not located at wastewater treatment plants designed to treat domestic sewage sludge. See 40 CFR 62.15860.

(3) *Effective date of delegation.* The delegation became fully effective on December 11, 2018, upon the signature of both parties.

(b) *Southwest Clean Air Agency*—(1) *Identification of plan—delegation of authority.* On March 27, 2023, the EPA signed a Memorandum of Agreement (MOA) that defines policies, responsibilities, and procedures pursuant to 40 CFR part 62, subpart LLL (the “Federal plan”) by which the Federal plan will be administered by the Southwest Clean Air Agency (SWCAA) for designated facilities under the agency’s jurisdiction in Clark, Cowlitz, Lewis, Skamania, and Wahkiakum Counties in the State of Washington, excluding Indian Country as defined in 18 U.S.C. 1151.

(2) *Identification of sources.* The MOA and related Federal plan apply to all sewage sludge incineration (SSI) units, as defined in § 62.16045, that commenced construction on or before October 14, 2010. See § 62.15855. Subpart LLL does not apply to units that are not located at wastewater treatment plants designed to treat domestic sewage sludge. See 40 CFR 62.15860.

(3) *Effective date of delegation.* The delegation became fully effective on March 28, 2023, upon the signature of both parties.

[FR Doc. 2026–09615 Filed 5–13–26; 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–XF455]

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Catcher/Processors Using Hook-and-Line Gear in the Western Regulatory Area of 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 Pacific cod by catcher/processors using hook-and-line (HAL) gear in the Western Regulatory Area of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the A season allowance of the 2026 total allowable catch (TAC) of Pacific cod allocated to catcher/processors using HAL gear in the Western Regulatory Area of the GOA.

DATES: Effective 1200 hours, Alaska local time (A.l.t.), May 12, 2026 through 1200 hours, A.l.t., September 1, 2026.

FOR FURTHER INFORMATION CONTACT: Adam Zaleski, 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 Pacific cod TAC allocated to catcher/processors using HAL gear in the Western Regulatory Area of the GOA is 711 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), the Regional Administrator, Alaska Region, NMFS (Regional Administrator) has determined that the A season allowance of the 2026 Pacific cod TAC allocated to catcher/processors using HAL gear in the Western Regulatory

Area of the GOA will be or has been reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 701 mt and is setting aside the remaining 10 mt as incidental catch because it is necessary to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance will be or has been reached. Consequently, NMFS is prohibiting directed fishing for Pacific cod by catcher/processors using HAL gear in the Western Regulatory Area of the GOA to prevent exceeding this sector’s A season allowance of Pacific cod TAC.

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 Pacific cod catch in a timely fashion and would delay the closure of directed fishing for Pacific cod by catcher/processors using HAL gear in the A season in the Western Regulatory Area of the GOA. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data on Pacific cod catch only became available as of May 11, 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: May 12, 2026.

David R. Blankinship,

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

[FR Doc. 2026–09669 Filed 5–12–26; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register

Vol. 91, No. 93

Thursday, May 14, 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 TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA-2026-5248; Airspace
Docket No. 26-ANE-3]

RIN 2120-AA66

Amendment of Class D Airspace and Class E Airspace Over Westfield, MA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend Class D and Class E airspace over Westfield, MA. This action would update the airport name and geographic coordinates in both the Westfield, MA Class D and Class E airspace legal descriptions. This action would also replace "Airport/Facility Directory" in the Class D airspace legal description with "Chart Supplement" to comply with current FAA guidance. This action would also remove the exclusions of adjacent Class E airspace areas from the Westfield, MA Class E airspace legal description to comply with current FAA guidance.

DATES: Comments must be received on or before June 29, 2026.

ADDRESSES: Send comments identified by FAA Docket No. FAA-2026-5248 and Airspace Docket No. 26-ANE-3 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:* Docket Operations, M-30; U.S. Department of Transportation, 1200 New Jersey Avenue SE, Room W58-213, West Building, 5th Floor, Washington, DC 20590-0001.

* *Hand Delivery or Courier:* Take comments to Docket Operations in Room W58-213 of the West Building, 5th Floor at 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and

5 p.m., Monday through Friday, except for Federal holidays.

* *Fax:* Fax comments to Docket Operations at (202) 493-2251.

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 W58-213 of the West Building, 5th Floor at 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except for Federal holidays.

FAA Order JO 7400.11K Airspace Designations and Reporting Points and subsequent amendments can be viewed online at www.faa.gov/air_traffic/publications/. You may also contact the Rules and Regulations Group, Policy Directorate, Federal Aviation Administration, 600 Independence Avenue SW, Washington DC 20597; Telephone: (202) 267-8783.

FOR FURTHER INFORMATION CONTACT: Marc Ellerbee, Operations Support Group, Eastern Service Center, Federal Aviation Administration, 1701 Columbia Avenue, College Park, GA 30337; Telephone: (404) 305-5589.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. 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. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would amend Class D and Class E airspace in Westfield, MA.

Comments Invited

The FAA invites interested persons to participate in this rulemaking by submitting written comments, data, or views. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the

proposal. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, commenters should submit only one time if comments are filed electronically, or commenters should send only one copy of written comments if comments are filed in writing.

The FAA will file in the docket all comments it receives, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking. Before acting on this proposal, the FAA will consider all comments it receives on or before the closing date for comments. The FAA will consider comments filed after the comment period has closed if it is possible to do so without incurring expense or delay. The FAA may change this proposal in light of the comments it receives.

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 edits, 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 www.dot.gov/privacy.

Availability of Rulemaking Documents

An electronic copy of this document may be downloaded through the internet at www.regulations.gov. Recently published rulemaking documents can also be accessed through the FAA's web page at www.faa.gov/air_traffic/publications/airspace_amendments/.

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Operations office (see **ADDRESSES** section for address, phone number, and hours of operations). An informal docket may also be examined during regular business hours at the office of the Eastern Service Center, Federal Aviation Administration, Room 210, 1701 Columbia Ave., College Park, GA 30337.

Incorporation by Reference

Class D and Class E airspace designations are published in paragraphs 5000 and 6005 of FAA Order

JO 7400.11, Airspace Designations and Reporting Points, which is incorporated by reference in 14 CFR 71.1 on an annual basis. This document proposes to amend the current version of that order, FAA Order JO 7400.11K, dated August 4, 2025, and effective September 15, 2025. These updates would be published in the next update to FAA Order JO 7400.11. FAA Order JO 7400.11K, which lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points, is publicly available as listed in the **ADDRESSES** section of this document.

The Proposal

This action proposes to amend 14 CFR part 71 by modifying Class D and Class E airspace over Westfield, MA. This action proposes to update the airport name in both the Westfield Class D and Class E airspace legal descriptions from “Westfield, Barnes Municipal Airport” to “Westfield-Barnes Regional Airport.” This action also proposes to update the geographic coordinates of the Westfield-Barnes Regional Airport in both the Class D and Class E airspace legal descriptions, specifically, from (lat. 42°09′28″ N, long. 72°42′56″ W) to (lat. 42°09′29″ N, long. 72°42′57″ W), which is one second of latitude and one second of longitude. This action also proposes to update the verbiage in the Class D airspace legal description from “Airport/Facility Directory” to “Chart Supplement” to comply with current FAA guidance. This action also proposes to remove the exclusions for the adjacent Class E airspace areas of Northampton, MA, Palmer, MA, and Windsor Locks, CT, from the Westfield, MA Class E5 airspace legal description in order to comply with current FAA guidance.

Regulatory Notices and Analyses

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a “significant regulatory action” under Executive Order 12866; (2) is not a “significant rule” under DOT Order 2100.6B, “Rulemaking and Guidance Procedure” (March 10, 2025); and (3) is expected to result in, at most, de minimis costs from compliance with applicable operating requirements or minor flight rerouting for operators choosing to navigate around the controlled airspace. Since these proposed amendments are routine and the expected impact to operators is de minimis, the FAA certifies that this proposed rule, when promulgated, will

not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1G, “FAA National Environmental Policy Act Implementing Procedures” prior to any FAA final regulatory action.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

- 1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

- 2. The incorporation by reference in 14 CFR 71.1 of FAA Order JO 7400.11K, Airspace Designations and Reporting Points, dated August 4, 2025, and effective September 15, 2025, is amended as follows:

Paragraph 5000 Class D Airspace.

* * * * *

ANE MA D Westfield, MA [Amended]

Westfield-Barnes Regional Airport, MA
(Lat. 42°09′29″ N, long. 72°42′57″ W)

That airspace extending upward from the surface to and including 2,800 feet MSL within a 4.9-mile radius of Westfield-Barnes Regional Airport excluding that airspace within the Springfield/Chicopee, MA, Class D airspace area during the dates and times it is effective, and that airspace within the Windsor Locks, CT, Class C airspace area. This Class D airspace is effective during the specific dates and times established in advance by a Notice to Airmen. The effective dates and times will thereafter be continuously published in the Chart Supplement.

* * * * *

6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.

* * * * *

ANE MA E5 Westfield, MA [Amended]

Westfield-Barnes Regional Airport, MA
(Lat. 42°09′29″ N, long. 72°42′57″ W)

That airspace extending upward from 700 feet above the surface within a 12.8-mile radius of Westfield-Barnes Regional Airport.

* * * * *

Issued in College Park, Georgia, on May 12, 2026.

Patrick Young,

Manager, Airspace & Procedures Team North, Eastern Service Center, Air Traffic Organization.

[FR Doc. 2026–09723 Filed 5–13–26; 8:45 am]

BILLING CODE 4910–13–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA–R09–OAR–2026–2608; FRL–13323–01–R9]

Determination of Attainment by the Attainment Date and Clean Data Determination for the 2012 Annual Fine Particulate Standard; Plumas County, California

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to determine that the Portola nonattainment area in Plumas County, California, attained the 2012 annual fine particulate matter (“PM_{2.5}”) national ambient air quality standard (NAAQS or “standard”) by the December 31, 2025 “Serious” area attainment date. This proposed determination is based on ambient air quality monitoring data from 2023 through 2025. We are also proposing to make a clean data determination (CDD) based on the 2023 through 2025 data. If we finalize this CDD, certain Clean Air Act (CAA) requirements that apply to the Portola nonattainment area will be suspended for so long as the area continues to meet the 2012 annual PM_{2.5} NAAQS. The area would remain designated nonattainment for the 2012 annual PM_{2.5} NAAQS, unless and until the State submits, and EPA approves, a redesignation request and maintenance plan for the area. We are taking comments on this proposal and plan to follow with a final action.

DATES: Comments must be received on or before June 15, 2026.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R09–OAR–2026–2608 at <https://www.regulations.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

Regulations.gov. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information 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>. If you need assistance in a language other than English or if you are a person with a disability who needs a reasonable accommodation at no cost to you, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Lindsay Wickersham, Planning Section (AIR-2-1), EPA Region IX, 75 Hawthorne Street, San Francisco, CA 94105; telephone number: (415) 947-4192; email address: wickersham.lindsay@epa.gov.

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

Table of Contents

- I. Background
 - A. The 2012 Annual PM_{2.5} NAAQS
 - B. CAA Requirements for PM_{2.5} Nonattainment Areas
 - C. Portola Nonattainment Area Designation for the 2012 PM_{2.5} NAAQS and SIP Actions
 - D. CAA Requirement for a Determination of Attainment
 - E. The EPA’s Clean Data Policy
- II. Proposed Determination of Attainment
 - A. Applicable Statutory and Regulatory Provisions
 - B. Monitoring Network Review, Quality Assurance, and Data Completeness
 - C. The EPA’s Evaluation of Attainment
- III. Proposed Clean Data Determination
- IV. The EPA’s Proposed Action
- V. Statutory and Executive Order Reviews
 - A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review
 - B. Executive Order 14192: Unleashing Prosperity Through Deregulation
 - C. Paperwork Reduction Act (PRA)
 - D. Regulatory Flexibility Act (RFA)

- E. Unfunded Mandates Reform Act (UMRA)
- F. Executive Order 13132: Federalism
- G. Executive Order 13175: Coordination With Indian Tribal Governments
- H. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks
- I. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use
- J. National Technology Transfer and Advancement Act (NTTAA)

I. Background

A. The 2012 Annual PM_{2.5} NAAQS

Under section 109 of the CAA, the EPA has established NAAQS for certain pervasive air pollutants (referred to as “criteria pollutants”) and conducts periodic reviews of the NAAQS to determine whether they should be revised or whether new NAAQS should be established. The EPA established these standards after considering substantial evidence from numerous health studies demonstrating that serious adverse health effects are associated with exposures to these criteria pollutants.¹

Particulate matter includes particles with diameters that are generally 2.5 microns or smaller (PM_{2.5}), and particles with diameters that are generally 10 microns or smaller (PM₁₀). PM_{2.5} can be emitted by sources directly into the atmosphere as a solid or liquid particle (“primary PM_{2.5}” or “direct PM_{2.5}”) or can be formed in the atmosphere (“secondary PM_{2.5}”) as a result of various chemical reactions among precursor pollutants such as nitrogen oxides, sulfur dioxide, volatile organic compounds, and ammonia.²

Epidemiological studies have shown statistically significant correlations between elevated PM_{2.5} levels and detrimental effects to human health and the environment. The health effects associated with PM_{2.5} exposure include changes in lung function resulting in the development of respiratory symptoms, aggravation of existing respiratory conditions, and cardiovascular disease (as indicated by increased hospital admissions, emergency room visits, absences from school or work, and restricted activity days), and premature mortality. Individuals particularly sensitive to PM_{2.5} exposure include

older adults, people with heart and lung disease, and children.³ Elevated PM_{2.5} levels also have adverse secondary effects such as visibility impairment and damage to vegetation and ecosystems.

On July 18, 1997, the EPA first established annual and 24-hour NAAQS for PM_{2.5}.⁴ The annual primary and secondary standards were set at 15.0 micrograms per cubic meter (µg/m³) based on a 3-year average of annual mean PM_{2.5} concentrations. Then, on January 15, 2013, the EPA promulgated a more stringent annual PM_{2.5} NAAQS, revising the primary standard to 12.0 µg/m³ based on a 3-year average of annual mean PM_{2.5} concentrations, while retaining the secondary standard at 15.0 µg/m³.⁵

B. CAA Requirements for PM_{2.5} Nonattainment Areas

The CAA requires states to develop state implementation plan (SIP) revisions that provide generally for the attainment, maintenance, and enforcement of the NAAQS. In addition, the CAA requires states to make a specific type of SIP submittal, a nonattainment plan submittal, that imposes additional controls for purposes of attaining the PM_{2.5} NAAQS, to achieve reductions of PM_{2.5} and PM_{2.5} precursor emissions.

The general CAA part D nonattainment area planning requirements are found in subpart 1 and the nonattainment area planning requirements specific to particulate matter are found in subpart 4. The subpart 1 statutory requirements for attainment plans include the following: the section 172(c)(1) requirements for reasonably available control measures, including reasonably available control technology (RACT/RMCT), and attainment demonstrations; the section 172(c)(2) requirement to demonstrate reasonable further progress (RFP); the section 172(c)(3) requirement for emissions inventories; the section 172(c)(5) requirements for a nonattainment new source review (NNSR) permitting program; and the section 172(c)(9) requirement for contingency measures.

The more specific subpart 4 statutory requirements for Moderate PM_{2.5}

³ EPA, Air Quality Criteria for Particulate Matter, No. EPA/600/P-99/002aF and EPA/600/P-99/002bF, October 2004.

⁴ 62 FR 38652 (July 18, 1997). In October 2006, the EPA lowered the 24-hour NAAQS for PM_{2.5} from 65 micrograms per cubic meter (µg/m³) to 35 µg/m³. 71 FR 61144 (October 17, 2006).

⁵ 78 FR 3086 (January 15, 2013) and 40 CFR 50.18. Unless otherwise noted, all references to the PM_{2.5} NAAQS in this document are to the 2012 annual NAAQS of 12.0 µg/m³, codified at 40 CFR 50.18.

¹ For a given air pollutant “primary” NAAQS are those determined by the EPA as requisite to protect the public health, allowing an adequate margin of safety, and “secondary” standards are those determined by the EPA as requisite to protect the public welfare from any known or anticipated adverse effects associated with the presence of such air pollutant in the ambient air. See CAA section 109(b).

² 80 FR 15340, 15342 (March 23, 2015).

nonattainment areas include the following: the section 189(a)(1)(A) NNSR permit program requirements; the section 189(a)(1)(B) requirements for attainment demonstrations; the section 189(a)(1)(C) requirements for RACM/RACT; the section 189(c) requirements for RFP and quantitative milestones; and the section 189(e) requirement for controls on sources of particulate matter precursors.

Under subpart 4, states with Moderate PM_{2.5} nonattainment areas must provide for attainment in the area as expeditiously as practicable but no later than the end of the sixth calendar year after designation. For the 2012 PM_{2.5} annual NAAQS, this date was December 31, 2021. In addition, under subpart 4, direct PM_{2.5} and all precursors to the formation of PM_{2.5} are subject to control unless the EPA approves a demonstration from the state establishing that a given precursor does not contribute significantly to PM_{2.5} levels that exceed the PM_{2.5} NAAQS in the area.⁶

To implement the PM_{2.5} NAAQS, the EPA has also promulgated the “Fine Particle Matter National Ambient Air Quality Standard: State Implementation Plan Requirements; Final Rule” (“PM_{2.5} Implementation Rule”).⁷ The PM_{2.5} Implementation Rule provides additional regulatory requirements and guidance applicable to attainment plan submittals for the PM_{2.5} NAAQS, including the 2012 annual PM_{2.5} NAAQS at issue in this action.

C. Portola Nonattainment Area Designation for the 2012 PM_{2.5} NAAQS and SIP Actions

Following promulgation of new or revised NAAQS, the EPA is required under CAA section 107(d) to designate regions throughout the nation as attaining or not attaining these NAAQS. Those regions found not to be attaining the NAAQS are also given a classification that reflects the degree of nonattainment. Under subpart 4 of part D of title I of the CAA, the EPA designates areas found to be violating the PM_{2.5} NAAQS, and areas that contribute to such violations, as nonattainment and classifies them initially as Moderate nonattainment areas.

Effective January 15, 2015, the EPA designated the Portola nonattainment area⁸ for the 2012 PM_{2.5} NAAQS based on ambient monitoring data that showed the area was above the 12.0 µg/m³

primary standard for the three-year 2011–2013 monitoring period.⁹ For this 2011–2013 monitoring period, the annual PM_{2.5} design value¹⁰ for the Portola nonattainment area was 12.8 µg/m³ at the Portola PM_{2.5} monitoring site.¹¹

This Moderate nonattainment designation and classification required the state of California to submit an attainment plan for the Portola nonattainment area, in accordance with the requirements of CAA sections 172(c) and 189(a), (c), and (e), demonstrating attainment of the NAAQS as expeditiously as practical but no later than the end of the sixth calendar year following the designation, or December 31, 2021.

Under state law, the local air district with the primary responsibility for developing a plan to attain the 2012 annual PM_{2.5} NAAQS in this area is the Northern Sierra Air Quality Management District (NSAQMD or “District”). The District worked with the California Air Resources Board (CARB) in preparing the plan. On February 28, 2017, California submitted the “Portola Fine Particulate Matter (PM_{2.5}) Attainment Plan” (“Portola PM_{2.5} Plan”) to address the CAA’s Moderate nonattainment area requirements for the 2012 annual PM_{2.5} NAAQS. On March 25, 2019, the EPA fully approved the Portola PM_{2.5} Plan, except for the contingency measure elements.¹² California later submitted a revision to the Portola PM_{2.5} Plan (“PM_{2.5} Plan Revision”), which included a contingency measure adopted in an ordinance by the City of Portola.

On April 2, 2021, the EPA took final action to approve the PM_{2.5} Plan Revision.¹³ We also found that the contingency measure element of the Portola PM_{2.5} Plan, as revised and supplemented by the PM_{2.5} Plan Revision, satisfied the requirements for contingency measures in CAA section 172(c)(9) and 40 CFR 51.1014 for purposes of the 2012 PM_{2.5} NAAQS in the Portola nonattainment area.¹⁴

⁹ 80 FR 2206 (January 15, 2015).

¹⁰ A design value is the three-year average NAAQS metric that is compared to the NAAQS level to determine when a monitoring site meets or does not meet the NAAQS. The specific methodologies for calculating whether the annual PM_{2.5} NAAQS is met at each eligible monitoring site in an area are found in 40 CFR part 50, appendix N, section 4.1.

¹¹ From 2000 through early 2013, the Portola PM_{2.5} monitoring site was located at 161 Nevada Street. In 2013, the site was relocated to 420 Gulling Street where it remains to date.

¹² 84 FR 11208 (March 25, 2019).

¹³ 86 FR 12263 (March 3, 2021).

¹⁴ *Id.*

On December 29, 2022, the EPA determined that the Portola nonattainment area did not attain the 2012 annual PM_{2.5} NAAQS by its applicable Moderate area attainment date of December 31, 2021.¹⁵ Pursuant to CAA section 188(b)(2), the Portola nonattainment area was reclassified as a Serious PM_{2.5} nonattainment area effective January 30, 2023.

On December 24, 2024, CARB submitted the “Portola Fine Particulate Matter (PM_{2.5}) Serious State Implementation Plan” to address the Serious area requirements for the Portola nonattainment area.

D. CAA Requirement for a Determination of Attainment

Sections 179(c) and 188(b)(2) of the CAA require that within six months following the applicable attainment date, the EPA shall determine whether a nonattainment area attained the standard by that date. The Serious attainment date for the 2012 PM_{2.5} NAAQS in the Portola nonattainment area was December 31, 2025. Therefore, the determination of whether the area attained by the Serious attainment date is based on the 2023–2025 design value. Section 179(c)(2) of the CAA requires the EPA to publish the determination in the **Federal Register** no later than 6 months after the attainment date, that is, in the case of the Portola nonattainment area, by June 30, 2026.

E. The EPA’s Clean Data Policy

Under the EPA’s longstanding Clean Data Policy, which was codified in the PM_{2.5} Implementation Rule at 40 CFR 51.1015, when an area has attained the relevant PM_{2.5} standard(s), the EPA may issue a CDD (also sometimes referred to as a determination of attainment for the purposes of the Clean Data Policy) after notice and comment rulemaking determining that a specific area is attaining the relevant standard(s). A CDD is not linked to any particular attainment deadline and is not necessarily equivalent to a determination that an area has attained the standard by its applicable attainment deadline (*i.e.*, a DAAD).

The effect of a CDD for a Serious PM_{2.5} nonattainment area is to suspend the requirements for the area to submit an attainment demonstration, RFP plan, quantitative milestones and quantitative milestone reports, and contingency measures for as long as the area continues to attain the standard.¹⁶ A

¹⁵ 87 FR 80076.

¹⁶ 40 CFR 51.1015. In the context of CDDs, the EPA distinguishes between attainment planning requirements of the CAA, which relate to the

⁶ 40 CFR 51.1006 and 51.1009.

⁷ 81 FR 58010 (August 24, 2016).

⁸ The boundaries of the nonattainment area are list in 40 CFR 81.305.

CDD does not suspend the requirements for an emissions inventory, for new source review, or for BACM/BACT in a Serious PM_{2.5} nonattainment area.

II. Proposed Determination of Attainment

A. Applicable Statutory and Regulatory Provisions

Sections 179(c)(1) of the CAA requires the EPA to determine whether a nonattainment area attained by the applicable attainment date, based on the area's air quality "as of the attainment date."¹⁷ Generally, this determination of whether an area's air quality meets the PM_{2.5} standard(s) is based upon the most recent three years of complete, certified data gathered at eligible monitoring sites in accordance with 40 CFR part 58.¹⁸ The requirements of 40 CFR part 58 include quality assurance procedures for monitor operation and data handling, siting parameters for instruments or instrument probes, and minimum ambient air quality monitoring network requirements. State, local, or Tribal agencies operating air monitoring sites, in accordance with 40 CFR part 58, must enter the ambient air quality data and associated quality assurance data from these sites into the EPA's Air Quality System (AQS) database.¹⁹ These monitoring agencies certify annually that these data are accurate to the best of their knowledge, taking into consideration the quality assurance findings.²⁰ Accordingly, the EPA relies primarily on AQS data when determining the attainment status of an area. In determining whether data are suitable for regulatory determinations, the EPA uses a "weight of evidence" approach, considering the requirements of 40 CFR part 58, appendix A "in combination with other data quality information, reports, and similar documentation that demonstrate overall compliance with 40 CFR part 58."²¹

The 2012 primary annual PM_{2.5} standard is met when the three year

average of the annual arithmetic mean concentration, as determined in accordance with 40 CFR part 50, appendix N, is less than or equal to 12.0 µg/m³ at each eligible monitoring site.²² For the annual PM_{2.5} standard, eligible monitoring sites are those monitoring stations that meet the criteria specified in 40 CFR 58.11 and 58.30, and thus are approved for comparison to the annual PM_{2.5} NAAQS.²³ Three years of valid annual means are required to produce a valid annual PM_{2.5} NAAQS design value.²⁴ Data completeness requirements for a given year are met when at least 75 percent of the scheduled sampling days for each quarter have valid data.²⁵

B. Monitoring Network Review, Quality Assurance, and Data Completeness

The Portola monitoring site (AQS ID: 06–063–1010) is the only regulatory PM_{2.5} monitoring site in the Portola nonattainment area and is operated by the District. CARB serves as the primary quality assurance organization (PQAO) and submits annual monitoring network plans to the EPA documenting the status of CARB's air monitoring network, including monitors operated by NSAQMD and other local air districts, as required under 40 CFR 58.10.²⁶ The EPA reviews these annual network plans for compliance with specific requirements in 40 CFR part 58. With respect to the Portola nonattainment area, we have found that the annual network plans submitted by CARB meet these requirements under 40 CFR part 58, including minimum monitoring requirements.²⁷

In accordance with 40 CFR 58.15, the District certifies annually that the previous year's ambient concentration and quality assurance data are completely submitted to AQS and that the ambient concentration data are accurate to the best of their knowledge, taking into consideration the quality assurance findings.²⁸ Along with the certification letters, the District submits a summary of the precision and

accuracy data for all ambient air quality data.²⁹

The Design Value Report also includes a validity indicator that reflects whether the design value is valid (*i.e.*, calculated using data that meet the applicable completeness criteria). For the purposes of this proposal, we reviewed the certified ambient data for the 2023–2025 monitoring period for completeness and determined that the PM_{2.5} data collected by the District met the 75 percent completeness criterion for all 12 quarters at the Portola monitoring site.

Finally, the EPA conducts regular technical systems audits (TSAs) of state and local ambient air monitoring programs to assess compliance with applicable regulations concerning the collection, analysis, validation, and reporting of ambient air quality data. Additionally, CARB conducts regular TSAs of local ambient air monitoring programs within their PQAO. For the purposes of this proposal, we reviewed the findings from the EPA's 2022 TSA of CARB's ambient air monitoring program.³⁰ None of the findings from the 2022 TSA were cause for invalidation of any data from the Portola PM_{2.5} monitoring site.³¹ We also reviewed the findings of CARB's TSA of the District in May 2024.³² The results of the TSA do not preclude the EPA from using the data for determining whether the Portola nonattainment area has attained the 2012 annual PM_{2.5} NAAQS.

In summary, based on the relevant annual monitoring network plans, certifications, and 2022 TSA, we propose to find that the PM_{2.5} data collected at the Portola monitoring site are suitable for determining whether the Portola nonattainment area attained the 2012 annual PM_{2.5} NAAQS by the applicable attainment date.

C. The EPA's Evaluation of Attainment

Table 1 provides the PM_{2.5} design value from the regulatory monitor within the Portola nonattainment area, expressed as a single design value representing the average of the annual

attainment demonstration for an area and related control measures designed to bring an area into attainment for the given NAAQS as expeditiously as practicable, and other types of requirements, such as permitting requirements under the nonattainment new source review program, emissions inventory requirement, and specific control requirements independent of those strictly needed to ensure timely attainment of the given NAAQS. 81 FR 58010, 58128.

¹⁷ See also CAA section 188(b)(2) ("Within 6 months following the applicable attainment date for a PM-10 nonattainment area, the Administrator shall determine whether the area attained the standard by that date.")

¹⁸ 40 CFR part 50, appendix N, section 3.0.

¹⁹ 40 CFR 58.16. AQS is the EPA's national repository of ambient air quality data.

²⁰ 40 CFR 58.15(a).

²¹ 40 CFR part 58, appendix A, section 1.2.3.

²² 40 CFR 50.18(b); 40 CFR part 50, appendix N, section 4.1(a).

²³ 40 CFR part 50, appendix N, section 1.0(c).

²⁴ 40 CFR part 50, appendix N, section 4.1(b).

²⁵ *Id.*

²⁶ We have included copies of CARB's annual monitoring network plans for 2023–2025 in our docket.

²⁷ We have included our reviews of CARB's annual monitoring network plans and the correspondence transmitting these reviews in our docket.

²⁸ We have included NSAQMD's annual data certifications for 2023, 2024, and 2025 in the docket for this action. We have also included our reviews of NSAQMD's annual data certifications and the correspondence transmitting these reviews in the docket.

²⁹ See 40 CFR 58.15(c).

³⁰ Letter dated March 14, 2024, from Matthew Lakin, Director, Air and Radiation Division, EPA Region IX, to Edie Chang, Executive Officer, CARB, with enclosure titled "Technical Systems Audit of the Ambient Air Monitoring Program: California Air Resources Board December 2021–August 2022" (Final Report dated March 2024).

³¹ *Id.*

³² Letter dated April 21, 2026, from Manisha Singh, Chief, Quality Management Branch, CARB, to Julie Hunter, Air Pollution Control Officer, Northern Sierra Air Quality Management District, with enclosure titled "Technical Systems Audit of Northern Sierra Air Quality Management District" (April 2026).

mean values from the 2023–2025 period; the annual mean for each individual year is also listed. The PM_{2.5} data show that the design value at the Portola monitoring site was 11.3 µg/m³,

which meets the 2012 annual PM_{2.5} NAAQS of 12.0 µg/m³. Consequently, the EPA proposes to determine based upon three years of complete, quality-assured and certified data from 2023

through 2025, that the Portola nonattainment area attained the 2012 annual PM_{2.5} NAAQS by the applicable Serious attainment date of December 31, 2025.

TABLE 1—2023–2025 ANNUAL PM_{2.5} DESIGN VALUE FOR THE PORTOLA NONATTAINMENT AREA

Monitoring site	AQS site ID #	Annual weighted mean (µg/m ³)			2023–2025 annual design value (µg/m ³)
		2023	2024	2025	
Portola	06–063–1010	11.9	11.3	10.7	11.3

Source: EPA AQS Design Value Report, AMP480, dated March 31, 2026. (Report Request ID: 2367374).

III. Proposed Clean Data Determination

As described in section I.E of this document, when an area has attained the relevant PM_{2.5} standard(s), the EPA may issue a CDD after notice and comment rulemaking determining that a specific area is attaining the relevant standard.³³ As described in section II.C, based on complete, quality-assured, and certified data for 2023–2025, the Portola nonattainment area meets the 2012 annual PM_{2.5} standard. Consequently, the EPA is proposing to issue a CDD under 40 CFR 51.1015(b).

If we finalize this proposed CDD, the requirements for the State to submit an attainment demonstration, an RFP plan, quantitative milestones and quantitative milestone reports, and contingency measures for the area will be suspended until such time as: (1) the area is redesignated to attainment, after which such requirements are permanently discharged; or, (2) the EPA determines that the area has re-violated the 2012 PM_{2.5} NAAQS, after which time the state shall submit such attainment plan elements for the Serious nonattainment area by a future date to be determined by the EPA and announced through publication in the **Federal Register** at the time the EPA determines the area is violating the 2012 PM_{2.5} NAAQS.³⁴ The requirements to submit emissions inventories and an NNSR permitting program for the Serious nonattainment area will remain in effect.

IV. The EPA's Proposed Action

For the reasons discussed in this document, the EPA is proposing to determine, based on the most recent three years (2023–2025) of complete, quality-assured, and certified data that the Portola nonattainment area attained the 2012 annual PM_{2.5} NAAQS by its December 31, 2025 attainment date. This action, when finalized, will fulfill the EPA's statutory obligation to

determine whether the Portola nonattainment area attained the NAAQS by the attainment date.

We are also proposing a CDD under 40 CFR 51.1015(b). If the EPA finalizes this proposal, the requirements for this area to submit an attainment demonstration, RFP plan, quantitative milestones and quantitative milestone reports, and contingency measures, for the 2012 annual PM_{2.5} NAAQS, will be suspended so long as this area continues to meet the standard. This CDD does not constitute a redesignation to attainment. The Portola nonattainment area will remain designated nonattainment for the 2012 annual PM_{2.5} NAAQS until such time as the EPA determines, pursuant to sections 107 and 175A of the CAA, that the Portola nonattainment area meets the CAA requirements for redesignation to attainment, including an approved maintenance plan showing that the area will continue to meet the standard for 10 years.

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 and Executive Order 13563: Improving Regulation and Regulatory Review

This action is not a significant regulatory action and was therefore not submitted to the Office of Management and Budget (OMB) for review. This action proposes to issue a DAAD and CDD for the Portola nonattainment area.

B. Executive Order 14192: Unleashing Prosperity Through Deregulation

This action is not expected to be an Executive Order 14192 regulatory action because this action is not significant under Executive Order 12866.

C. Paperwork Reduction Act (PRA)

This action does not impose an information collection burden under the PRA. This action proposes to determine that the Portola nonattainment area is attaining the 2012 PM_{2.5} NAAQS. Thus, this proposed action does not impose additional requirements beyond those imposed by state law.

D. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. This action will not impose any requirements on small entities beyond those imposed by state law. The proposed DAAD and CDD do not create any new requirements and does not directly regulate any entities.

E. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. This action does not impose additional requirements beyond those imposed by state law. Accordingly, no additional costs to state, local, or Tribal governments, or to the private sector, will result from this action.

F. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Pursuant to the CAA, this action proposes a DAAD and CDD.

G. Executive Order 13175: Coordination With Indian Tribal Governments

This action does not have Tribal implications as specified in Executive Order 13175. As there are no federally recognized Tribes within the Portola

³³ 40 CFR 51.1015.

³⁴ 40 CFR 51.1015(b).

nonattainment area,³⁵ the proposed DAAD and CDD not apply to Tribal areas, and the proposed rule would not impose a burden on Indian reservation lands or other areas where the EPA or an Indian Tribe has demonstrated that a Tribe has jurisdiction within the Portola nonattainment area. Thus, this proposed 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.

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

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of “covered regulatory action” in section 2–202 of the Executive Order. Therefore, this action is not subject to Executive Order 13045 because it merely proposes a DAAD and CDD. Furthermore, the EPA’s Policy on Children’s Health does not apply to this action.

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

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

J. National Technology Transfer and Advancement Act (NTTAA)

Section 12(d) of the NTTAA directs the EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. The EPA believes that this action is not subject to the requirements of section 12(d) of the NTTAA because application of those requirements would be inconsistent with the CAA.

List of Subjects

40 CFR Part 52

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

40 CFR Part 81

Environmental protection, Administrative practice and procedure, Air pollution control, Designations and

classifications, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

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

Dated: May 1, 2026.

Michael Martucci,

Acting Regional Administrator, Region IX.

[FR Doc. 2026–09604 Filed 5–13–26; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[EPA–R10–RCRA–2026–2146; FRL–13305–01–R10]

Alaska: Tentative Determination on Final Authorization of State Hazardous Waste Management Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The State of Alaska (Alaska or the State) has applied to the United States Environmental Protection Agency (the EPA or the Agency) for final authorization of its hazardous waste program under the Resource Conservation and Recovery Act, as amended (RCRA). The EPA has reviewed Alaska’s application and made a tentative determination that Alaska’s hazardous waste program satisfies all requirements for final authorization. Thus, the EPA expects to grant final authorization for the State to operate its program subject to the limitations on its authority retained by the EPA in accordance with RCRA, including the Hazardous and Solid Waste Amendments of 1984 (HSWA). If the EPA issues a final approval of Alaska’s hazardous waste program, Alaska’s program will operate in lieu of the Federal hazardous waste program. The EPA will retain jurisdiction and authority to implement RCRA in Indian country and areas of exclusive Federal jurisdiction in Alaska. Alaska’s application for final authorization is available for public review and comment until July 2, 2026. If sufficient public interest is demonstrated, the EPA will hold a public hearing on the application June 25, 2026. The EPA intends to publish a final determination in the **Federal Register** within 90 days of this tentative determination.

DATES: Comments must be received on or before July 2, 2026. *Public hearing:* If there is sufficient public interest, the EPA will hold a public hearing on June 25, 2026. The EPA will publish additional information about the public

hearing date, time, and location if there is sufficient public interest.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R10–RCRA–2026–2146 at <https://www.regulations.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: Eileen Naples, Land, Chemicals, and Redevelopment Division (15–H04), Environmental Protection Agency, Region 10, 1200 Sixth Ave., Suite 155, Seattle, WA 98101; telephone number: 206–553–6911; email address: naples.eileen@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Why are State programs authorized?

Section 3006 of RCRA allows the EPA to authorize state hazardous waste programs to operate in the State in lieu of the Federal hazardous waste program, subject to the authority retained by the EPA in accordance with RCRA, including HSWA. The EPA grants authorization if the EPA finds that the State program is: (1) “equivalent” to the Federal program; (2) is consistent with the Federal program and other state programs; and (3) provides for adequate enforcement of compliance with the requirements of the hazardous waste program (RCRA section 3006(b), 42 U.S.C. 6926(b)). States are required to

³⁵ Map of Federally-Recognized Tribes in EPA’s Pacific Southwest (Region 9) is available at <https://www.epa.gov/tribal-pacific-sw/map-federally-recognized-tribes-epas-pacific-southwest-region-9>.

impose requirements which are at least as stringent as the Federal program. States may impose requirements which are more stringent or broader in scope than the Federal program. 40 CFR 271.1(i). The EPA's regulations for final State authorization appear at 40 Code of Federal Regulations (CFR) part 271.

B. What has the EPA tentatively decided on Alaska's application for authorization?

Alaska lacks an authorized hazardous waste program. Prior to submitting its application to the EPA on February 24, 2026, Alaska adopted hazardous waste regulations and solicited public comment. Alaska's application includes the State's response to public comments received as part of the State public comment period. The EPA reviewed Alaska's program application and tentatively determined that it meets all the statutory and regulatory requirements for authorization as established by RCRA. Therefore, the EPA proposes to grant Alaska final authorization to operate its hazardous waste program in the State in lieu of the Federal program, subject to the authority retained by the EPA in accordance with RCRA, including HSWA. Authorization means that Alaska will have responsibility for, among other things, permitting treatment, storage, and disposal facilities (TSDFs) within State borders and for carrying out the aspects of the hazardous waste program described in the program application. New Federal requirements and prohibitions imposed by Federal regulations that the EPA promulgates under the authority of HSWA take effect in authorized states before they are authorized for state requirements. Thus, the EPA will implement those requirements and prohibitions in Alaska until the State is granted authorization to do so. Section I. H. of this document discusses the HSWA provisions for which Alaska did not seek authorization as part of this program submission.

Alaska shared draft application materials with the EPA prior to sending the Agency the State's official program submission. The EPA provided Alaska comments on the draft application. In addition, the EPA held two

informational webinars for Alaska Tribal Governments on August 29 and September 19, 2024, and one informational webinar for Alaska Native Claims Settlement Act (ANCSA) Corporations on August 29, 2024. The EPA offered government-to-government consultation to federally recognized Tribes in Alaska and completed a formal Tribal consultation process with the two Tribes in Alaska that requested direct government-to-government consultation.

In accordance with RCRA section 3006 (42 U.S.C. 6926) and 40 CFR 271.1 and 271.20(d), the EPA will hold a public hearing on its tentative decision on June 25, 2026, if sufficient interest is shown. The public may also submit written comments on the EPA's tentative determination until July 2, 2026. The EPA will consider all relevant public comments on its tentative decision during the public comment period. Issues raised by those comments may be the basis for an EPA decision to deny final authorization to Alaska. The EPA expects to make a final decision on whether to approve Alaska's program by August 24, 2026, and will provide notice of the final determination in the **Federal Register**. The final action will include a summary of the reasons for the final determination and a response to all relevant comments received during the public comment period.

C. What will be the effect of a final decision To grant authorization?

Once the EPA authorizes a State, facilities or persons subject to RCRA must comply with the authorized State program requirements instead of the equivalent Federal requirements. Additionally, such persons and facilities in Alaska must comply with any applicable federally issued requirements, such as regulations the EPA promulgates under HSWA authority, for which Alaska has not received authorization, and RCRA requirements that the EPA does not authorize. Alaska has enforcement responsibilities under State laws to pursue violations of its hazardous waste program. The EPA continues to have independent enforcement authority under RCRA sections 3007, 3008, 3013, and 7003, which include, among others,

the authority to: conduct inspections; require monitoring, tests, analyses, or reports; and, enforce authorized program requirements.

A final decision to grant authorization will not impose additional requirements on the regulated community because Alaska has already adopted the State regulations and they are in effect in the State.

D. What rules are the EPA proposing To authorize in lieu of the Federal requirements?

After substantive review of the complete program submission, the EPA has made a tentative determination that Alaska's hazardous waste program satisfies the requirements necessary for authorization. Thus, the EPA proposes to grant Alaska final authorization for the State hazardous waste program submitted. State hazardous waste program requirements that are either equivalent to or more stringent than the corresponding Federal requirements will become part of the authorized State program.

Alaska has adopted almost verbatim the Federal hazardous waste regulations found in 40 CFR parts 124, 260 through 268, 270, 273, and 279, promulgated through July 26, 2024, except for the technical corrections promulgated August 9, 2023 (88 FR 54086) affecting 40 CFR part 261 subparts M, AA, and CC, and with a few additional modifications as described in this document. The EPA does not authorize states for certain Federal regulations relating to import/export requirements (40 CFR part 262 subpart H), Land Disposal Restrictions (40 CFR part 268), and manifest registry and electronic manifest functions administered solely by the EPA (40 CFR part 262 subpart B, 40 CFR part 263 subpart B, 40 CFR part 265 subpart FF, and 40 CFR part 267 subpart E). Alaska has adopted these provisions by leaving the authority with the EPA for implementation and enforcement.

Upon authorization, the State's hazardous waste management rules that are either equivalent to or more stringent than the corresponding Federal rules will apply in lieu of the Federal rules. The applicable rules are identified as follows.

Federal hazardous waste requirements	Analogous State authority
40 CFR parts 124, 260 through 268, 270, 273, and 279 as of July 26, 2024..	18 Alaska Administrative Code (AAC) 62.1020–18 AAC 62.1320, 18 AAC 62.050–18 AAC 62.1000, 18 AAC 62.1030–18 AAC 62.1090, 18 AAC 62.1100–18 AAC 62.1160, 18 AAC 62.1210–18 AAC 62.1280 effective June 1, 2025.

E. Alaska Program Provisions That are More Stringent or Broader in Scope Than the Federal Program

1. More Stringent Provisions

The EPA considers the following Alaska program requirements to be more stringent than the corresponding Federal requirements.

a. Reporting/Notification Requirements

Alaska's hazardous waste regulations include additional State reporting and notification requirements, which are not part of the Federal program. Alaska states that these additional requirements will create a better record of hazardous waste generation, transportation, treatment, regulated facilities, and contacts in the State. Specifically, Alaska requires annual notification for the following handler categories: (1) Small Quantity Generators (SQGs); (2) Large Quantity Generators (LQGs); and (3) Transporters. These reporting requirements are described in 18 AAC 62.301(a)(2), 18 AAC 62.430, and 18 AAC 62.840(b).

b. Statistical Analysis of Groundwater Monitoring

Alaska adopted by reference the 2009 Statistical Analysis of Groundwater Monitoring at RCRA Facilities (Unified Guidance) in 18 AAC 62.525(b). The Unified Guidance is intended to serve as a guide for determining the most effective statistical methods for analyzing groundwater data for detection monitoring under 40 CFR 264.97 and 264.98 and compliance monitoring under 40 CFR 264.99. In some circumstances the Unified Guidance is more specific regarding the statistical analysis that must be applied to a particular data set, which makes the State's adoption of the Unified Guidance as a regulatory requirement more stringent than the Federal regulations in these situations.

c. Standards for Corrective Action

18 AAC 62.527 requires that corrective action for a release from a solid waste management unit must satisfy requirements for the corrective action program under 18 AAC 62.525 and the State requirements under the Contaminated Sites Program in 18 AAC 75.300–18 AAC 75.396. These State regulations include specific procedural requirements for cleanup that are not required by the Federal program, and, in some cases, the State program includes more stringent standards for contaminants in soil and groundwater (18 AAC 75.340–75.345). Where soil or groundwater cleanup standards differ between State regulations and RCRA

regulations, the more stringent of the State and Federal standards applies (18 AAC 62.527 and 18 AAC 62.630). Alaska's regulations at 18 AAC 62.850(b) also require that if closure and post-closure requirements in 40 CFR part 267, subpart F include corrective action requirements, the facility owner/operator must also comply with 18 AAC 62.527.

2. Broader in Scope Provisions

The EPA considers the following Alaska program requirement to be broader in scope than the Federal requirements. Alaska-Specific Siting Requirements 18 AAC 63—Siting of a Hazardous Waste Facility creates specific location requirements and a public participation process that facilities must adhere to prior to receiving a permit for a new TSDF. Some of the requirements within 18 AAC 63 are not addressed in the Federal regulations and are thus considered broader in scope. 18 AAC 62.1010 (Siting of hazardous waste management facilities) says for new facilities, not fewer than 365 days before the construction of a facility requiring a permit, the owner or operator must initiate the requirements of 18 AAC 63; 18 AAC 63.020 identifies pre-application requirements for siting approval; and, 18 AAC 63.030 identifies application requirements for siting approval. The EPA agrees these regulations establishing State siting requirements are broader in scope. 18 AAC 63.040 (Location Requirements) establishes minimum setback requirements for hazardous waste management facilities with regard to nearby land use and 18 AAC 63.050 identifies State financial assurance and compliance history siting approval requirements. These regulations are also broader in scope than Federal regulations.

F. Universal Waste: Electronic Items Added

Alaska's regulations at 18 AAC 62.205, 1110, 1135, and 1390 add electronic waste as a universal waste stream, which Alaska contends will result in streamlined handling requirements if the electronic waste is properly recycled. The State has defined "electronic waste" as "a device that contains one or more circuit boards or other complex circuitry, including computer components, laptops, central processing units, mice, keyboards, monitors, cellular telephones, audio or video devices, and copy machines; electronic waste includes components, subassemblies, or other parts derived from the disassembly of electronic

items. It does not include refrigerators, freezers, stoves, dishwashers, washers, or dryers." 18 AAC 62.1390(c)(2). Thus, electronic waste is exempt from the State's standard hazardous waste requirements if managed under the universal waste regulations. Electronic waste that is not a characteristic hazardous waste as determined by a toxicity characteristic leaching procedure (TCLP) performed on that specific item or model by the generator or manufacturer, or other documentation provided by the manufacturer and approved by the EPA or Alaska, may be managed as solid waste as set out under the State Solid Waste Management regulations (18 AAC 60).

As justification for adding electronic waste to the State's universal waste program, Alaska states that electronic waste is a "fast-growing source of hazardous waste and presents difficulty in making a hazardous waste determination for the generator, especially in rural and remote parts of Alaska." Alaska states that managing electronic waste as universal waste will encourage recycling versus land disposal and allow Small Quantity and Very Small Quantity Generators to maintain a less complex generator status.

The EPA notes that Alaska proposes to manage electronic waste as universal waste without adopting 40 CFR part 273 subpart G (Petitions to Include Other Wastes Under 40 CFR part 273). The EPA acknowledges that the State may adopt electronic waste as State-only universal waste without adopting 40 CFR part 273 subpart G as the State regulations as of June 1, 2025, provide Alaska with the authority to evaluate proposed State-only universal waste streams for consistency with the factors described in 40 CFR 273.81. As long as electronic waste meets the criteria of 40 CFR 273.81, the EPA contends the State may include it in its universal waste program without seeking and receiving authorization for 40 CFR part 273 subpart G.

G. Federal Regulations Alaska Is Not Adopting

Alaska did not adopt and is not seeking authorization of the following Federal regulations. Implementation and enforcement of these regulations will remain with the EPA.

1. 40 CFR part 260 subpart C—Rulemaking Petitions.

2. 40 CFR part 273 subpart G—Petitions to Include Other Wastes Under 40 CFR part 273.

H. Federal Regulations Alaska Is Not Adopting as Part of This Authorization Package but Plans To Adopt as Part of the State's First Revision Package

Alaska has not adopted the Federal regulation for the Management of Certain Hydrofluorocarbons and Substitutes at 40 CFR part 266 subpart Q (89 FR 82682, October 11, 2024) but has expressed to the EPA that the State will pursue authorization for this as part of the State's next regulatory update and revision application. States are not required to seek authorization for this provision until July 1, 2027.

I. How will the State enforce compliance with the rules?

RCRA section 3006(b) requires that the State provide adequate enforcement of compliance with the hazardous waste management requirements to receive authorization. The EPA has tentatively determined that Alaska can adequately enforce compliance with its hazardous waste management regulations. Alaska's enforcement authorities include the power to issue, modify, suspend, or revoke permits; collect information and enter and inspect the premises of persons who handle hazardous waste; assess administrative penalties or initiate action in court for penalties or injunctive relief; issue abatement and corrective action orders; and pursue criminal violations. Alaska's enforcement provisions are located at Alaska Statutes (AS) 46.03.020 *et seq* (2024).

J. Permitting

Alaska will issue permits for all the provisions for which it is authorized and will administer the permits it issues. The EPA will continue to administer any RCRA hazardous waste permits or portions of permits which the EPA issued prior to the effective date of this authorization until such permits expire or are terminated. When Alaska either incorporates the terms and conditions of the Federal permits into State RCRA permits or issues State RCRA permits to those facilities, the EPA will terminate those previously issued EPA permits and rely on the State RCRA permits. The EPA will not issue any new permits or new portions of permits for the authorized provisions after the effective date of this authorization. The EPA will continue to implement and issue permits for HSWA requirements for which Alaska is not yet authorized.

II. Analysis

A. The EPA Review of State Hazardous Waste Program Submission

On February 24, 2026, the State submitted a letter from the Governor, a state hazardous waste program description, an Attorney General's statement and copies of applicable State statutes and regulations (amended on March 24, 2026), a Memorandum of Agreement, and a showing of the state's public participation activities prior to program submission to the EPA. Per 40 CFR 271.5(b), the EPA must notify the State whether its submission is complete within 30 days of receipt of a State program submission. On March 25, 2026, the EPA determined Alaska submitted required elements of a program submission consistent with 40 CFR 271.5 and the submission is complete.

In accordance with the process described in RCRA section 3006, 40 CFR 271.5 and 271.20, the EPA has reviewed Alaska's final program submission for equivalency with the Federal program; consistency with the Federal program and State programs applicable in other states; and, for adequate enforcement of compliance with RCRA requirements. The EPA makes a tentative determination the State program is equivalent to the Federal program; consistent with the Federal program and State programs applicable in other states; and, adequate for enforcement. The EPA also evaluated where the State is more stringent or broader in scope compared to the Federal program. The State has identified some areas in its statutes and regulations where it is broader in scope or more stringent than the EPA. While the State identified a few differences in approach, the EPA's tentative determination is the State program is at least equivalent to the Federal program and includes State regulations which are more stringent than the Federal regulations and certain State requirements which are broader in scope than the Federal program. These differences are identified and discussed in this document.

Section II.B of this document describes the EPA's analysis and interpretation of certain aspects of Alaska's program submission. It is important for the regulated community and the public to understand how the EPA interprets the State's submission and what the EPA is tentatively approving. The EPA notes that, as currently understood, these items do not affect the EPA's finding of program equivalency and the EPA is proceeding with tentative approval. Alaska may provide supplemental information

relevant to this analysis and interpretation to enhance clarity on these issues.

B. The EPA Comments on the Final Program Submission

1. Characterization of 40 CFR Part 266 Subpart Q

Alaska's Attorney General's Statement notes that because Alaska is not seeking authorization for 40 CFR part 266 subpart Q (Ignitable Spent Refrigerants Recycled for Reuse) at this time, the State regulations with respect to this subpart are broader in scope. The EPA will not make an equivalency determination until Alaska adopts subpart Q as part of a future revision to the State regulations.

Since 40 CFR part 266 subpart Q imposed a new Federal requirement pursuant to HSWA, this requirement took effect in authorized and unauthorized states at the same time. This requirement is in effect under the Federal program but will not be included in this authorization.

2. State Statutes

The EPA has tentatively determined that Alaska has demonstrated that it has adequate legal authority under state law to implement an authorized RCRA program. In making this tentative determination it is not necessary for EPA to broadly characterize these authorities as more stringent or broader in scope. Rather, the EPA has tentatively determined that Alaska's regulatory framework set forth in its submittal meets the requirements for authorization.

Alaska has largely incorporated the Federal regulations into State regulations by reference, and the EPA finds that the proposed State program is equivalent to the Federal program, except for the few areas of modification the EPA noted in section I. of this document. In several instances, the Attorney General's Statement also characterizes State statutes as more stringent or broader in scope. For example, Alaska's Attorney General's statement identifies the State's statutory authority in AS 46.03 to regulate "pollution" as part of its authority to issue State hazardous waste regulations further characterize this authority as "broader in scope" than the RCRA subtitle C universe of hazardous wastes. While EPA has tentatively determined that the State has adequate authority under state law to implement this program, EPA is not evaluating state statutes for any other purpose nor is doing so required for authorization.

3. Characterization of 18 AAC 62.040

Alaska characterizes the State regulations at 18 AAC 62.040 (General modifications to adoptions by reference) as broader in scope in Attachment C of the Attorney General's Statement (State IBR Checklist). 18 AAC 62.040 concerns definitions and the substitution of State terms for Federal terms. The EPA finds that the substitution of terms provision is necessary to show the State program's equivalency to the Federal program, therefore, the EPA is proposing to include the provision in the authorized program.

4. State Substitution of Terms

The EPA notes that Alaska's program submission includes a list of substitution of terms in the State hazardous waste regulations. Alaska excludes the substitution of State terms for Federal terms for the RCRA requirements described in section D. of this document that the EPA does not authorize states for (for example, import/export authority and E-Manifest regulations). However, Alaska also includes definitions for "EPA" and "RCRA" in 18 AAC 62.1390(c)(3) and (7) which the State regulations describe as relying on the "context" in which they appear to define these terms in the State regulations. To increase clarity for the regulated community and the public, the EPA requests that Alaska revise their approach to the substitution of terms in its first authorization revision package so that it is clearer when a Federal or State term applies.

5. State Hazardous Constituents

Authorization of a State RCRA program requires that the State program is equivalent to and consistent with the Federal program, and provides for adequate enforcement, but allows for the State to be more stringent or broader in scope. States authorized pursuant to RCRA must regulate all RCRA hazardous constituents found in Appendix VIII to 40 CFR part 261. The 18 AAC 62.299 adopts by reference 40 CFR part 261 appendix VIII, thus the EPA tentatively determines the State program is equivalent to the Federal program. Further, under 18 AAC 75, Alaska regulates several contaminants in addition to those hazardous constituents listed in Appendix VIII, but 18 AAC 75 does not list two Appendix VIII hazardous constituents—acrylonitrile and aniline. Where the standard specified by 18 AAC 75 differs from the standards in Appendix VIII, Alaska's regulations state that the more stringent of the two standards applies: "Where soil or groundwater cleanup

standards differ between this chapter and 18 AAC 75, the applicable standard is the most stringent of those standards" (18 AAC 62.527(b)). Alaska also addresses this topic in the Program Description: "Standards for Corrective Action" on page 2, stating, "Where soil or groundwater cleanup standards differ between state Oil and Hazardous Substances Pollution Control regulations and RCRA regulations, the most stringent of the State and Federal standard applies."

6. Closure

In the State's Program Description, Alaska describes long-term stewardship as an aspect of facility closure (page 31). The EPA understands that Alaska intended to describe a situation where hazardous waste program clean-closure standards have not been met. Alaska may approve site-specific or alternative cleanup levels that are different from clean-closure standards where such standards are protective of human health and the environment in accordance with 18 AAC 75. Such facilities would require long-term stewardship to ensure that the site-specific or alternative cleanup levels remain protective via institutional and/or engineering controls.

7. Indian Country

The EPA acknowledges that Alaska does not assert State hazardous waste program authority over Indian country, as defined in Federal statute (18 U.S.C. 1151); Alaska does not seek State hazardous waste program authority over Indian lands under 40 CFR 271.7(b). Even if Alaska's hazardous waste program is authorized by an EPA final determination, the EPA Region 10 will continue to implement the Federal RCRA Subtitle C program in Indian country in the State of Alaska. Alaska has no authority to implement a State hazardous waste program in lieu of the Federal program in Indian country.

C. Final Determination

In making its final decision, the EPA will consider all relevant public comments on this notice of tentative determination. The EPA expects to make a final decision on whether to approve Alaska's program by August 24, 2026.

This schedule may change if any amendments made to Alaska's application are substantial following the conclusion of the public comment period as described in 40 CFR 271.20(b). 40 CFR 271.5(c) further provides that if the State's application materially changes during the EPA's review period, the statutory review period begins again

upon receipt of the revised submission. Further, 40 CFR 271.5(d) provides that the State and the EPA may also extend the review period by mutual agreement. The EPA intends to give notice of its final decision in the **Federal Register** by August 24, 2026. That action will include a summary of the reasons for the final decision, if made at that time, and a response to all relevant comments received during the public comment period.

D. How would authorization affect Indian country and areas of exclusive Federal jurisdiction?

The EPA retains jurisdiction, authority, and responsibility for the implementation of the Federal Program in Indian country as defined by 18 U.S.C. 1151 and areas of exclusive Federal jurisdiction within the State of Alaska. If Alaska receives final authorization for its proposed hazardous waste program, the State will be authorized to carry out its hazardous waste program in lieu of the Federal program consistent with RCRA except in Indian country (as defined by 18 U.S.C. 1151) or in areas of exclusive Federal jurisdiction. Within the State of Alaska, the EPA maintains full authority and responsibility for the implementation of RCRA in Indian country and in areas of exclusive Federal jurisdiction. In these areas, the EPA will continue to implement the Federal hazardous waste program. For example, the Alaska Statehood Act section 11 acknowledges the United States retains exclusive jurisdiction over the Denali National Park.

E. What is codification and will the EPA codify Alaska's hazardous waste program if authorized in a final action?

Codification is the process of placing citations and references to the State's statutes and regulations that comprise the State's authorized hazardous waste program into the Code of Federal Regulations. The EPA does this by adding those citations and references to the authorized State rules in 40 CFR part 272. The EPA is not codifying the authorization of Alaska's hazardous waste program at this time. However, the EPA reserves the ability to amend 40 CFR part 272 subpart C for the authorization of Alaska's program changes at a later date. Alaska's hazardous waste regulations are found at 18 AAC 62.

III. Proposed Action

The EPA is proposing to approve Alaska's Hazardous Waste Program subject to the limitations on its authority retained by the EPA in

accordance with RCRA, including the Hazardous and Solid Waste Amendments of 1984 (HSWA).

IV. Statutory and Executive Order reviews

Additional information about these statutes and Executive Orders can be found at <https://www.epa.gov/lawsregulations/laws-and-executiveorders>.

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

This action is not a significant regulatory action and was therefore not submitted to the Office of Management and Budget (OMB) for review. This action proposes to authorize the State of Alaska to operate its hazardous waste program in lieu of the EPA subject to the limitations on its authority retained by the EPA in accordance with RCRA, including the Hazardous and Solid Waste Amendments of 1984.

B. Executive Order 14192: Unleashing Prosperity Through Deregulation

Executive Order 14192 does not apply because it is not a significant regulatory action and is therefore exempted from review under Executive Order 12866. Alaska has promulgated new regulations, not the EPA.

C. Paperwork Reduction Act (PRA)

This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*)

D. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. This action will not impose any requirements on small entities beyond those already imposed by State law. The proposed program authorization does not create any new requirements and does not directly regulate any entities.

E. Unfunded Mandates Reform Act (UMRA)

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

F. Executive Order 13132: Federalism

This action proposes to authorize the State of Alaska to operate its hazardous waste program in lieu of the EPA subject

to the limitations on its authority retained by the EPA in accordance with RCRA, including the Hazardous and Solid Waste Amendments of 1984. This action does not preempt State law or limit State regulation but encourages cooperative federalism consistent with RCRA's statutory directive to authorize state hazardous waste programs to apply in lieu of the Federal RCRA program.

G. Executive Order 13175: Coordination With Indian Tribal Governments

This action has Tribal implications. However, it will neither impose substantial direct compliance costs on federally recognized Tribal governments, nor preempt Tribal law.

This action will impact federally recognized Tribes in Alaska, tribal governments, and Alaska Native Claims Settlement Act (ANCSA) regional and village corporations located outside Indian country (18 U.S.C. 1151) because Alaska will implement a State hazardous waste program in lieu of the Federal program. However, Indian country will not be impacted by Alaska hazardous waste program authorization.

Through this proposed action, the EPA promulgates no new Federal regulations that have Tribal implications. Instead, the EPA is directed by statute to authorize equivalent state hazardous waste programs in accordance with RCRA and its implementing regulations.

Consistent with Executive Order 13175 and the EPA Policy on Consultation and Coordination with Indian Tribes, the EPA has adhered to fundamental principles governing the Federal Government's unique relationship with Tribes, and offered government-to-government consultation to federally recognized Tribes in Alaska and ANCSA corporations to ensure Tribes and ANCSA corporations were offered a meaningful and timely opportunity to consult the EPA on State authorization. Two Tribal governments ask to consult with EPA. A summary of the consultation process is provided in section II. A. of this document.

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

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

merely authorizes the proposed State hazardous waste program to operate in lieu of the EPA.

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

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

J. National Technology Transfer and Advancement Act (NTTAA)

This rulemaking does not involve technical standards.

List of Subjects in 40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous materials transportation, Hazardous waste, Indian-lands Intergovernmental relations, Penalties, Reporting and recordkeeping requirements.

Authority: Sections 2002(a), 3006 and 7004(b) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, as amended, 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: May 8, 2026.

Emma Pokon,

Regional Administrator, Region 10.

[FR Doc. 2026–09603 Filed 5–13–26; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

RIN 0648–BO38

Fisheries of the Northeastern United States; Omnibus Management Flexibility Amendment to New England Fishery Management Council Fishery Management Plans

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

ACTION: Notice of availability of fishery management plan amendment; request for comments.

SUMMARY: NMFS announces that the New England Fishery Management Council (Council) has transmitted the Omnibus Management Flexibility Amendment to the New England Fishery Management Council Fishery Management Plans (FMP) to the Secretary of Commerce for review. If

approved, the Amendment would allow for increased management flexibility and consistency across all the Council's FMPs. The intended effect of the Amendment is to modify certain administrative measures across all the Council's FMPs. This notice is intended to alert the public to this action and provide an opportunity for comment.

DATES: Comments on the Omnibus Management Flexibility Amendment must be received on or before July 13, 2026.

ADDRESSES: You may submit comments on this document, identified by NOAA–NMFS–2026–0067, by the following method:

- **Electronic Submission:** Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to <https://www.regulations.gov> and enter NOAA–NMFS–2026–0067 in the Search box. Click on the “Comment” icon, complete the required fields, and enter or attach your comments.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on <https://www.regulations.gov> without change. All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter “N/A” in the required fields if you wish to remain anonymous).

Electronic copies of the Omnibus Management Flexibility Amendment may be obtained from <https://www.regulations.gov> and the New England Fishery Management Council website at <https://www.nefmc.org/library/omnibus-management-flexibility-amendment>.

FOR FURTHER INFORMATION CONTACT: Travis Ford, 978–281–9233, travis.ford@noaa.gov.

SUPPLEMENTARY INFORMATION: The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act or Act) requires that each Regional Fishery Management Council submit any FMP amendment it prepares to NMFS for review and approval, disapproval, or partial approval. The Magnuson-Stevens Act also requires that upon a Council's transmittal to NMFS of a complete package for an amendment and the associated regulations deemed necessary by the Council to implement the amendment, on or before the 5th day

after the day on which a Council transmits the plan amendment, NMFS must immediately commence a review of the plan or amendment to determine whether the plan or amendment is consistent with the Act's National Standards, other provisions of the Act, and any other applicable law. NMFS must also publish notification in the **Federal Register** that the Amendment is available for public review and comment for a period of 60 days beginning on the date that the notice is published. At its September 2025 meeting, the New England Fishery Management Council adopted the Omnibus Management Flexibility Amendment to New England Fishery Management Council FMPs for NMFS's review. Because the Monkfish FMP is jointly managed by the New England and the Mid-Atlantic Fishery Management Councils, the Mid-Atlantic Council took final action on the monkfish aspects of the Amendment at its October 2025 meeting and confirmed the New England Council's selected monkfish measures. The New England Council originally submitted the Amendment to NMFS on February 4, 2026. While the package was in review, on April 6, 2026, the New England Council withdrew its original submission and resubmitted the Amendment with changes to the background materials for the action. The transmittal date for the revised Amendment is May 7, 2026. The New England Council has reviewed the Amendment's proposed rule regulations as drafted by NMFS and deemed them to be necessary and appropriate as specified in section 303(c) of the Magnuson-Stevens Act.

Background

The New England Council developed this Amendment in response to Executive Order 14276, Restoring American Seafood Competitiveness to reduce regulatory burden and enhance access to fishery resources. If approved by NMFS, the Council asserts that the Amendment would address the need for increased management flexibility and consistency across all the Council's FMPs.

Specifications Frequency

Currently, all the Council's FMPs require specifications to be set at varying frequencies. Given the uncertainty in the schedule of updated stock assessments and data updates, some FMPs may be required to set specifications even when there are no updated assessment products available. To allow for greater flexibility in planning stock assessments, data

updates, and subsequent management actions, the Council recommends providing the ability to consider setting specifications for up to 5 years consistent with best available science across all its FMPs.

Specification Setting Process

Of all the Council's FMPs, only the Northeast Multispecies and Monkfish FMPs lack a fully defined specification setting process. Therefore, specifications actions in these FMPs are developed by a framework adjustment or amendment. The Council recommends adding a consistent specification setting process to the Northeast Multispecies and Monkfish FMPs. The Council contends that this would enable it to streamline the setting of fishery specifications under a specification process and not require development of a framework adjustment action or amendment. In addition, the Council recommends adding status determination criteria to the list of measures for the Northeast Skate Complex FMP that could be adjusted through the specifications setting process or by framework adjustment.

In-Season Adjustment Authority

The Atlantic Herring FMP provides for “in-season adjustments,” in which the established specifications and sub-annual catch limits (ACL) may be adjusted by NMFS to achieve conservation and management objectives. This process requires the NMFS Regional Administrator to consult with the Council to allow changes during the fishing year. This provision has allowed managers the flexibility to respond in a more timely manner to updated scientific and fishery information. The Council recommends adding a provision for in-season adjustment authority across all its FMPs. Further, for all of its FMPs, the Council recommends expanding the use of in-season adjustments to established specifications and sub-ACLs beyond what the Atlantic Herring FMP would currently allow. Any adjustments must be consistent with the respective FMPs objectives and other FMP provisions.

Annual Review/Report

The Monkfish and Northeast Skate Complex FMPs and the small-mesh fishery component of the Northeast Multispecies FMP require annual plan development team reviews and, in the case of small-mesh multispecies, also a report. These annual reviews/reports can be duplicative with other products from the Council (e.g., risk policy matrices and specifications actions) and NMFS (e.g., online stock assessment and

fishery evaluation reports, data updates, state of the ecosystem reports, and ecosystem and socioeconomic profiles). The Council recommends removing these requirements in the Monkfish and Northeast Skate Complex FMPs and, in addition, the Council recommends removing the requirements for a report annual review for the small-mesh multispecies fishery. The Council does not intend for this change to prevent it from prioritizing the preparation of an annual review or monitoring or performance report for any of the Council's FMPs through its priority setting process.

List of Framework Adjustment Items

The Council recommends adding all of the above-listed items to the list of framework adjustment items for the Northeast Multispecies (including the small-mesh fishery component), Atlantic Sea Scallop, Monkfish, Atlantic Herring, Northeast Skate Complex, and Atlantic Deep-Sea Red Crab FMPs.

This includes:

- Specification Frequency;

- Specification Setting Process;
 - In-Season Adjustment Authority;
- and
- Annual Review/Report.

The Magnuson-Stevens Act allows NMFS to approve, partially approve, or disapprove measures recommended by a regional fishery management council in an amendment based on whether the measures are consistent with the FMPs, plan amendment, the Magnuson-Stevens Act including its National Standards, and other applicable law. The Council recommends changes to policy for fisheries under its purview, and if those policies are consistent with the Magnuson Stevens Act and other applicable law, NMFS may implement them as recommended. As such, NMFS is seeking comment on whether measures in this action are consistent with the FMPs, the Magnuson-Stevens Act including its National Standards, and other applicable law. Through this notice, NMFS seeks comments on the Amendment and its incorporated documents through the end of the comment period stated in the **DATES**

section of this notice of availability (NOA). Following the publication of this NOA, a rule proposing the implementation of measures in this Amendment is anticipated to be published in the **Federal Register** for public comment. Public comments must be received by the end of the comment period provided in this NOA to be considered in the approval/disapproval decision. All comments received by the end of the comment period on the NOA, whether specifically directed to the NOA or the proposed rule, will be considered in the approval/disapproval decision. Comments received after the end of the comment period for the NOA will not be considered in the approval/disapproval decision of the Amendment.

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

Dated: May 11, 2026.

David R. Blankinship,

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

[FR Doc. 2026-09617 Filed 5-13-26; 8:45 am]

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Notices

Federal Register
Vol. 91, No. 93
Thursday, May 14, 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–FGIS–26–0331]

Designation Opportunities for United States Grain Standards Act

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice; request for comments.

SUMMARY: The United States Grain Standards Act (USGSA) designations for five official agencies—Amarillo Grain Exchange, Inc. (Amarillo); D.R. Schaal Agency, Inc. (Schaal); North Carolina Department of Agriculture (North Carolina); State Grain Inspection, Inc. (State Grain); and Utah Department of Agriculture and Food (Utah)—will end on the dates listed in the

SUPPLEMENTARY INFORMATION section below. The Grain Inspection Services of Texas, LLC, voluntarily cancelled their designation effective on February 28,

2026, and the area that they previously provided service to is being advertised in this notice. The Agricultural Marketing Service (AMS) is requesting designation applications from private entities or State governmental agencies that would like to provide official inspection and weighing services in the six geographic areas. In addition to this request for applications, AMS seeks comments on the quality of services provided by the official agencies mentioned above.

DATES: Applications and comments must be received between June 1, 2026, and June 30, 2026.

ADDRESSES: Submit applications and comments concerning this Notice using the following methods:

To apply for USGSA designation: New applicants (not currently designated) seeking designation, or currently designated applicants seeking to re-apply for a designation in a new or previously serviced geographic area, can find detailed instructions at https://www.ams.usda.gov/sites/default/files/media/FGISApplyingforDesignation_NewApplicants.pdf. Applicants must have a [Login.gov](https://www.login.gov) account, a MyFGIS number, and access to FGISOnline Delegations/Designations and Export Registrations (DDR) prior to applying. Applicants are encouraged to begin the application process early to allow time for system authentication.

To submit comments regarding currently designated official agencies: Go to [regulations.gov](https://www.regulations.gov) (<https://www.regulations.gov>). Instructions for submitting and reading comments are detailed on the website. All comments must be submitted through the Federal e-rulemaking portal at <https://www.regulations.gov> and reference the document number and the date and page number of this issue of the **Federal Register**. All comments submitted in response to this notice will be included in the record and will be made available to the public. Please be advised that the identity of the individuals or entities submitting comments will be made public on the internet at the address provided above.

Read applications and comments: To view the applications submitted, please contact FGISQACD@usda.gov. All comments will be available for public viewing online at <https://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: Candace Hildreth, Quality Assurance and Compliance Division; telephone 202–720–0203; email: Candace.A.Hildreth@usda.gov or FGISQACD@usda.gov.

SUPPLEMENTARY INFORMATION: The designations of the official agencies listed below will end on the prescribed dates:

Official Agency	Headquarters location and telephone	Designation end
Grain Inspection Services of Texas, LLC	Not Available	02/26/2026
Amarillo Grain Exchange, Inc	Amarillo, TX, 806–372–8511	09/30/2026
D.R. Schaal Agency, Inc	Belmond, IA, 641–444–3122	09/30/2026
North Carolina Department of Agriculture	Raleigh, NC, 919–202–5774	09/30/2026
State Grain Inspection, Inc	Savage, MN, 503–799–1036	12/31/2026
Utah Department of Agriculture and Food	Ogden, UT, 801–392–2292	09/30/2026

Section 7(f) of the United States Grain Standards Act (USGSA) authorizes the Secretary to designate a qualified applicant to provide official services in a specified area after determining the applicant is better able than any other applicant to provide such official services (7 U.S.C. 79(f)). A designated agency may provide official inspection service and/or Class X or Class Y weighing services at locations other than export port locations. Under section 7(g) of the USGSA, designations of official agencies may be awarded for

no longer than five years, unless terminated by the Secretary, and may be renewed according to the criteria and procedures prescribed in section 7(f) of the USGSA. See also 7 CFR 800.196 for further information and guidance.

Areas Open for Designation

Area 6

Description: In Georgia: The entire state of Georgia.

In Iowa: Butler (north of CR C23, east of CR T47, north of CR C33, and west of IA–88), Cerro Gordo, Floyd (north of

280th St and west of Shadow Ave), Franklin (northwest of I–35, north of CR C55, west of CR S56, and north of CR C23), Hancock, Kossuth (east of US–169), Mitchell, Winnebago, Worth, and Wright (North of West Highway 3, east of US–17, north of Broadway St, east of South Kirkwood Ave, north of 5th St S, north of 270th Street, east of US–69, and northwest of I–35) Counties.

In Minnesota: Faribault, Freeborn, and Mower Counties.

In New Jersey: The entire state of New Jersey.

In New York: The entire state of New York.

In South Carolina: Abbeville, Aiken, Allendale, Anderson, Bamberg, Barnwell, Beaufort, Berkeley, Calhoun, Charleston, Clarendon, Colleton, Dorchester, Edgefield, Fairfield, Georgetown, Greenwood, Hampton, Jasper, Laurens, Lexington, McCormick, Newberry, Oconee, Orangeburg, Richland, Saluda, Sumter, and Williamsburg Counties.

Exports: All export waterborne carriers/vessels are serviced by FGIS.

Area 27

Description: *In Minnesota:* Blue Earth, Brown, Carver, Dakota, Dodge, Goodhue, Hennepin, Le Sueur, McLeod, Nicollet, Ramsey, Rice, Scott, Sibley, Steele, Waseca, Washington, and Watonwan Counties.

Area 34

Description: *In North Carolina:* The entire state of North Carolina.

In South Carolina: Cherokee, Chester, Chesterfield, Darlington, Dillon, Florence, Greenville, Horry, Kershaw, Lancaster, Lee, Marion, Marlboro, Pickens, Spartanburg, Union, and York Counties.

Exports: All export waterborne carriers/vessels are serviced by FGIS.

Area 38

Description: *In Oklahoma:* Beaver, Cimarron, and Texas Counties.

In Texas: Armstrong (north of Prairie Dog Town Fork of the Red River), Carson, Childress, Collingsworth, Dallam, Deaf Smith (north of CR FM 1062 and east of US-385), Donley, Gray, Hall (east of US-287), Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Potter, Randall (north of Prairie Dog Town Fork of the Red River, TX-217, US-60 [Canyon], and Farm to Market (FM) 1062), Roberts, Sherman, and Wheeler Counties.

Exports: All export waterborne carriers/vessels are serviced by FGIS.

Area 40

Description: *In Texas:* Anderson, Angelina, Atascosa, Austin, Bandera, Bastrop, Bell, Bexar, Blanco, Bosque, Brazos, Brewster, Brown, Burleson, Burnet, Caldwell, Camp, Cherokee, Collin, Comal, Comanche, Concho, Cooke, Coryell, Crane, Crockett, Culberson, Dallas, Delta, Denton, DeWitt, Eastland, Edwards, Ellis, El Paso, Erath, Falls, Fannin, Fayette, Franklin, Freestone, Frio, Gillespie, Gonzales, Grayson, Gregg, Grimes, Guadalupe, Hamilton, Hardin, Harrison, Hays, Henderson, Hill, Hood, Hopkins,

Houston, Hudspeth, Hunt, Irion, Jack, Jasper, Jeff Davis, Johnson, Karnes, Kaufman, Kendall, Kerr, Kimble, Kinney, Lamar, Lampasas, Lavaca, Lee, Leon, Liberty, Limestone, Llano, Loving, McCulloch, McLennan, Madison, Marion, Mason, Maverick, Medina, Menard, Milam, Mills, Montague, Montgomery, Morris, Nacogdoches, Navarro, Newton, Orange, Palo Pinto, Panola, Parker, Pecos, Polk, Presidio, Rains, Reagan, Real, Red River, Reeves, Robertson, Rockwall, Rusk, Sabine, San Augustine, San Jacinto, San Saba, Schleicher, Shelby, Smith, Somervell, Stephens, Sutton, Tarrant, Terrell, Titus, Tom Green, Travis, Trinity, Tyler, Upshur, Upton, Uvalde, Val Verde, Van Zandt, Walker, Ward, Washington, Williamson, Wilson, Wise, Wood, Young, and Zavala Counties.

Area 42

Description: *In Utah:* The entire state of Utah.

Opportunity for Designation

Interested persons or governmental agencies may apply for designation to provide official services in the geographic areas specified above under the provisions of section 7(f) of the USGSA and 7 CFR 800.196. To apply for designation, or for more information, contact Candace Hildreth at the address listed above or visit the AMS website at <http://www.ams.usda.gov>.

Request for Comments

We are publishing this notice to provide interested persons the opportunity to comment on the quality of services provided by Amarillo Grain Exchange, Inc.; D.R. Schaal Agency, Inc.; North Carolina Department of Agriculture; State Grain Inspection, Inc.; and Utah Department of Agriculture and Food. In the designation process, we are particularly interested in receiving comments citing reasons and pertinent data supporting or objecting to the designation of the applicants. Submit all comments to Candace Hildreth at the above address or at <http://www.regulations.gov>.

We consider applications, comments, and other available information when determining which applicants will be designated.

Melissa Bailey,

Associate Administrator, Agricultural Marketing Service.

[FR Doc. 2026-09571 Filed 5-13-26; 8:45 am]

BILLING CODE 3410-02-P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request; Reinstatement

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and reinstatement under the Paperwork Reduction Act of 1995, Public Law 104-13. Comments are requested regarding: 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; the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques and other forms of information technology.

Comments regarding this information collection received by June 15, 2026 will be considered. 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.

Agricultural Marketing Service

Title: Information Collection for the Domestic Hemp Production Program.

OMB Control Number: 0581-0318.

Summary of Collection: The Agricultural Improvement Act of 2018 (2018 Farm Bill) amended the Agricultural Marketing Agreement of 1946 and was signed into law December 20, 2018, as P.L. 115-334. Sec. 10113 of the 2018 Farm Bill amended the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 *et seq.*) by adding Subtitle G—Hemp Production. The law required U.S. Department of Agriculture (USDA)

to promulgate regulations and guidelines to develop and oversee a program to produce hemp in the United States. The 2018 Farm Bill directs that this will include state and tribal plans, and a USDA plan for those States, including territories of Indian tribes, that choose not to submit their own plan. The 2018 Farm Bill amended the Agricultural Marketing Act of 1946 (AMA) by adding Subtitle G (sections 297A through 297D of the AMA). Section 297B of the AMA requires the Secretary of Agriculture (Secretary) to evaluate and approve or disapprove State or Tribal plans regulating the production of hemp. Section 297C of the AMA requires the Secretary to establish a Federal plan for producers in States and territories of Indian Tribes not covered by plans approved under section 297B. Lastly, section 297D of the AMA requires the Secretary to promulgate regulations and guidelines relating to the production of hemp, including sections 297B and 297C, in consultation with the U.S. Attorney General.

States or Tribes wanting primary regulatory authority over the production of hemp within their borders may submit plans to USDA for approval. These plans outline how the State or Tribe will monitor and regulate production. As instructed in the Farm Bill, this regulation provides procedures and guidance for state and tribal governments submitting plans to USDA for approval. USDA will approve plans which comply with the Domestic Hemp Production Program regulations.

The interim final rule (IFR) was published on October 31, 2019. A System of Record Notice (SORN) was published on January 16, 2020. The U.S. Domestic Hemp Program (USDA Hemp Program) established a system of records under the Privacy Act (5 U.S.C. 552a) which is required by law. On January 19, 2021, USDA published a final rule (FR) for the USDA Hemp Program which became effective on March 22, 2021. The FR incorporated modifications based on public comments and lessons learned during the 2020 growing season.

Need and Use of the Information: The information is being collected to accurately manage the USDA Hemp Program. States and Tribes with USDA approved programs, USDA producers, and laboratories all provide necessary information for the program.

Description of Respondents: Hemp producers, States and Tribal governments with approved hemp production plans; Laboratory personnel.

Number of Respondents: 21,781.

Frequency of Responses: Reporting: On occasion; Monthly; Annually.
Total Burden Hours: 9,826.

Levi S. Harrell,

Departmental Information Collection Clearance Officer.

[FR Doc. 2026–09645 Filed 5–13–26; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2026–0496]

Notice of Request for Revision To and Extension of Approval of an Information Collection; Restrictions on Importation of Live Poultry, Poultry Meat, and Other Poultry Products From Specified Regions

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Revision to and extension of approval of an information collection; comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request a revision to and extension of approval of an information collection associated with regulations for the importation of live poultry, poultry meat, and other poultry products from specified regions.

DATES: We will consider all comments that we receive on or before July 13, 2026.

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

- **Federal eRulemaking Portal:** Go to www.regulations.gov. Enter APHIS–2026–0496 in the Search field. Select the Documents tab, then select the Comment button in the list of documents.
- **Postal Mail/Commercial Delivery:** Send your comment to Docket No. APHIS–2026–0496, Regulatory Analysis and Development, PPD, APHIS, 5601 Sunnyside Ave., #AP760, Beltsville, MD 20705.

Supporting documents and any comments we receive on this docket may be viewed at regulations.gov or in our reading room, which is located in Room 1620 of the USDA South Building, 14th Street and Independence Avenue SW, Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

FOR FURTHER INFORMATION CONTACT: For information about the restrictions on importation of live poultry from specified regions, contact Dr. Nestor Montiel, Senior Staff Veterinary Medical Officer, Veterinary Services, Strategy and Policy, Live Animal Imports, 210 Walnut St., Room 891, Des Moines, IA 50309; (301) 851–4028; nestor.a.montiel@usda.gov. For information about the restrictions on imports of poultry meat and other poultry products from specified regions, contact Dr. Lynett Bryant, Senior Staff Veterinary Medical Officer, Veterinary Services, Strategy and Policy, Animal Product Imports, 920 Main Campus Dr., Venture II, Raleigh, NC 27606; (301) 851–3300; lynette.d.williams@usda.gov. For more information on the information collection reporting process, contact Ms. Sheniqua Harris, APHIS' Paperwork Reduction Act Coordinator, at (301) 851–2528 or email APHIS.PRA@usda.gov.

SUPPLEMENTARY INFORMATION:

Title: Restrictions on Importation of Live Poultry, Poultry Meat, and Other Poultry Products from Specified Regions.

OMB Control Number: 0579–0228.

Type of Request: Revision to and extension of approval of an information collection.

Abstract: Under the authority of the Animal Health Protection Act (7 U.S.C. 8301 *et seq.*), the Animal and Plant Health Inspection Service (APHIS) of the United States Department of Agriculture is authorized, among other things, to prohibit or restrict the importation and interstate movement of animals and animal products to prevent the introduction into and dissemination within the United States of livestock diseases and pests. To carry out the mission, APHIS regulates the importation of animals and animal products into the United States. The relevant regulations are contained in 9 CFR parts 93 through 94.

Disease prevention is the most effective method for maintaining a healthy animal population and for enhancing the United States' ability to compete in the world market of animal and animal product trade. The APHIS Veterinary Services (VS) program administers regulations intended to prevent the introduction of animal diseases into the United States. The regulations in parts 93 and 94 place certain restrictions on the import of live poultry, poultry meat, and other poultry products from certain regions to prevent an incursion of highly pathogenic avian influenza (HPAI), Newcastle disease (ND), or other exotic poultry diseases into the United States.

To ensure live poultry, poultry meat, and other poultry products from these areas do not pose a risk of bringing HPAI, ND, or other exotic poultry diseases into the United States, APHIS requires the following information collection activities: reports that the poultry have been offered for importation; health certificates, certificates of origin; recordkeeping; cooperative service agreements; and certificates for shipment back to the United States.

We are asking OMB to approve our use of these information collection activities, as described, for an additional 3 years. APHIS has amended this information collection by increasing the number of Respondents, Responses, and Total Burden Hours reported; however, APHIS has moved the following Forms to the new VS Permit Common Forms information collection:

- *VS Form 17–129*: Application for Import or In-Transit Permit (for Live Animals, Animal Semen, Animal Embryos, Birds, Poultry, and Hatching Eggs).
- *VS Form 17–29*: Application for Import or In-Transit Permit (for Live Animals, Animal Semen, Animal Embryos, Birds, Poultry, and Hatching Eggs).

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning our information collection. These comments will help us:

(1) Evaluate 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) Evaluate the accuracy of our estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, through use, as appropriate, of automated, electronic, mechanical, and other collection technologies; *e.g.*, permitting electronic submission of responses.

Estimate of burden: The public burden for this collection of information is estimated to average 1.0 hours per response.

Respondents: Foreign animal health authorities; importers of live poultry, poultry meat, and other poultry products; pet bird owners; and zoological facilities.

Estimated annual number of respondents: 4,272.

Estimated annual number of responses per respondent: 17.

Estimated annual number of responses: 74,650.

Estimated total annual burden on respondents: 74,653 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

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

Done in Washington, DC, this 12th day of May 2026.

Kelly Moore,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2026–09639 Filed 5–13–26; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2026–0101]

General Conference Committee of the National Poultry Improvement Plan; Solicitation for Membership

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of solicitation for membership.

SUMMARY: We are giving notice that the Secretary of Agriculture is soliciting nominations for the election of regional members and their alternates for the General Conference Committee of the National Poultry Improvement Plan.

DATES: Consideration will be given to nominations received on or before June 30, 2026.

ADDRESSES: Please submit completed nomination forms to the person listed under **FOR FURTHER INFORMATION CONTACT**.

FOR FURTHER INFORMATION CONTACT: Dr. Savannah Busby, Acting Senior Coordinator, National Poultry Improvement Plan, VS, APHIS, USDA, 1506 Klondike Road, Suite 301, Conyers, GA 30094; phone: (770) 922–3496; email: savannah.busby@usda.gov.

SUPPLEMENTARY INFORMATION: The General Conference Committee (the Committee) of the National Poultry Improvement Plan (NPIP) is the Secretary's Advisory Committee on poultry health. The Committee serves as a forum for the study of matters relating to poultry health and, as necessary, makes specific recommendations to the Secretary concerning ways the U.S.

Department of Agriculture (USDA) may assist the industry in addressing these matters. The Committee assists the Department in planning, organizing, and conducting the Biennial Conference of the NPIP. The Committee recommends whether new proposals should be considered by the delegates to the Biennial Conference and serves as a direct liaison between the NPIP and the United States Animal Health Association.

The Committee consists of an elected member-at-large who is an NPIP participant and an elected member (and alternate) from each of the six U.S. regions represented on the Committee. Terms will expire for three current regional members in August 2026. We are soliciting nominations from interested organizations and individuals to replace the members and alternates from the South Atlantic (Delaware, District of Columbia, Florida, Georgia, Maryland, North Carolina, Puerto Rico, South Carolina, Virginia, and West Virginia), West North Central (Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, and South Dakota), and South Central (Alabama, Arkansas, Kentucky, Louisiana, Mississippi, Oklahoma, Tennessee, and Texas).

Member selection is determined by a majority vote of the NPIP delegates from the respective regions. There must be at least two nominees for each position. Persons interested in serving on the Committee or nominating another individual to serve must submit a nomination with information and a complete Form AD–755, which is available on the internet at <https://www.usda.gov/sites/default/files/documents/ad-755-advisory-committee-commodity-board-background-information.pdf> or may be obtained by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**.

Equal opportunity practices, in accordance with USDA policies, will be followed in all membership appointments to the Committee.

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.

Persons with disabilities who require alternative means of communication for program information (e.g., Braille, large print, audiotape, American Sign Language, etc.) should contact the State or local Agency that administers the program or contact USDA through the Telecommunications Relay Service at 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 How to File a Program Discrimination Complaint and at any USDA office or write a letter addressed to USDA and provide in the letter all 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, Mail Stop 9410, Washington, DC 20250-9410; (2) fax: (202) 690-7442; or (3) email: program.intake@usda.gov.

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

Authority: 9 CFR 147.43

Dated: May 12, 2026.

Cikena Reid,

USDA Committee Management Officer.

[FR Doc. 2026-09695 Filed 5-13-26; 8:45 am]

BILLING CODE 3410-34-P

DEPARTMENT OF COMMERCE

Census Bureau

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; The American Community Survey (ACS) and Puerto Rico Community Survey (PRCS)

The Department of Commerce will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. We invite the general public and other Federal agencies to comment on proposed and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. Public comments were previously requested

via the **Federal Register** on December 19, 2025, during a 60-day comment period. This notice allows for an additional 30 days for public comments.

Agency: U.S. Census Bureau, Commerce.

Title: The American Community Survey and the Puerto Rico Community Survey.

OMB Control Number: 0607-0810.

Form Number(s): ACS-1, ACS-1(SP), ACS-1(PR), ACS-1(PR)SP, ACS-1(GQ), ACS-1(PR)(GQ), ACS Housing Unit internet questionnaire (no form number), ACS nonresponse follow up CAPI (Computer Assisted Personal Interview) electronic instrument (no form number), ACS Failed Edit Follow up CATI (Computer Assisted Telephone Interview) electronic instrument (no form number), ACS Telephone Questionnaire Assistance CATI electronic instrument (no form number), ACS Group Quarters internet listing instrument (no form number), ACS Group Quarters Facility Questionnaire CAPI electronic instrument (no form number), ACS Group Quarters internet electronic instrument (no form number), ACS Group Quarters Resident CAPI electronic instrument (no form number), and ACS Reinterview CATI/CAPI electronic instrument (no form number).

Type of Request: Regular submission. Request for a Revision of a Currently Approved Collection.

Number of Respondents: 3,576,000 for household respondents; 20,100 for facility contacts in group quarters; 158,680 people in group quarters; 22,875 households for reinterview; and 1,422 group quarters facility contacts for reinterview. The total estimated number of respondents is 3,779,077.

Average Hours per Response: 40 minutes for the average household questionnaire; 15 minutes for a group quarters facility contact questionnaire; 25 minutes for a group quarters person questionnaire; 10 minutes for a household reinterview; 10 minutes for a group quarters facility contact reinterview.

Burden Hours: 2,384,000 for household respondents; 5025 for contacts in group quarters; 66,120 for group quarters residents; 3,813 households for reinterview; and 237 group quarters contacts for reinterview. The estimate is an annual average of 2,459,195 burden hours.

Needs and Uses: The U.S. Census Bureau requests authorization from the OMB for revisions to the ACS. The ACS is one of the Department of Commerce's most valuable data products, used extensively by businesses, nongovernmental organizations (NGOs), local governments, and many federal

agencies. In conducting this survey, the Census Bureau's top priority is respecting the time and privacy of the people providing information while preserving its value to the public.

In 2027, the ACS plans to introduce an internet self-response option to the Puerto Rico Community Survey (PRCS) data collection operation. The Census Bureau believes there is value in offering an internet self-response option to households and people living in certain types of group quarters—college/university student housing, group homes, military barracks, workers' group living quarters, and emergency and transitional shelters in Puerto Rico.

ACS/PRCS Background

The Census Bureau developed the ACS/PRCS to collect and update social, economic, housing and demographic data every year that were previously collected once a decade as part of the decennial census. The ACS/PRCS is an ongoing monthly survey that collects detailed housing and socioeconomic data from about 3.54 million addresses in the United States and about 36,000 addresses in Puerto Rico each year. The ACS also collects detailed socioeconomic data from about 158,000 residents living in group quarters facilities in the United States and about 680 in Puerto Rico. The ACS/PRCS is now the only source of comparable data about social, economic, housing, and demographic characteristics for small areas and small subpopulations across the nation and in Puerto Rico. Every community in the nation continues to receive a detailed, statistical portrait of its social, economic, housing, and demographic characteristics each year through one-year and five-year ACS/PRCS products.

ACS Contact Strategies for Housing Units

To collect ACS data, the Census Bureau uses a well-researched mail contact strategy to encourage self-response to the survey. For addresses that were mailed survey materials but did not respond by mail, internet, or by calling our telephone questionnaire assistance line, the Census Bureau selects a subsample and assigns them to the nonresponse follow-up data collection operation. Unmailable household addresses are sampled and also included in the nonresponse follow-up data collection operation.

To encourage self-response in the ACS, the Census Bureau sends up to five mailings to housing units selected to be in the sample. The first mailing, sent to all mailable addresses in the sample, includes an invitation to

participate in the ACS online and states that a paper questionnaire will be sent in a few weeks to those unable to respond online. The second mailing is a letter that reminds respondents to complete the survey online, thanks them if they have already done so, and informs them that a paper questionnaire will be sent at a later date if the Census Bureau does not receive their response. In a third mailing, the paper questionnaire package is sent only to those sample addresses that have not completed the online questionnaire within two and a half weeks. The fourth mailing is a postcard that reminds respondents to respond and informs them that an interviewer may contact them if they do not complete the survey. A fifth mailing is a letter sent to respondents who have not completed the survey within five weeks. This letter provides a due date and reminds the respondents to complete their survey to be removed from future contact. The Census Bureau will ask those who fill out the survey online to provide an email address, which will be used to send an email reminder to households that started but did not complete the online form. The email reminder asks them to log back in to finish responding to the survey. If the Census Bureau does not receive a response, the address may be selected for nonresponse follow-up data collection. An additional mailing is sent to this sub-sample of addresses to encourage respondents to complete the survey online to avoid an in-person interview. During nonresponse follow-up interviews are collected by a trained Census Bureau interviewer via telephone or personal visit using computer-assisted interviewing technology.

Some addresses are deemed unmailable because the address is incomplete or directs mail only to a post office box. The Census Bureau currently collects data for these housing units using both online and computer-assisted personal interviewing. A small sample of respondents from the nonresponse follow-up data collection interview are recontacted for quality assurance purposes.

PRCS Contact Strategies for Housing Units

The Census Bureau sends up to five mailings to a Puerto Rico address selected to be in the sample for the Puerto Rico Community Survey, following a similar methodology as used for the ACS. The first mailing includes an invitation to participate in the PRCS online. The second and fourth mailings serve as a reminder to respond to the survey. The third mailing includes the

paper questionnaire. A fifth mailing is a letter sent to respondents who have not completed the survey within five weeks. This letter provides a due date and reminds the respondents to complete their survey to be removed from future contact. The Census Bureau will ask those who fill out the PRCS online to provide an email address, which will be used to send an email reminder to households that started but did not complete the online form. The reminder asks them to log back in to finish responding to the survey. If the Census Bureau does not receive a response, the address may be selected for nonresponse follow-up data collection. An additional mailing is sent to this sub-sample of addresses to encourage respondents to complete the survey online to avoid an in-person interview. During nonresponse follow-up data collection interviews can be collected by a trained Census Bureau interviewer via telephone or personal visit using computer-assisted interviewing technology.

Puerto Rico addresses that are unmailable because the address is incomplete or directs mail only to a post office box are collected by computer-assisted personal interviewing. A small sample of respondents from the nonresponse follow-up data collection interview are recontacted for quality assurance purposes.

ACS/PRCS Contact Strategy for Group Quarters

The Census Bureau collects data for group quarters through personal interview, online, or by paper. The Census Bureau first obtains information about the group quarters facility by allowing the group quarters contact to upload the roster of residents online or by conducting a personal visit interview with a group quarters contact. Once the interviewer obtains the roster of residents, they randomly select residents for person-level interviews. For each sampled resident, a Census Bureau interviewer collects the survey data via a computer-assisted personal interviewing instrument. Interviewers also have the option to distribute a paper questionnaire to residents for self-response. Interviewers may also offer residents in some group quarters facilities (such as college dorms) the option to self-respond to the survey online. A small sample of respondents are recontacted for quality assurance purposes.

Statistics produced from the American Community Survey may include a combination of data collected on the survey from respondents as well

as administrative data from other sources.

Affected Public: Individuals or households.

Frequency: Monthly.

Respondent's Obligation: Mandatory.

Legal Authority: Title 13 U.S.C. 141, 193, 221, and 223.

This information collection request may be viewed at www.reginfo.gov. Follow the instructions to view the Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting "Currently under 30-day Review—Open for Public Comments" or by using the search function and entering either the title of the collection or the OMB Control Number 0607–0810.

Sheleen Dumas,

Departmental PRA Compliance Officer, Office of the Under Secretary for Economic Affairs, Department of Commerce.

[FR Doc. 2026–09582 Filed 5–13–26; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[S–253–2026]

Foreign-Trade Zone 18; Application for Subzone Expansion; Tesla, Inc.; Tracy, California

An application has been submitted to the Foreign-Trade Zones (FTZ) Board by the City of San Jose, grantee of FTZ 18, requesting an expansion of Subzone 18G on behalf of Tesa, Inc. in Tracy, California. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the FTZ Board (15 CFR part 400). It was formally docketed on May 12, 2026.

The applicant is now requesting to expand Subzone 18G to include an additional site: Site 27 (25.04 acres)—1150 Arbor Avenue, Suites 100, 101, & 103, Tracy, California. The expanded subzone would be subject to the existing activation limit of FTZ 18.

In accordance with the FTZ Board's regulations, Qahira El-Amin (Federal) of the FTZ Staff is designated examiner to review the application and make recommendations to the Executive Secretary.

Public comment is invited from interested parties. Submissions shall be addressed to the FTZ Board's Executive Secretary and sent to: ftz@trade.gov. The closing period for their receipt is June 23, 2026. Rebuttal comments in response to material submitted during the foregoing period may be submitted through July 8, 2026.

A copy of the application will be available for public inspection in the "Online FTZ Information Section" section of the FTZ Board's website, which is accessible via www.trade.gov/ftz.

For further information, contact Qahira El-Amin at Qahira.El-Amin@trade.gov.

Dated: May 12, 2026.

Elizabeth Whiteman,
Executive Secretary.

[FR Doc. 2026-09703 Filed 5-13-26; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[S-252-2026]

Foreign-Trade Zone 102; Application for Subzone; BASF Agricultural Solutions US LLC; Fenton and Palmyra, Missouri

An application has been submitted to the Foreign-Trade Zones (FTZ) Board by the St. Louis County Port Authority, grantee of FTZ 102, requesting subzone status for the facilities of BASF Agricultural Solutions US LLC, located in Fenton and Palmyra, Missouri. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a-81u), and the regulations of the FTZ Board (15 CFR part 400). It was formally docketed on May 11, 2026.

The proposed subzone would consist of the following sites: *Site 1* (3.89 acres) 2092 Fenton Logistics Park Boulevard, Lot B-3, Plat 3, Fenton; *Site 2* (57.5 acres) 7405 County Road 328, Palmyra; and, *Site 3* (168 acres) 3150 Highway JJ, Palmyra. A notification of proposed production activity has been submitted and is being processed under 15 CFR 400.37 (Doc. B-10-2026). The proposed subzone would be subject to the existing activation limit of FTZ 102.

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

Public comment is invited from interested parties. Submissions shall be

addressed to the FTZ Board's Executive Secretary and sent to: ftz@trade.gov. The closing period for their receipt is June 23, 2026. Rebuttal comments in response to material submitted during the foregoing period may be submitted through July 8, 2026.

A copy of the application will be available for public inspection in the "Online FTZ Information Section" section of the FTZ Board's website, which is accessible via www.trade.gov/ftz.

For further information, contact Camille Evans at Camille.Evans@trade.gov.

Dated: May 11, 2026.

Elizabeth Whiteman,
Executive Secretary.

[FR Doc. 2026-09702 Filed 5-13-26; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[S-100-2026]

Approval of Subzone Expansion; Wabtec Transportation Systems, LLC; Erie and Grove City, Pennsylvania

On February 23, 2026, the Executive Secretary of the Foreign-Trade Zones (FTZ) Board docketed an application submitted by the Erie-Western Pennsylvania Port Authority, grantee of FTZ 247, requesting an expansion of Subzone 247A and that Subzone 247B be merged into SZ 247A on behalf of Wabtec Transportation Systems, LLC, in Erie and Grove City, Pennsylvania. The expanded subzone would be subject to the existing activation limit of FTZ 247.

The application was processed in accordance with the FTZ Act and Regulations, including notice in the **Federal Register** inviting public comment (91 FR 9550, February 26, 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 expand Subzone 247A, Site 1 to include additional acreage, to merge Subzone 247B into Subzone 247A and to add six additional sites was approved on May 11, 2026, subject to the FTZ Act and the Board's regulations, including section 400.13, and further subject to FTZ 247's 530-acre activation limit.

Dated: May 11, 2026.

Elizabeth Whiteman,
Executive Secretary.

[FR Doc. 2026-09706 Filed 5-13-26; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Emerging Technology Technical Advisory Committee

AGENCY: Bureau of Industry and Security, U.S. Department of Commerce.

ACTION: Notice of partially closed meeting.

SUMMARY: The Emerging Technology Technical Advisory Committee (ETTAC) advises and assists the Department of Commerce on matters related to export control policies. The ETTAC will meet on June 2, 2026, to review and discuss these matters. This meeting will be partially closed to the public pursuant to the exemptions under the Federal Advisory Committee Act (FACA) and the Government in the Sunshine Act. The meeting will be held in person, with no option for virtual attendance.

DATES: The meeting will be held on June 2, 2026, from 9:00 a.m. to 4:00 p.m. All times are Eastern Time zone. The open session will start at 9:00 a.m. and end at approximately 9:15 a.m. The closed session will start at approximately 9:30 a.m. and end no later than 4:00 p.m. Individuals requiring special accommodations to attend the open session in person should contact TAC@bis.doc.gov no later than 11:59 p.m. on May 25, 2026, so that BIS can make the appropriate arrangements. Individuals interested in participating virtually should contact TAC@bis.doc.gov no later than 11:59 p.m. on May 27, 2026.

ADDRESSES: The meeting will be held in person at the Herbert C. Hoover Building, 1401 Constitution Avenue NW, Washington, DC (enter through the Main Entrance on 14th Street between Constitution and Pennsylvania Avenues).

FOR FURTHER INFORMATION CONTACT: Kevin Coyne, Committee Liaison Officer, Bureau of Industry and Security, U.S. Department of Commerce. For additional information, contact by email: TAC@bis.doc.gov, or by phone: 202-482-4933.

SUPPLEMENTARY INFORMATION:

Background

The Emerging Technology Technical Advisory Committee (ETTAC) advises the Department of Commerce on certain actions required to achieve the objectives set forth in Section 1752 of the Export Control Reform Act of 2018, 50 U.S.C. 4811.

Agenda

During the open session, ETTAC will consider public comments, and/or

industry presentations. During the closed session, the ETTAC will discuss U.S. Government strategies and potential revisions to export control policies. Participants are encouraged to identify emerging technologies that are not currently controlled, but should be.

The discussion of matters in the closed session are exempted from the open meeting and public participation requirements found in Sections 10(a)(1) and 10(a)(3) of the Federal Advisory Committee Act (FACA) (5 U.S.C. 1009(a)(1), (a)(3)). Exemption is authorized by Section 10(d) of the FACA (5 U.S.C. 1009(d)), which permits the closure of advisory committee meetings, or portions thereof, if the head of the agency to which the advisory committee reports determines that such meetings may be closed to the public in accordance with subsection (c) of the Government in the Sunshine Act (5 U.S.C. 552b(c)). In this case, the applicable provisions of 5 U.S.C. 552b(c) are subsection 552b(c)(4), which permits closure to protect trade secrets and commercial or financial information that is privileged or confidential, and subsection 552b(c)(9)(B), which permits closure to protect information which would be likely to significantly frustrate implementation of a proposed agency action if prematurely disclosed.

Public Participation

The public may submit written statements at any time before or after the meeting. Members of the public are encouraged to submit materials via email to TAC@bis.doc.gov no later than May 27, 2026, for timely distribution of information to ETTAC members. Submissions by the public will be made available to the public and should not contain any confidential information, unless the submitter specifically requests that the information be treated as Confidential Business Information (CBI) for consideration in the closed session. Any information designated as CBI will not be discussed during the open portion of the meeting, but it may be used to inform the work of committee members during the closed session. To the extent that time permits, members of the public may present oral statements in the open session. Meeting materials will be accessible to the public at <https://www.bis.gov/about-bis/technical-advisory-committees-tac>.

Open Session Attendance

Members of the public may attend the open session in person. Registration in advance is required to attend in person. Individuals interested in participating in the June 2, 2026, ETTAC meeting should contact TAC@bis.doc.gov by

11:59 p.m. on May 27, 2026, to register. Registered participants will be emailed instructions on accessing the designated meeting space. Attendees will be asked to sign in and must have a photo ID, such as a Real ID or passport, to enter the building.

Special Accommodations

Individuals requiring special accommodations should contact TAC@bis.doc.gov no later than 11:59 p.m. on May 25, 2026, so that appropriate arrangements can be made.

Meeting Cancellation

If the meeting is cancelled, a cancellation notice will be posted on the TAC website at <https://www.bis.gov/about-bis/technical-advisory-committees-tac>.

Closure Determination

The Acting Deputy Assistant Secretary for Administration, performing the non-exclusive functions and duties of the Chief Financial Officer and Assistant Secretary for Administration, formally determined pursuant to 5 U.S.C. 1009(d), that the portion of the meeting dealing with pre-decisional changes to the Commerce Control List, Supp. No. 1 to part 774 of the Export Administration Regulations, 15 CFR parts 730–774, and to U.S. export control policies, which may also include discussion of trade secrets and/or confidential business information, shall be exempt from the provisions relating to public meetings found in 5 U.S.C. 1009(a)(1) and 5 U.S.C. 1009(a)(3). The remaining portions of the meeting will be open to the public.

Kevin Coyne,

Committee Liaison Officer.

[FR Doc. 2026–09580 Filed 5–13–26; 8:45 am]

BILLING CODE 3510–JT–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–533–945]

Chromium Trioxide From India: Preliminary Affirmative Countervailing Duty Determination, and Alignment of Final Determination With Final Antidumping Duty Determination

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

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily determines that countervailable subsidies are being provided to producers and exporters of chromium

trioxide from India. The period of investigation is January 1, 2024, through December 31, 2024. Interested parties are invited to comment on this preliminary determination.

DATES: Applicable May 14, 2026.

FOR FURTHER INFORMATION CONTACT:

Dusten Hom, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–5075.

SUPPLEMENTARY INFORMATION:

Background

This preliminary determination is made in accordance with section 703(b) of the Tariff Act of 1930, as amended (the Act). Commerce published the notice of initiation of this countervailing duty (CVD) investigation on January 5, 2026.¹ On February 13, 2026, Commerce postponed the preliminary determination of this investigation and the revised deadline is now May 8, 2026.²

For a complete description of the events that followed the initiation of this investigation, see the Preliminary Decision Memorandum.³ A list of topics discussed in the Preliminary Decision Memorandum is included as Appendix II to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to 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/frnotices>.

Scope of the Investigation

The product covered by this investigation is chromium trioxide from India. For a complete description of the scope of this investigation, see Appendix I.

¹ See *Chromium Trioxide From India: Initiation of Countervailing Duty Investigation*, 91 FR 240 (January 5, 2026) (*Initiation Notice*).

² See *Chromium Trioxide From India: Postponement of Preliminary Determination in the Countervailing Duty Investigation*, 91 FR 6821 (February 13, 2026).

³ See Memorandum, “Decision Memorandum for the Preliminary Affirmative Determination in the Countervailing Duty Investigation of Chromium Trioxide from India,” dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

Scope Comments

In accordance with the *Preamble* to Commerce's regulations,⁴ the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage (*i.e.*, scope).⁵ No interested party commented on the scope of the investigation as it appeared in the *Initiation Notice*. Accordingly, Commerce has made no changes to the scope of this investigation from that which appeared in the *Initiation Notice*, see Appendix I.

Methodology

Commerce is conducting this investigation in accordance with section 701 of 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.⁶

Alignment

As noted in the Preliminary Decision Memorandum, in accordance with section 705(a)(1) of the Act and 19 CFR 351.210(b)(4), Commerce is aligning the final determination in this CVD investigation with the final determination in the companion antidumping duty (AD) investigation of chromium trioxide from India based on a request made by American Chrome & Chemical, Inc. (the petitioner).⁷ Consequently, the final CVD determination will be issued on the same date as the final AD determination, which is currently scheduled to be issued no later than August 3, 2026, unless postponed.

All-Others Rate

Sections 703(d) and 705(c)(5)(A) of the Act provide that in the preliminary determination, Commerce shall determine an estimated all-others rate for companies not individually examined. This rate shall be an amount equal to the weighted average of the estimated subsidy rates established for those companies individually examined, excluding any rates that are zero, *de minimis*, or based entirely under section 776 of the Act.

Commerce calculated an individual estimated countervailable subsidy rate for Vishnu Chemicals Limited (VCL), the only individually examined exporter/producer in this investigation. Because the only individually calculated rate is not zero, *de minimis*, or based entirely on facts otherwise available, the estimated weighted-average rate calculated for VCL is the rate assigned to all other producers and exporters, pursuant to section 705(c)(5)(A)(i) of the Act.

Preliminary Determination

Commerce preliminarily determines that the following estimated countervailable subsidy rates exist:

Company	Subsidy rate (percent <i>ad valorem</i>)
Vishnu Chemicals Limited ⁸ ..	2.44
All Others	2.44

Suspension of Liquidation

In accordance with section 703(d)(2) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise as described in the scope of the investigation section entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. Further, pursuant to section 703(d)(1)(B) of the Act and 19 CFR 351.107(e), Commerce will instruct CBP to require a cash deposit equal to the estimated company-specific countervailable subsidy rate or the estimated all-others rate, as follows: (1) the cash deposit rate for the respondents listed above will be equal to the company-specific estimated individual countervailable subsidy rates determined in this preliminary determination; (2) if both the producer and exporter of the subject merchandise have company-specific estimated subsidy rates determined in this preliminary determination, and their rates differ, then the applicable cash deposit rate will be the higher of these two rates; (3) if either the producer or the exporter, but not both, of the subject merchandise have a company-specific estimated subsidy rate determined in this preliminary determination, the applicable cash deposit rate will be that company's company-specific rate; and (4) the cash deposit rate for all other producers and exporters will be equal to the estimated all-others subsidy rate.

Disclosure

Commerce intends to disclose its calculations and analysis performed to interested parties in this preliminary determination within five days of its public announcement, or if there is no public announcement, within five days of the date of this notice in accordance with 19 CFR 351.224(b).

Consistent with 19 CFR 351.224(e), Commerce will analyze and, if appropriate, correct any timely allegations of significant ministerial errors by amending the preliminary determination. However, consistent with 19 CFR 351.224(d), Commerce will not consider incomplete allegations that do not address the significance standard under 19 CFR 351.224(g) following the preliminary determination. Instead, Commerce will address such allegations in the final determination together with issues raised in the case briefs or other written comments.

Verification

As provided in section 782(i)(1) of the Act, Commerce intends to verify the information relied upon in making its final determination.

Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which the last verification report is issued in this investigation. A timeline for the submission of case briefs and written comments will be notified to interested parties at a later date. 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.⁹ 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.¹⁰

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.¹¹ Further, we request that interested parties limit their executive summary of each issue to no more than 450 words, not including citations. We

⁴ See *Antidumping Duties; Countervailing Duties, Final Rule*, 62 FR 27296, 27323 (May 19, 1997) (*Preamble*).

⁵ See *Initiation Notice*.

⁶ 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.

⁷ See Petitioner's Letter, "Request to Align Countervailing Duty Investigation Final Determination with Antidumping Duty Investigation Final Determination," dated March 23, 2026.

⁸ As discussed in the Preliminary Decision Memorandum, Commerce has found Vishnu Life Sciences Limited to be cross-owned with VCL.

⁹ 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*).

¹⁰ See 19 CFR 351.309(c)(2) and (d)(2).

¹¹ 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 determination in this investigation. 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).¹²

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance 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 the issues to be discussed. If a request for a hearing is made, Commerce intends to hold the hearing at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

U.S. International Trade Commission (ITC) Notification

In accordance with section 703(f) of the Act, Commerce will notify the ITC of its determination. If the final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after the final determination whether imports of chromium trioxide from India are materially injuring, or threaten material injury to, the U.S. industry.

Notification to Interested Parties

This determination is issued and published pursuant to sections 703(f) and 777(i) of the Act, and 19 CFR 351.205(c).

Dated: May 8, 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

Scope of the Investigation

The merchandise subject to this investigation is chromium trioxide (Chemical Abstracts Services (CAS) registry number 1333-82-0), regardless of form (dry or solution). Chromium trioxide is an inorganic compound with the molecular formula CrO₃

in dry form and H₂CrO₄ in solution form. All relevant formulas refer to same product with one unit of Chromium (as Cr+6) and three units of Oxygen, such as Cr₄O₁₂ and Cr_{0.25}O_{0.75}.

The product in dry form is generally referred to as chromium trioxide, which is the acidic anhydride of chromic acid. Chromium trioxide in solution form may be referred to as chromic acid. However, the dry form may also be marketed under the name chromic acid.

A non-exhaustive list of other names used for the subject merchandise includes: chromic anhydride, chromic trioxide, chromium (VI) oxide, monochromium trioxide, chromia, chromium (VI) trioxide, trioxochromium, and chromtrioxid. A non-exhaustive list of trade names for the subject merchandise includes: 11910080KROMSAV-ANHIDRID IP, Aktivkohle, imprägniert, Typ PLWK, Chromsaure, and Chromzuur.

All chromium trioxide is covered by the scope of this investigation irrespective of purity, particle size, or physical form. Chromium trioxide is generally imported in dry form, including in the form of pellets, flakes, powders, or beads, but the scope includes chromium trioxide in solution form.

Chromium trioxide that has been blended with another product or products other than water is included in the scope if the resulting mix contains 90 percent or more of chromium trioxide by total formula weight, such as chromium trioxide mixed with a catalyst to make the product ready for use in metal finishing applications. If chromium trioxide is imported blended with another product, only the chromium trioxide content of the blend is included within the scope.

Subject merchandise also includes chromium trioxide that has been processed in a third country into a product that otherwise would be within the scope of this investigation, i.e., if any such further processing would not otherwise remove the merchandise from the scope of the investigation it is included in the scope of the investigation, including blending, flaking, mixing with water, or packaging. For example, the dry form of the subject merchandise may be imported into a third country and then processed into solution before shipment to the United States. Such a solution would be subject to the scope.

The subject merchandise is provided for in subheading 2819.10.0000 of the Harmonized Tariff Schedule of the United States (HTSUS). In addition to 1333-82-0, import documentation may also reflect CAS registry numbers 12324-05-9, 12324-08-2, and 1362947-20-3. Although the HTSUS subheading and CAS registry numbers are provided for convenience and customs purposes, the written description of the scope is dispositive.

Appendix II

List of Topics Discussed in the Preliminary Decision Memorandum

- I. Summary
- II. Background
- III. Scope Comments
- IV. Injury Test
- V. Subsidies Valuation
- VI. Loan Interest Rate Benchmarks

VII. Diversification of India's Economy
VIII. Analysis of Programs
IX. Recommendation

[FR Doc. 2026-09690 Filed 5-13-26; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[C-580-898]

Large Diameter Welded Pipe From the Republic of Korea: Final Results of Countervailing Duty Administrative Review; 2023

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

SUMMARY: The U.S. Department of Commerce (Commerce) determines that producers and/or exporters of large diameter welded pipe (welded pipe) from the Republic of Korea (Korea) received countervailable subsidies during the period of review (POR), January 1, 2023, through December 31, 2023.

DATES: Applicable May 14, 2026.

FOR FURTHER INFORMATION CONTACT: Brandon James, AD/CVD Operations, Office VIII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-7472.

SUPPLEMENTARY INFORMATION:

Background

On September 11, 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 Federal Government shutdown, on November 14, 2025, Commerce tolled all deadlines in administrative proceedings by 47 days,² and, due to a backlog of documents that were administratively 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

¹ See *Large Diameter Welded Pipe from the Republic of Korea: Preliminary Results and Partial Rescission of the Countervailing Duty Administrative Review; 2023*, 90 FR 44017 (September 11, 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.

¹² See *APO and Service Final Rule*.

additional 21 days.³ On February 18, 2026, Commerce extended the deadline for the final results an additional 51 days.⁴ Accordingly, the deadline for these final results is now May 8, 2026.⁵ For a complete description of the events that occurred after the *Preliminary Results*, see the Issues and Decision Memorandum.⁶ 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 accessed directly at <https://access.trade.gov/FRnotices>.

Scope of the Order⁷

The merchandise covered by the Order is welded pipe. For a complete description of the scope of the Order, see the Issues and Decision Memorandum.

Analysis of Comments Received

All issues raised in interested parties' briefs are addressed in the Issues and Decision Memorandum. A list of the issues raised by parties in the Issues and Decision Memorandum is provided in the appendix to this notice.

Changes Since the Preliminary Results

Based on our analysis of the case and rebuttal briefs and the evidence on the record, we made no changes from the *Preliminary Results*.

Methodology

Commerce conducted this review in accordance with section 751(a)(1)(A) of the Tariff Act of 1930, as amended (the Act). For each of the subsidy programs found to be countervailable, we find that there is a subsidy, *i.e.*, a government-provided financial contribution that gives rise to a benefit to the recipient, and that the subsidy is specific.⁸ For a full description of the methodology underlying Commerce's

conclusions, see the Issues and Decision Memorandum.

Rate for Non-Selected Companies

The Act and Commerce's regulations do not directly address the subsidy rate to be applied to companies not selected for individual examination where Commerce limits its examination in an administrative review pursuant to section 777A(e)(2) of the Act. However, Commerce normally determines the rates for non-selected companies in reviews in a manner that is consistent with section 705(c)(5) of the Act, which provides instructions for calculating the all-others rate in an investigation. Section 777A(e)(2) of the Act provides that "the individual countervailable subsidy rates determined under subparagraph (A) shall be used to determine the all-others rate under section 705(c)(5) [of the Act]." Section 705(c)(5)(A) of the Act states that for companies not investigated, in general, we will determine an all-others rate by weight averaging the countervailable subsidy rates established for each of the companies individually investigated, excluding zero and *de minimis* rates or any rates based solely on facts otherwise available. There are eight companies for which a review was requested and not rescinded, and which were not selected as mandatory respondents or found to be cross-owned with a mandatory respondent. For these companies, because the rate calculated for mandatory respondent, Hyundai RB, is above *de minimis* and not based entirely on facts available, we are applying a subsidy rate based on net subsidy rate calculated for Hyundai RB to the non-selected companies under review, consistent with our practice pursuant to section 705(c)(5)(A) of the Act.

Final Results of Review

In accordance with 19 CFR 351.221(b)(5), we 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 RB Co., Ltd. ⁹	0.79
SeAH Steel Corporation ¹⁰ ...	* 0.41

Review-Specific Average Rate For Non-Selected Companies¹¹

AJU Besteel Co., Ltd	0.79
Chang Won Bending Co., Ltd	0.79
Dong Yang Steel Pipe Co., Ltd	0.79
EEW Korea Co., Ltd	0.79
HiSteel Co., Ltd	0.79

Company	Subsidy rate (percent <i>ad valorem</i>)
Husteel Co., Ltd. ¹²	0.79
Hyundai Steel Company ¹³ ...	0.79
Nexteel Co., Ltd	0.79

*(*de minimis*).

Disclosure

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

Assessment Rates

Pursuant to section 751(a)(2)(C) of the Act and 19 CFR 351.212(b)(2), Commerce has determined, and U.S. Customs and Border Protection (CBP) shall assess, countervailing duties on all appropriate entries of subject merchandise in accordance with the final results of this review, for the above-listed companies at the applicable *ad valorem* assessment rates for the POR (*i.e.*, January 1, 2023, to December 31,

⁹ Commerce previously found Shinchang Construction Co., Ltd. to be cross-owned with Hyundai RB. See *Large Diameter Welded Pipe from the Republic of Korea: Preliminary Results and Partial Rescission of the Countervailing Duty Administrative Review*; 2021, 88 FR 37200 (June 7, 2023), and accompanying PDM at 6–7, unchanged in *Large Diameter Welded Pipe from the Republic of Korea: Final Results of Countervailing Duty Administrative Review*; 2021, 88 FR 85236 (December 7, 2023), and accompanying Issues and Decision Memorandum.

¹⁰ Commerce finds SeAH Steel Holdings Corporation to be cross-owned with SeAH Steel. See *Preliminary Results* PDM at 7.

¹¹ This rate is based on the rates for the respondents that were selected for individual review, excluding rates that are zero, *de minimis*, or based entirely on facts available. See section 735(c)(5)(A) of the Act.

¹² Subject merchandise both produced and exported by Husteel Co., Ltd. (Husteel) is excluded from the order. See *Order*, 84 FR at 18773. Thus, Husteel's inclusion in this administrative review is limited to entries for which Husteel was not both the producer and exporter of the subject merchandise.

¹³ Subject merchandise both produced and exported by Hyundai Steel Company (Hyundai Steel) and subject merchandise produced by Hyundai Steel and exported by Hyundai Corporation are excluded from the countervailing duty order. See *Order*, 84 FR at 18773. Thus, Hyundai Steel's inclusion in this administrative review is limited to entries for which Hyundai Steel was not the producer and exporter of the subject merchandise and for which Hyundai Steel was not the producer and Hyundai Corporation was not the exporter of subject merchandise.

³ See Memorandum, "Tolling of all Case Deadlines," dated November 24, 2025.

⁴ See Memorandum "Extension of Deadline for Final Results of Countervailing Duty Administrative Review," dated February 18, 2026.

⁵ *Id.*

⁶ See Memorandum, "Issues and Decision Memorandum for the Final Results of the Countervailing Duty Administrative Review of Large Diameter Welded Pipe from the Republic of Korea; 2023," dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

⁷ See *Large Diameter Welded Pipe from the Republic of Korea: Countervailing Duty Order*, 84 FR 18773 (May 2, 2019) (*Order*).

⁸ 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.

2023). 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 Instructions

In accordance with section 751(a)(1) of the Act, Commerce intends to instruct CBP to collect cash deposits of estimated countervailing duties in the amounts shown for each of the companies listed above based on 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.¹⁴ For all non-reviewed firms subject to the *Order*, we will instruct CBP to continue to collect cash deposits of estimated countervailing duties at the most recent company-specific rate or the all-others rate established in the original investigation (*i.e.*, 9.29 percent), as appropriate.¹⁵ These cash deposit requirements, effective upon publication of these final results, shall remain in effect until further notice.

Administrative Protective Order

This notice also serves as a reminder to parties subject to an administrative protective order (APO) of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

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 351.221(b)(5).

Dated: May 8, 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. Subsidies Valuation Information
- V. Analysis of Programs
- VI. Discussion of the Issues
 - Comment 1: Whether the Provision of Electricity Was Consistent with Market Principles During the POR
 - Comment 2: Whether to Modify the Benefit Calculation for the Provision of Electricity for Less Than Adequate Renumeration (LTAR) Program
 - Comment 3: Whether the Provision of Electricity for LTAR Program Is Specific
 - Comment 4: Whether the Demand Response Resources Program Is Countervailable
 - Comment 5: Whether Tax Exemptions under Restriction of Special Tax Act Article 24 are *De Facto* Specific
 - Comment 6: Whether to Modify the Benefit Calculation for Tax Reductions under Restriction of Special Local Taxation Act Article 78
- VII. Recommendation

[FR Doc. 2026–09708 Filed 5–13–26; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–557–816]

Certain Steel Nails From Malaysia: 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 producers/exporters subject to this review made sales of subject merchandise at less than normal value (NV) during the period of review (POR), July 1, 2023, through June 30, 2024.

DATES: Applicable May 14, 2026.

FOR FURTHER INFORMATION CONTACT: Brian Davis, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–7924.

SUPPLEMENTARY INFORMATION:

Background

On January 8, 2026, Commerce published the *Preliminary Results* and invited interested parties to comment.¹ Commerce conducted this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act). A summary of the events that occurred since Commerce published these *Preliminary Results*, as well as a full discussion of the issues raised by parties for these final results, may be found in the Issues and Decision Memorandum.²

The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to 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/frnotices>.

Scope of the Order³

The products covered by the scope of the *Order* are certain steel nails (nails) from Malaysia. For a complete description of the scope of the *Order*, see the Issues and Decision Memorandum.⁴

Analysis of Comments Received

All issues raised in the case and rebuttal briefs filed by interested parties in this review are addressed in the Issues and Decision Memorandum. A list of topics in the Issues and Decision Memorandum is attached as Appendix I to this notice.

Changes Since the Preliminary Results

Based on our review of the record and our evaluation of the comments received from interested parties, we made certain changes to the weighted-average dumping margin calculations and denied a scrap offset for Region International Co., Ltd. and Region

¹ See *Certain Steel Nails from Malaysia: Preliminary Results and Recission, In Part, of Antidumping Duty Administrative Reviews; 2023–2024*, 91 FR 683 (January 8, 2026) (*Preliminary Results*).

² See Memorandum, “Issues and Decision Memorandum for the Final Results of the Administrative Review of the Antidumping Duty Order on Certain Steel Nails from Malaysia; 2023–2024,” dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

³ See *Certain Steel Nails from the Republic of Korea, Malaysia, the Sultanate of Oman, Taiwan, and the Socialist Republic of Vietnam: Antidumping Duty Orders*, 80 FR 39994 (July 13, 2015) (*Order*).

⁴ See Issues and Decision Memorandum at 2–4.

¹⁴ See, e.g., *Honey from Argentina: Results of Countervailing Duty Administrative Review*, 69 FR 29518 (May 24, 2004), and accompanying Issues and Decision Memorandum at Issue 4.

¹⁵ See *Order*, 84 FR at 18775.

System Sdn. Bhd. (collectively, Region) for these final results of review.⁵

Rate for Non-Individually Examined Companies

The statute and Commerce's regulations do not address the establishment of a rate 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 market economy investigation, for guidance when calculating the rate 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 and *de minimis* margins, and any margins determined entirely {on the basis of facts available}."

In this review, we preliminarily calculated a weighted-average dumping margin for Region that was not zero, *de minimis*, or determined entirely on the basis of facts available.⁶ For the final results, we continue to calculate a weighted-average dumping margin for Region that is not zero, *de minimis*, or determined entirely on the basis of facts available. Accordingly, consistent with our practice, for the final results of this review, we continue to assign to the non-selected mandatory respondents the dumping margin calculated for Region, *i.e.*, 1.98 percent.⁷

Final Results of the Administrative Review

We determine that the following estimated weighted-average dumping margins exist for the period July 1, 2023, through June 30, 2024:

Exporter/producer	Weighted-average dumping margin (percent)
Madura Fasteners Sdn. Bhd	* 39.35
Region International Co., Ltd./ Region System Sdn. Bhd	1.98

Exporter/producer	Weighted-average dumping margin (percent)
Review-Specific Rate for Non-Selected Companies ⁸	1.98

* This rate is based on facts available with adverse inferences.

Disclosure

Commerce intends to disclose the calculations and analysis performed for Region for these final 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). However, because Commerce relied entirely on the basis of facts available to determine the rate for Madura, in accordance with section 776 of the Act, there are no calculations to disclose with regard to this company.

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.⁹ For any individually examined respondents whose weighted-average dumping margin is above *de minimis* (*i.e.*, 0.50 percent), we calculated importer-specific *ad valorem* duty assessment rates based on the ratio of the total amount of dumping calculated for the importer's examined sales to the total entered value of those same sales, in accordance with 19 CFR 351.212(b)(1). Upon issuance of the final results of this administrative review, if any importer-specific assessment rates calculated in the final results are above *de minimis*, Commerce will issue instructions directly to CBP to assess antidumping duties on appropriate entries.

To determine whether the duty assessment rates covering the period were *de minimis*, in accordance with the requirement set forth in 19 CFR 351.106(c)(2), we calculated importer- (or customer-) specific *ad valorem* rates by aggregating the amount of dumping calculated for all U.S. sales to that importer or customer and dividing this amount by the total entered value of the sales to that importer (or customer). Where an importer- (or customer-)

specific *ad valorem* rate is greater than *de minimis*, and the respondent has reported reliable entered values, we will apply the assessment rate to the entered value of the importer's/customer's entries during the POR.

For the companies listed in Appendix II which were not selected for individual review, we will assign an assessment rate based on the review-specific rate, calculated as noted in the "Rate for Non-Individually 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.

Commerce intends to issue appropriate assessment instructions to CBP regarding the respondents and the companies listed in Appendix II no earlier than 35 days after the date of publication of the final results of this review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.*, within 90 days of publication).

Cash Deposit Requirements

The following deposit requirements will be effective upon publication of this notice for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(2)(C) of the Act: (1) the cash deposit rate for the companies noted above will be that established in the final results of this review; (2) for merchandise exported by producers or exporters not covered in this administrative 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; (3) if the exporter is not a firm covered in this review, a prior review, or the original investigation, but the producer is, the cash deposit rate will be the rate established for the most recently completed segment of this proceeding for the producer of the subject merchandise; and (4) the cash deposit rate for all other producers or exporters will continue to be 2.66 percent, the all-others rate established in the less-than-fair-value

⁵ See Issues and Decision Memorandum at 4.

⁶ See Preliminary Results, 89 FR 61061.

⁷ See Appendix II.

⁸ The exporters or producers not selected for individual review are listed in Appendix II.

⁹ In these final results, Commerce applied the assessment rate calculation method adopted in *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings: Final Modification*, 77 FR 8101 (February 14, 2012).

investigation.¹⁰ These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers Regarding the Reimbursement of Duties

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 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 double antidumping duties.

Administrative Protective Order (APO)

This notice also 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(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 terms of an APO is a violation subject to sanction.

Notification to Interested Parties

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

Dated: May 8, 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 Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the Order
- IV. Changes Since the Preliminary Results
- V. Discussion of the Issues
 - A. Region-Specific Issues
 - Comment 1: Cost Methodology
 - Comment 2: Sales and Service Tax (SST) Rate Applied
 - Comment 3: Scrap Offset
 - B. Madura-Specific Issues
 - Comment 4: Total Adverse Facts Available (AFA)
- VI. Recommendation

¹⁰ See *Certain Steel Nails from Malaysia: Final Determination of Sales at Less Than Fair Value*, 80 FR 28969 (May 20, 2015).

Appendix II

Non-Selected Companies for Individual Review

1. Foison Hardware Inc.
2. Inmax Industries Sdn. Bhd. and Inmax Sdn. Bhd.
3. Kimmu Industries Sdn. Bhd.
4. Tag Fasteners Sdn. Bhd.
5. Tampin Sin Yong Wai Industry Sdn. Bhd.

[FR Doc. 2026–09709 Filed 5–13–26; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–583–867]

Common Alloy Aluminum Sheet From Taiwan: Preliminary Results 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) preliminarily determines that C.S. Aluminium Corporation (CSAC) made no shipments during the period of review (POR), April 1, 2024, through March 31, 2025. Interested parties are invited to comment on these preliminary results of review.

DATES: Applicable May 14, 2026.

FOR FURTHER INFORMATION CONTACT: Sarah Keith, 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) 482–0264.

SUPPLEMENTARY INFORMATION:

Background

On April 27, 2021, Commerce published in the **Federal Register** the antidumping duty order on aluminum sheet from Taiwan.¹ On April 1, 2025, Commerce published in the **Federal Register** a notice of opportunity to request an administrative review of the Order.² On May 20, 2025, based on timely requests³ for an administrative

¹ 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).

² See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review and Join Annual Inquiry Service List*, 90 FR 14363 (April 1, 2025).

³ See Petitioners' Letter, "Petitioners' Request for Administrative Review" (April 29, 2025); see also CSAC's Letter, "Request for Administrative Review" (April 30, 2025). The petitioners are Aluminum Association Common Alloy Aluminum

review, Commerce initiated an antidumping duty administrative review of the Order with respect to CSAC.⁴

Due to the lapse in appropriations and Federal Government shutdown, on November 14, 2025, Commerce tolled all deadlines in administrative proceedings by 47 days,⁵ and, 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.⁶ On February 18, 2026, Commerce extended the deadline for these preliminary results by 60 days.⁷ Accordingly the deadline for these preliminary results is now May 8, 2026.

For a full description of the methodology underlying our conclusions, see the Preliminary Decision Memorandum.⁸ A list of topics included in the Preliminary Decision Memorandum is included as an appendix to this notice. The Preliminary Decision Memorandum is on file electronically via ACCESS. ACCESS is available to registered users at <https://access.trade.gov>. The Preliminary Decision Memorandum can be accessed directly at <https://access.trade.gov/frnotices>.

Scope of the Order

The product covered by the Order is aluminum sheets from Taiwan. For a full description of the scope of the Order, see the Preliminary Decision Memorandum.

Sheet Trade Enforcement Working Group and its individual members, Arconic Corporation; Commonwealth Rolled Products Inc.; Constellium Rolled Products Ravenswood, LLC; JW Aluminum Company; Novelis Corporation; and Texarkana Aluminum, Inc.

⁴ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 90 FR 21459 (May 20, 2025) (Initiation Notice).

⁵ See Memorandum, "Deadlines Affected by the Shutdown of the Federal Government," dated November 14, 2025.

⁶ See Memorandum, "Tolling of all Case Deadlines," dated November 24, 2025.

⁷ See Memorandum, "Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review," dated February 16, 2026.

⁸ See Memorandum, "Decision Memorandum for the Preliminary Results of the Administrative Review of the Antidumping Duty Order on Common Alloy Aluminum Sheet from Taiwan; 2024–2025," dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

Preliminary Determination of No Shipments

Based on record information, we preliminarily determine that CSAC did not have knowledge that the subject merchandise was destined for the United States, and, thus, CSAC is not considered the exporter of subject merchandise during the POR for the purposes of this review.⁹ Therefore, we preliminarily determine that CSAC made no shipments of subject merchandise during the POR. Consistent with Commerce's practice, we find that it is not appropriate to rescind the review with respect to CSAC, but rather to complete the review and issue appropriate instructions to CBP based on the final results of this review.¹⁰

Methodology

Commerce is conducting this review in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act). For a full description of the methodology underlying our conclusions, see the Preliminary Decision Memorandum.

Disclosure

Normally, Commerce will disclose to the parties in a proceeding the calculations performed in connection with the 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 the notice of the preliminary results in the **Federal Register**, in accordance with 19 CFR 351.224(b). However, because Commerce is preliminarily finding that CSAC made no shipments of subject merchandise during the POR, there are no calculations to disclose.

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)(1)(ii), we have modified the deadline for interested parties to submit case briefs to Commerce to no later than 21 days after the date of the publication of this notice in the **Federal Register**. 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.¹¹ 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.¹² 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)(ii) 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.¹³ 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).¹⁴

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. An electronically filed document must be received successfully in its entirety by 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. 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 intends to hold the hearing at a date and time to be determined.¹⁵

All submissions, including case and rebuttal briefs, should be filed via ACCESS.¹⁶ An electronically filed document must be received successfully by 5:00 p.m. Eastern Time on the established deadline. Note that Commerce has amended certain of its requirements pertaining to the service of documents in 19 CFR 351.303(f).

Assessment Rates

If the determination of no shipments is maintained at the final results, we will instruct CBP to liquidate suspended entries of subject merchandise during the POR produced by CSAC at the all-others rate if there is no rate for the company involved in the transaction.¹⁷

The final results of this administrative 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.

Final Results of Review

Unless otherwise extended, Commerce intends to issue the final results of this administrative review, including the results of its analysis of the issues raised in any written briefs, not later than 120 days after the date of publication of this notice, pursuant to section 751(a)(3)(A) of the Act and 19 CFR 351.213(h)(1).

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) 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 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)(2), 19 CFR 351.213(h)(2) and 19 CFR 351.221(b)(4).

Dated: May 8, 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. Preliminary Determination of No Shipments
- V. Self-Reported Shipments

¹⁷ For a full discussion of this practice, see *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003).

⁹ See Preliminary Decision Memorandum at 3–5.

¹⁰ See *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003).

¹¹ See 19 CFR 351.309(d)(1); 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*).

¹² See 19 CFR 351.309(c)(2) and (d)(2).

¹³ We use the term “issue” here to describe an argument that Commerce would normally address in a comment of the Issues and Decision Memorandum.

¹⁴ See *APO and Service Final Rule*.

¹⁵ See 19 CFR 351.310(c).

¹⁶ See 19 CFR 351.303.

VI. Recommendation
[FR Doc. 2026–09688 Filed 5–13–26; 8:45 am]
BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration
[A–580–878]

Certain Corrosion-Resistant Steel Products From the Republic of Korea: Final 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) determines that certain corrosion-resistant steel products (CORE) from the Republic of Korea (Korea) were not sold in the United States at less than normal value (NV) during the July 1, 2023, through June 30, 2024, period of review (POR).
DATES: Applicable May 14, 2026.
FOR FURTHER INFORMATION CONTACT: Jaron Moore or Noah Wetzels, AD/CVD Operations, Office VIII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–3640 or (202) 482–7466, respectively.

SUPPLEMENTARY INFORMATION:

Background

On January 8, 2026, Commerce published the *Preliminary Results* and invited parties to comment.¹ No interested party submitted comments on the *Preliminary Results*. Commerce made no changes from the *Preliminary Results*, which are herein adopted as the final results of review. Additionally, because these final results remain unchanged from the *Preliminary Results*, no decision memorandum accompanies this notice. Commerce conducted this review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

Scope of the Order²

The merchandise covered by the Order is CORE from Korea. For a

¹ See *Certain Corrosion-Resistant Steel Products from the Republic of Korea: Preliminary Results of Antidumping Duty Administrative Review; 2023–2024*, 91 FR 680 (January 8, 2026) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum (PDM).
² See *Certain Corrosion-Resistant Steel Products from India, Italy, the People's Republic of China, the Republic of Korea and Taiwan: Amended Final Affirmative Antidumping Determination for India*

complete description of the scope of the Order, see the 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 party that requested a review withdraws its request within 90 days of the date of publication of the notice of initiation. On October 4, 2024, BlueScope Steel Vietnam Ltd. and BlueScope Steel Americas LLC (BlueScope) timely filed withdrawals of requests for review.³ Because the withdrawals of the review requests were timely filed, and no other party requested a review of these companies, in accordance with 19 CFR 351.213(d)(1), Commerce is rescinding this review of the Order with respect to BlueScope.⁴

Rate for Non-Examined Companies

The statute and Commerce's regulations do not address the establishment of a rate 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 an antidumping duty investigation, for guidance when calculating the rate 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 and *de minimis* margins, and any margins determined entirely on the basis of facts available.” Where the rates for the individually examined companies are all zero, *de minimis*, or determined entirely using facts available, section

and Taiwan, and Antidumping Duty Orders, 81 FR 48390 (July 25, 2016) (*Order*); and *Certain Corrosion-Resistant Steel Products from India, Italy, the People's Republic of China, the Republic of Korea, and Taiwan: Notice of Correction to the Antidumping Duty Orders*, 81 FR 58475 (August 25, 2016); *Certain Corrosion-Resistant Steel Products from the Republic of Korea: Notice of Court Decision Not in Harmony With Final Determination of Investigation and Notice of Amended Final Results*, 83 FR 39054 (August 8, 2018) (*Investigation Timken*).
³ See BlueScope's Letter, “BlueScope's Withdrawal of Request for AD Administrative Review,” dated October 4, 2024.
⁴ See Memorandum, “Notice of Intent to Rescind Review, in Part,” dated January 13, 2026.

735(c)(5)(B) of the Act instructs that Commerce “may use any reasonable method to establish the estimated all-others rate for exporters and producers not individually investigated, including averaging the estimated weighted average dumping margins determined for the exporters and producers individually investigated.”

In this administrative review, we calculated a weighted-average dumping margin for each of the mandatory respondents, Dongkuk Coated Metal Co., Ltd. (Dongkuk) and Hyundai Steel Company (Hyundai), that is zero percent, and we did not calculate any margins which are not zero, *de minimis*, or determined entirely on the basis of facts available. Thus, in accordance with the expected method, and consistent with the U.S. Court of Appeals for the Federal Circuit's decision in *Albemarle*,⁵ we are assigning a dumping margin of zero percent, consistent with section 735(c)(5)(B) of the Act, to the non-selected companies under review.

Final Results of Review

For these final results, we determine that the following estimated weighted-average dumping margins exist for the period July 1, 2023, through June 30, 2024:

Exporter/producer ⁶	Weighted-average dumping margin (percent)
Dongbu Incheon Steel Co., Ltd ..	0.00
Dongkuk Coated Metal Co., Ltd	0.00
Dongkuk Steel Mill Co., Ltd	0.00
Hyundai Steel Company	0.00
KG Steel Corporation; KG Dongbu Steel Co., Ltd	0.00
POSCO	0.00
POSCO International Corporation	0.00
POSCO STEELEON Co., Ltd	0.00
SeAH Coated Metal Corporation	0.00
SeAH Steel Corporation	0.00

⁵ See *Albemarle Corp. v. United States*, 821 F.3d 1345, 1352 (Fed. Cir. 2016) (*Albemarle*) (holding that Commerce may only use “other reasonable methods” if it reasonably concludes that the expected method is “not feasible” or “would not be reasonably reflective of potential dumping margins”).

⁶ We note that, in the *Preliminary Results*, Commerce inadvertently incorrectly assigned cash deposit rates to Dongkuk International, Inc. and POSCO Coated & Color Steel Co., Ltd., companies on which Commerce did not initiate an administrative review. See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 89 FR 66035 (August 14, 2024). We are not assigning a cash deposit rate for these companies in this administrative review.

Disclosure

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

Assessment Rates

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

Commerce calculated a weighted-average dumping margin for Dongkuk and Hyundai of zero percent in this review. Accordingly, we intend to instruct CBP to liquidate the appropriate entries without regard to antidumping duties. For entries of subject merchandise during the POR produced by Dongkuk or Hyundai for which Dongkuk or Hyundai did not know its merchandise was destined for the United States, we will instruct CBP to liquidate unreviewed entries at the all-others rate in the of the LTFV investigation (*i.e.*, 8.31 percent),⁷ if there is no rate for the intermediate company(ies) involved in the transaction.

For the companies that were not selected for individual examination, we have assigned it the weighted-average dumping margin calculated for Dongkuk and Hyundai (*i.e.*, zero percent). Accordingly, we will instruct CBP to liquidate suspended entries during the POR for companies that were not selected for individual examination without regard to antidumping duties.

For BlueScope, because Commerce is rescinding the administrative review, antidumping duties will 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 the United States, in accordance with 19 CFR 351.212(c)(1)(i).

Cash Deposit Requirements

The following 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 the final results of this administrative review, 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 producer is, then the cash deposit rate will be the rate established for the most recent segment for the producer of the merchandise; and (4) the cash deposit rate for all other producers and exporters will continue to be 8.31 percent, the all-others rate established in the LTFV investigation (as amended). These cash deposit requirements, when imposed, shall remain in effect until further notice.

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 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, and/or 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 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 these results in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.221(b)(4).

Dated: May 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

Scope of the Order

The products covered by this *Order* are certain flat-rolled steel products, either clad, plated, or coated with corrosion-resistant metals such as zinc, aluminum, or zinc-, aluminum-, nickel- or iron-based alloys, whether or not corrugated or painted, varnished, laminated, or coated with plastics or other non-metallic substances in addition to the metallic coating. The products covered include coils that have a width of 12.7 mm or greater, regardless of form of coil (*e.g.*, in successively superimposed layers, spirally oscillating, *etc.*). The products covered also include products not in coils (*e.g.*, in straight lengths) of a thickness less than 4.75 mm and a width that is 12.7 mm or greater and that measures at least 10 times the thickness. The products covered also include products not in coils (*e.g.*, in straight lengths) of a thickness of 4.75 mm or more and a width exceeding 150 mm and measuring at least twice the thickness. The products described above may be rectangular, square, circular, or other shape and include products of either rectangular or non-rectangular cross-section where such cross-section is achieved subsequent to the rolling process, *i.e.*, products which have been "worked after rolling" (*e.g.*, products which have been beveled or rounded at the edges). For purposes of the width and thickness requirements referenced above:

(1) where the nominal and actual measurements vary, a product is within the scope if application of either the nominal or actual measurement would place it within the scope based on the definitions set forth above, and

(2) where the width and thickness vary for a specific product (*e.g.*, the thickness of certain products with non-rectangular cross-section, the width of certain products with non-rectangular shape, *etc.*), the measurement at its greatest width or thickness applies.

Steel products included in the scope of this *Order* are products in which: (1) iron predominates, by weight, over each of the other contained elements; (2) the carbon content is 2 percent or less, by weight; and

⁷ See *Order; Investigation Timken*.

(3) none of the elements listed below exceeds the quantity, by weight, respectively indicated:

- 2.50 percent of manganese, or
- 3.30 percent of silicon, or
- 1.50 percent of copper, or
- 1.50 percent of aluminum, or
- 1.25 percent of chromium, or
- 0.30 percent of cobalt, or
- 0.40 percent of lead, or
- 2.00 percent of nickel, or
- 0.30 percent of tungsten (also called wolfram), or
- 0.80 percent of molybdenum, or
- 0.10 percent of niobium (also called columbium), or
- 0.30 percent of vanadium, or
- 0.30 percent of zirconium

Unless specifically excluded, products are included in this scope regardless of levels of boron and titanium.

For example, specifically included in this scope are vacuum degassed, fully stabilized (commonly referred to as interstitial-free (IF)) steels and high strength low alloy (HSLA) steels. IF steels are recognized as low carbon steels with micro-alloying levels of elements such as titanium and/or niobium added to stabilize carbon and nitrogen elements. HSLA steels are recognized as steels with micro-alloying levels of elements such as chromium, copper, niobium, titanium, vanadium, and molybdenum.

Furthermore, this scope also includes Advanced High Strength Steels (AHSS) and Ultra High Strength Steels (UHSS), both of which are considered high tensile strength and high elongation steels.

Subject merchandise also includes corrosion-resistant steel that has been further processed in a third country, including but not limited to annealing, tempering, painting, varnishing, trimming, cutting, punching and/or slitting or any other processing that would not otherwise remove the merchandise from the scope of the *Order* if performed in the country of manufacture of the in-scope corrosion resistant steel.

All products that meet the written physical description, and in which the chemistry quantities do not exceed any one of the noted element levels listed above, are within the scope of this *Order* unless specifically excluded. The following products are outside of and/or specifically excluded from the scope of this *Order*:

- Flat-rolled steel products either plated or coated with tin, lead, chromium, chromium oxides, both tin and lead (terne plate), or both chromium and chromium oxides (tin free steel), whether or not painted, varnished or coated with plastics or other non-metallic substances in addition to the metallic coating;
- Clad products in straight lengths of 4.7625 mm or more in composite thickness and of a width which exceeds 150 mm and measures at least twice the thickness; and
- Certain clad stainless flat-rolled products, which are three-layered corrosion resistant flat-rolled steel products less than 4.75 mm in composite thickness that consist of a flat-rolled steel product clad on both sides with stainless steel in a 20%-60%-20% ratio.

The products subject to the *Order* are currently classified in the Harmonized Tariff

Schedule of the United States (HTSUS) under item numbers: 7210.30.0030, 7210.30.0060, 7210.41.0000, 7210.49.0030, 7210.49.0040, 7210.49.0045, 7210.49.0091, 7210.49.0095, 7210.61.0000, 7210.69.0000, 7210.70.6030, 7210.70.6060, 7210.70.6090, 7210.90.6000, 7210.90.9000, 7212.30.0000, 7212.30.1030, 7212.30.1090, 7212.30.3000, 7212.30.5000, 7212.40.1000, 7212.40.5000, 7212.50.0000, and 7212.60.0000.⁸

The products subject to the *Order* may also enter under the following HTSUS item numbers: 7210.90.1000, 7215.90.1000, 7215.90.3000, 7215.90.5000, 7217.20.1500, 7217.30.1530, 7217.30.1560, 7217.30.1000, 7217.90.5030, 7217.90.5060, 7217.90.5090, 7225.91.0000, 7225.92.0000, 7225.99.0090, 7226.99.0110, 7226.99.0130, 7226.99.0180, 7228.60.6000, 7228.60.8000, and 7229.90.1000.

The HTSUS subheadings above are provided for convenience and customs purposes only. The written description of the scope of the *Order* is dispositive.

[FR Doc. 2026–09691 Filed 5–13–26; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–520–809]

Prestressed Concrete Steel Wire Strand From the United Arab Emirates: Final Rescission of New Shipper Review; 2024

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

SUMMARY: The U.S. Department of Commerce (Commerce) finds that the sale made by Essen Steel Industry L.L.C. (Essen Steel) is a non-*bona fide* sale. Therefore, we are rescinding this new shipper review (NSR).

DATES: Applicable May 14, 2026.

FOR FURTHER INFORMATION CONTACT: Alex Cipolla, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–4956.

SUPPLEMENTARY INFORMATION:

Background

Commerce published its *Preliminary Results* in this NSR of the antidumping duty (AD) *Order*¹ on prestressed

⁸ On July 26, 2021, Commerce added two additional HTSUS subheadings at the request of U.S. Customs and Border Protection. See *Certain Corrosion-Resistant Steel Products from the Republic of Korea: Final Results of Antidumping Duty Administrative Review; 2019–2020*, 86 FR 70111 (December 9, 2021).

¹ See *Prestressed Concrete Steel Wire Strand from Argentina, Colombia, Egypt, the Netherlands, Saudi Arabia, Taiwan, the Republic of Turkey, and the*

concrete steel wire strand (PC strand) from the United Arab Emirates (UAE) on November 26, 2025.² On December 16, 2025, Essen Steel submitted a case brief.³ On January 5, 2026, Insteel Wire Products Company, Sumiden Wire Products Corporation, and Wire Mesh Corporation (collectively, the petitioners) submitted a rebuttal brief.⁴ No party requested a hearing in this matter.

Analysis of Comments Received

The issue discussed in the case and rebuttal briefs is addressed in the Issues and Decision Memorandum.⁵ The Issues and Decision Memorandum is a public document and is on file via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (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 accessed directly at <http://enforcement.trade.gov/frn/>. The sole issue raised in the case brief is listed in the appendix to this notice.

Scope of the Order

The merchandise covered by this *Order* is PC strand from the UAE. For a complete description of the scope of the *Order*, see the Issues and Decision Memorandum.

Rescission of the Antidumping New Shipper Review

For the reasons explained in the Issues and Decision Memorandum, Commerce continues to find that the sale made by Essen Steel is not a *bona fide* sale for purposes of the AD law. Commerce reached this conclusion based on the totality of evidence, including, among other things, the sales timing, price, and quantity. Because Essen Steel made no *bona fide* sales during the period of review (POR), we are rescinding the NSR.

Assessment Rates

As Commerce is rescinding this NSR, Essen Steel's status with respect to the

United Arab Emirates: Antidumping Duty Orders, 86 FR 7703 (February 1, 2021) (*Order*).

² See *Prestressed Concrete Steel Wire Strand from the United Arab Emirates: Preliminary Intent to Rescind the New Shipper Review; 2024*, 90 FR 54300 (November 26, 2025) (*Preliminary Results*).

³ See Essen Steel's Letter, "Essen Case Brief," dated December 16, 2025.

⁴ See Petitioners' Letter, "Petitioners' Rebuttal Brief," dated January 5, 2026.

⁵ See Memorandum, "Issues and Decision Memorandum for the Final Results of New Shipper Review: Prestressed Concrete Steel Wire Strand from the United Arab Emirates," dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

AD Order on PC strand from the UAE remains unchanged. Essen Steel's entries of subject merchandise into the United States during the POR will be assessed at the all-others' rate.

Cash Deposit Requirements

Because we are rescinding this NSR, we are not determining a company-specific cash deposit rate for Essen Steel. Essen Steel continues to be subject to the all-others' rate of 170.65 percent.⁶

Administrative Protective Order (APO)

This notice serves as a reminder to parties subject to an APO of their responsibility concerning the return or destruction of proprietary information disclosed under an 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 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 this rescission in accordance with sections 751(a)(2)(B) and 777(i)(1) of the Tariff Act of 1930, as amended.

Dated: May 11, 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 Sections 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 Issue

Comment: Whether Essen Steel's Sale is *Bona Fide*

VI. Recommendation

[FR Doc. 2026-09710 Filed 5-13-26; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-549-822]

Certain Frozen Warmwater Shrimp From Thailand: Preliminary Results of Antidumping Duty Administrative Review; Rescission of Review, in Part, and Preliminary Determination of No Shipments; 2024-2025

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

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily finds that certain producers/exporters subject to this administrative review, made sales of subject merchandise at less than normal value (NV) during the period of review (POR) February 1, 2024, through January 31, 2025. Additionally, we preliminarily determine that certain companies for which we initiated a review did not have any shipments during the POR. We are rescinding this administrative review, in part, with respect to 158 companies. Interested parties are invited to comment on these preliminary results.

DATES: Applicable May 14, 2026.

FOR FURTHER INFORMATION CONTACT:

Gregory Taushani, 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) 482-1012.

SUPPLEMENTARY INFORMATION:

Background

On March 28, 2025, based on timely requests for review, in accordance with 19 CFR 351.221(c)(1)(i), we initiated an administrative review of the antidumping duty (AD) order on certain frozen warmwater shrimp (shrimp) from Thailand.¹ On July 1, 2025, Commerce selected Thai Union² and Thai Royal

¹ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 90 FR 14081 (March 28, 2025) (*Initiation Notice*). Of note, here, we incorrectly listed the company names for a single entity on which we initiated the administrative review. We corrected that error in *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 90 FR 21459 (May 20, 2025). See also *Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Certain Frozen Warmwater Shrimp from Thailand*, 70 FR 5145 (February 1, 2005) (*Order*).

² See Memorandum, "Respondent Selection," dated July 1, 2025. In the 2012-2013 administrative review, Commerce found that the following companies comprised a single entity: Thai Union Frozen Products Public Co. Ltd.; Thai Union Seafood Co., Ltd.; Pakfood Public Company

Frozen Foods Public Co., Ltd. (Thai Royal) as the mandatory respondents in this administrative review.³ On February 10, 2026, Commerce notified interested parties of our intent to rescind this administrative review with respect to the companies that had no suspended entries during the POR.⁴

Due to the lapse in appropriations and Federal Government shutdown, on November 14, 2025, Commerce tolled all deadlines in administrative proceedings by 47 days.⁵ 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.⁶ On December 19, 2025, Commerce extended the time limit for these preliminary results by 120 days to May 7, 2026, pursuant to section 751(a)(3)(A) of the Act.

For a complete description of the events that followed the initiation of

Limited; Asia Pacific (Thailand) Co., Ltd.; Chaophraya Cold Storage Co., Ltd.; Okeanos Co., Ltd.; Okeanos Food Co., Ltd.; Takzin Samut Co., Ltd. (collectively, Thai Union). See *Certain Frozen Warmwater Shrimp from Thailand: Final Results of Antidumping Duty Administrative Review, Final Determination of No Shipments, and Partial Rescission of Review; 2012-2013*, 79 FR 51306, 51306 (August 28, 2014) (*Shrimp from Thailand 2012-13*). Further, on January 5, 2016, Commerce found that Thai Union Group Public Co., Ltd. is the successor-in-interest to Thai Union Frozen Products Public Co., Ltd. See *Notice of Final Results of Antidumping Changes Circumstances Review: Certain Frozen Warmwater Shrimp from Thailand*, 81 FR 222 (January 5, 2016). Therefore, absent information to the contrary, we are treating these companies as a single entity for the purposes of this administrative review.

³ See Memorandum, "Respondent Selection," dated July 1, 2025.

⁴ See Memorandum, "Notice of Intent to Rescind Review, In Part," dated February 10, 2026 (Intent to Rescind Memorandum). In this memo, we stated that we intended to rescind a review with respect to 171 companies. However, Commerce incorrectly listed (1) Asia Pacific (Thailand) Co., Ltd. and Chaophraya Cold Storage Co., Ltd., which are part of Thai Union; and (2) the 11 companies (Andaman Seafood Co., Ltd., Chanthaburi Seafoods Co., Ltd., Chanthaburi Frozen Food Co., Ltd., Phatthana Seafood Co., Ltd., Thai International Seafood Co., Ltd., Thailand Fishery Cold Storage Public Co., Ltd., Wales & Company Universe Ltd., S.C.C. Frozen Seafood Co., Ltd., Intersia Foods Co., Ltd., Phatthana Frozen Food Co., Ltd., and Sea Wealth Frozen Food Co., Ltd.) part of the Rubicon Group single entity that reported no shipments. Therefore, after excluding these 13 companies mentioned above from the 171 companies we intended to rescind this review for, we are left with 158 unique companies for which we are rescinding a review of because of the lack of suspended entries.

⁵ See Memorandum, "Deadlines Affected by the Shutdown of the Federal Government," dated November 14, 2025.

⁶ See Memorandum, "Tolling of all Case Deadlines," dated November 24, 2025.

⁶ See *Order*, 86 FR at 7705.

this review, see the Preliminary Decision Memorandum.⁷ A list of topics included in the Preliminary Decision Memorandum is included in 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/frnotices>.

Scope of the Order

The merchandise subject to the *Order* is shrimp from Thailand. For a complete description of the scope of the *Order*, see the Preliminary Decision Memorandum.

Rescission of Administrative Review, in Part

Pursuant to 19 CFR 351.213(d)(3), it is Commerce's practice 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 AD assessment rate for the review period.⁹ Therefore, for an administrative review to be conducted, there must be a suspended entry that Commerce can instruct U.S. Customs and Border Protection (CBP) to liquidate at the calculated AD assessment rate for the POR.¹⁰

⁷ See Memorandum, "Decision Memorandum for the Preliminary Results of the Administrative Review of the Antidumping Duty Order on Frozen Warmwater Shrimp from Thailand; 2024–2025," dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

⁸ See, e.g., *Certain Carbon and Alloy Steel Cut-to-Length Plate from the Federal Republic of Germany: Recession of Antidumping Administrative Review; 2020–2021*, 88 FR 4157 (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, 1337 (CIT 2019), at 12 (referring to section 751(a) of the Act, the U.S. Court of International Trade held that "[w]hile 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*

Commerce notified all interested parties of its intent to rescind the instant review regarding the companies listed in Appendix II because there were no reviewable, suspended entries of subject merchandise from these companies during the POR and invited interested parties to comment.¹¹ No party commented on our Intent to Rescind Memorandum. In the absence of any suspended entries of subject merchandise from these companies during the POR, we are rescinding this administrative review for the companies listed in Appendix II of this notice, in accordance with 19 CFR 351.213(d)(3).

Preliminary Determination of No Shipments

Among the companies under review, (1) the Rubicon Group; (2) Marine Gold Products Ltd. (Marine Gold); and (3) Thai Union Manufacturing Co., Ltd. (Thai Union Manufacturing) properly filed statements reporting that they made no shipments of subject merchandise to the United States during the POR.¹² We preliminarily determine that there is no evidence on the record of this review that contradicts the Rubicon Group, Marine Gold's, and Thai Union Manufacturing's claims of no shipments. Therefore, we are continuing to include the Rubicon Group, Marine Gold, and Thai Union Manufacturing in this administrative review for purposes of these preliminary results. Moreover, consistent with our practice, we are not preliminarily rescinding the review with respect to these companies; but, rather, we will complete the review and issue appropriate instructions to CBP based on the final results of this review.¹³

Methodology

Commerce is conducting this review in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act).

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 Intent to Rescind Memorandum.

¹² See Rubicon Group's Letter, "Notice of No Sales," dated April 9, 2025; Marine Gold's Letter, "Notice of No Shipments," dated April 28, 2025; and Thai Union Manufacturing Co., Ltd.'s Letter, "No Shipment Certification," dated April 28, 2025.

¹³ See, e.g., *Certain Frozen Warmwater Shrimp from Thailand; Preliminary Results of Antidumping Duty Administrative Review, Partial Rescission of Review, Preliminary Determination of No Shipments; 2012–2013*, 79 FR 15951, 15952 (March 24, 2014), unchanged in *Shrimp from Thailand 2012–13*.

We calculated export and constructed export prices in accordance with section 772 of the Act. NV 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.

Rate for Non-Individually Examined Companies

The Act and Commerce's regulations do not address the establishment of a rate to apply 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 market economy investigation, for guidance when calculating the rate 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 rates that are zero, *de minimis* (i.e., less than 0.5 percent), or determined entirely on the basis of facts available. Where the weighted-average dumping margin for each of the individually examined companies is zero, *de minimis*, or based entirely on facts available, section 735(c)(5)(B) of the Act provides that Commerce may use "any reasonable method to establish the estimated all-others rate for exporters and producers not individually investigated, including averaging the estimated weighted-average dumping margins determined for the exporters and producers individually investigated."

For these preliminary results, because the rate calculated for Thai Royal is zero, we are preliminarily assigning to the companies under review that were not selected for individual examination a dumping margin based on the rate calculated for Thai Union.

Preliminary Results of the Review

We preliminarily determine that the following weighted-average dumping margins exist for the period February 1, 2024, through January 31, 2025:

¹⁴ See Appendix III.

Exporter/producer	Weighted-average dumping margin (percent)
Thai Union Group Public Co., Ltd.; Thai Union Seafood Co., Ltd.; Pakfood Public Company Limited; Asia Pacific (Thailand) Co., Ltd.; Chaophraya Cold Storage Co., Ltd.; Okeanos Co., Ltd.; Okeanos Food Co., Ltd.; Takzin Samut Co., Ltd	1.76
Thai Royal Frozen Foods Co., Ltd	0.00
Companies Not Selected for Individual Review ¹⁴	1.76

Disclosure

Commerce intends to disclose its calculations and analysis performed to interested parties in 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 the **Federal Register**, 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)(ii), we have modified the deadline for interested parties to submit case briefs to Commerce no later than 21 days after the date of the publication of this notice.¹⁵ Rebuttal briefs, limited to issues raised in the case briefs, may be filed no later than five days after the date for filing case briefs.¹⁶ 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.¹⁷

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.¹⁸ Further, we request that interested parties limit their public executive summary of each issue to no more than 450 words, not including citations. We intend to use the public executive summaries as the basis of the comment summaries included in the 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 public 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).¹⁹

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 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, parties will be notified of the time and date for the hearing.²⁰ Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

All submissions, including case and rebuttal briefs, as well as hearing requests, must be filed via ACCESS.²¹ An electronically filed document must be received successfully in its entirety in ACCESS by 5:00 p.m. Eastern Time on the established deadline. Note that Commerce has amended certain of its requirements pertaining to the service of documents in 19 CFR 351.303(f).²²

Assessment Rates

Upon issuance of the final results, Commerce shall determine, and CBP shall assess, antidumping duties on all appropriate entries covered by this review. The final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by this review and for future deposits of estimated duties, where applicable.²³

If an examined respondent's weighted-average dumping margin is not zero or *de minimis* (i.e., less than 0.50 percent) in the final results of this review, Commerce intends to calculate importer-specific assessment rates on the basis of the ratio of the total amount of dumping calculated for each importer's examined sales to the total

entered value of those sales.²⁴ To determine whether an importer-specific, per-unit assessment rate is *de minimis*, in accordance with 19 CFR 351.106(c)(2), we also will calculate an importer-specific *ad valorem* ratio based on estimated entered values. If an examined respondent's weighted-average dumping margin is zero or *de minimis* or where an importer-specific *ad valorem* assessment rate is zero or *de minimis*, we will instruct CBP to liquidate appropriate entries without regard to antidumping duties.²⁵

In accordance with Commerce's "automatic assessment" practice, for entries of subject merchandise during the POR produced by an examined respondent for which it did not know that the merchandise was destined for the United States, we intend to instruct CBP to liquidate those entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction.²⁶

For the companies listed in Appendix II for which the review is being rescinded, Commerce will instruct CBP to assess antidumping duties on all appropriate entries 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). 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 listed in Appendix III which were not selected for individual review, we will assign an assessment rate based on the review-specific rate, calculated as noted in the "Rate for Non-Individually Examined Companies" section, above. The final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise

¹⁵ See 19 CFR 351.309.

¹⁶ 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).

¹⁷ See 19 CFR 351.309(c)(2) and (d)(2).

¹⁸ We use the term "issue" here to describe an argument that Commerce would normally address in a comment of the Issues and Decision Memorandum.

¹⁹ See APO and Service Final Rule.

²⁰ See 19 CFR 351.310(d).

²¹ See 19 CFR 351.303.

²² See APO and Service Final Rule.

²³ See section 751(a)(2)(C) of the Act.

²⁴ See 19 CFR 351.212(b)(1).

²⁵ See 19 CFR 351.106(c)(2); see also *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).

²⁶ For a full discussion of this practice, see *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003).

covered by the final results of this review and for future deposits of estimated duties, where applicable.²⁷

Commerce intends to issue assessment instructions to CBP regarding Thai Royal, Thai Union, the no shipment companies (the Rubicon Group, Marine Gold; and Thai Union Manufacturing), and the companies listed in Appendix III no earlier than 35 days after the date of publication of the final results of this review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.*, within 90 days of publication).

Cash Deposit Requirements

The following cash deposit requirements for estimated antidumping duties will be effective upon publication of the notice of final results of this 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 company listed above will be equal to the weighted-average dumping margin established in the final results of this administrative 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 reviewed or investigated companies or reviewed companies not covered by this review, the cash deposit rate will continue to be the company-specific cash deposit rate published for the most recently completed segment of this proceeding in which the company participated; (3) if the exporter is not a firm covered in this review or previous segment, but the producer is, then the cash deposit rate will be the rate established for the most recently-completed segment for the producer of the merchandise; (4) the cash deposit rate for all other producers or exporters will continue to be 5.34 percent, the all-others rate made effective by the *Section 129 Determination*.²⁸ These cash deposit requirements, when imposed,

shall remain in effect until further notice.

Final Results of Review

Unless otherwise extended, Commerce intends to issue the final results of this administrative review, including the results of its analysis of the issues raised in any written briefs, no later than 120 days after the date of publication of this notice in the **Federal Register**, pursuant to section 751(a)(3)(A) of the Act and 19 CFR 351.213(h)(1), unless otherwise extended.

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 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 double antidumping duties.

Notification to Interested Parties

Commerce is issuing and publishing these preliminary results in accordance with sections 751(a)(1) and 777(i)(1) of the Act, 19 CFR 351.213(d)(4) and 19 CFR 351.221(b)(4).

Dated: May 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. Rescission of Administrative Review, In Part
- V. Discussion of the Methodology
- VI. Currency Conversion
- VII. Recommendation

Appendix II

Companies With No Reviewable Entries

1. Wattanachai Frozen Products Co., Ltd.
2. A.P. Frozen Foods Co., Ltd.
3. A.S. Intermarine Foods Co., Ltd.
4. ACU Transport Co., Ltd.
5. Ampai Frozen Food Co., Ltd.
6. Anglo-Siam Seafoods Co., Ltd.
7. Apex Maritime (Thailand) Co., Ltd.
8. Apitoon Enterprise Industry Co., Ltd.
9. Applied DB Ind.; Applied DB
10. Asian Alliance International Co., Ltd.
11. Asian Sea Corporation Public Company Limited

12. Asian Seafood Coldstorage (Sriracha)
13. Asian Seafoods Coldstorage Public Co. Ltd.; Asian Seafoods Coldstorage (Suratthani) Co., Limited
14. Asian Star Trading Co., Ltd.
15. Assoc. Commercial Systems
16. Bangkok Dehydrated Marine Product Co., Ltd.
17. Bright Sea Co., Ltd.; The Union Frozen Products Co., Ltd.
18. C N Import Export Co., Ltd.
19. C Y Frozen Food Co., Ltd.
20. C.P. Intertrade Co. Ltd.
21. C P Mdse
22. CP Retailing and Marketing Co., Ltd.
23. Calsonic Kansei (Thailand) Co. Ltd.
24. CPF Food Products Co. Ltd.
25. CPF Food Network Co., Ltd.
26. Century Industries Co., Ltd.
27. Chaivaree Marine Products Co., Ltd.
28. Chonburi LC
29. Chue Eie Mong Eak
30. Commonwealth Trading Co., Ltd.
31. Core Seafood Processing Co. Ltd.
32. Crystal Frozen Foods Co., Ltd.
33. Crystal Seafood
34. Daedong (Thailand) Co. Ltd.
35. Daiei Taigen (Thailand) Co., Ltd.
36. Daiho (Thailand) Co., Ltd.
37. Dynamic Intertransport Co., Ltd.
38. Earth Food Manufacturing Co., Ltd.
39. F.A.I.T. Corporation Limited
40. Far East Cold Storage Co., Ltd.
41. Fimex Vn
42. Findus (Thailand) Ltd.
43. Fortune Frozen Foods (Thailand) Co., Ltd.
44. Frozen Marine Products Co., Ltd.
45. Gallant Ocean (Thailand) Co., Ltd.
46. Gallant Ocean Seafood Corporation
47. Gallant Seafoods Corporation
48. Global Maharaja Co., Ltd.
49. Golden Sea Frozen Foods Co., Ltd.
50. Golden Seafood International Co., Ltd.
51. Golden Thai Imp. & Exp. Co., Ltd.
52. Good Fortune Cold Storage Co. Ltd.
53. Grobest Frozen Foods Co., Ltd.
54. Gulf Coast Crab Intl.
55. H.A.M. International Co., Ltd.
56. Haitai Seafood Co., Ltd.
57. Handy International (Thailand) Co., Ltd.
58. Heng Seafood Limited Partnership
59. Heritrade Co., Ltd.
60. HIC (Thailand) Co., Ltd.
61. High Way International Co., Ltd.
62. Inter-Oceanic Resources Co., Ltd.
63. Inter-Pacific Marine Products Co., Ltd.
64. K & U Enterprise Co., Ltd.
65. K Fresh
66. K.D. Trading Co., Ltd.
67. K.L. Cold Storage Co., Ltd.
68. Kiang Huat Sea Gull Trading Frozen Food Public Co., Ltd.
69. Kibun Trdg
70. Kyokuyo Global Seafoods Co., Ltd.
71. Leo Transports
72. Li-Thai Frozen Foods Co., Ltd.
73. Lucky Union Foods Co., Ltd.
74. Magnate & Syndicate Co., Ltd.
75. Mahachai Food Processing Co., Ltd.
76. Mahachai Marine Foods Co., Ltd.
77. May Ao Foods Co., Ltd.; A Foods 1991 Co., Limited
78. Merit Asia Foodstuff Co., Ltd.
79. Merkur Co., Ltd.
80. Mild Foods Co., Ltd.

²⁷ See section 751(a)(2)(C) of the Act.

²⁸ See *Implementation of the Findings of the WTO Panel in United States Antidumping Measure on Shrimp from Thailand: Notice of Determination Under Section 129 of the Uruguay Round Agreements Act and Partial Revocation of the Antidumping Duty Order on Frozen Warmwater Shrimp from Thailand*, 74 FR 5638 (January 30, 2009) (*Section 129 Determination*).

81. Ming Chao Ind Thailand
82. N&N Foods Co., Ltd.
83. N.R. Instant Produce Co., Ltd.
84. Namprik Maesri Ltd. Part.
85. Narong Seafood Co., Ltd.
86. Nongmon SMJ Products
87. Pacific Fish Processing Co., Ltd.
88. Pacific Queen Co., Ltd.
89. Pakpanang Coldstorage Public Co., Ltd.
90. Penta Impex Co., Ltd.
91. Pinwood Nineteen Ninety Nine
92. Piti Seafood Co., Ltd.
93. Premier Frozen Products Co., Ltd.
94. Preserved Food Specialty Co., Ltd.
95. Queen Marine Food Co., Ltd.
96. Rayong Coldstorage (1987) Co., Ltd.
97. Royal Andaman Seafood Co., Ltd.
98. S&P Aquarium
99. S&P Syndicate Public Company Ltd.
100. S. Chaivaree Cold Storage Co., Ltd.
101. S. Khonkaen Food Ind. Public; S. Khonkaen Food Industry Public Co., Ltd.
102. S.K. Foods (Thailand) Public Co. Limited
103. S2K Marine Product Co., Ltd.
104. Samui Foods Company Limited
105. SB Inter Food Co., Ltd.
106. SCT Co., Ltd.
107. Sea Bonanza Foods Co., Ltd.
108. SEA NT'L CO., LTD.
109. SEAPAC
110. Search and Serve
111. Sea-Tech Intertrade Co., Ltd.
112. Sethachon Co., Ltd.
113. Shianlin Bangkok Co., Ltd.
114. Shing Fu Seaproducts Development Co., Ltd.
115. Siam Food Supply Co., Ltd.
116. Siam Haitian Frozen Food Co., Ltd.
117. Siam Intersea Co., Ltd.
118. Siam Marine Products Co. Ltd.
119. Siam Ocean Frozen Foods Co., Ltd.
120. Siam Union Frozen Foods; The Siam Union Frozen Foods Co., Ltd.
121. Siamchai International Food Co., Ltd.
122. Smile Heart Foods ; Smile Heart Foods Co., Ltd.
123. SMP Food Product Co., Ltd.; SMP Foods Products Co., Ltd.; SMP Products Co., Ltd.; SMP Food Products Co., Ltd.
124. Songkla Canning Public Co., Ltd.
125. Southeast Asian Packaging and Canning Ltd.
126. Southport Seafood; Southport Seafood Co., Ltd.
127. Star Frozen Foods Co., Ltd.
128. Starfoods Industries Co., Ltd.
129. STC Foodpak Ltd.
130. Suntechthai Intertrading Co., Ltd.
131. Surapon Seafood; Surapon Seafoods Public Co. Ltd; Surat Seafoods Public Co., Ltd.; Surapon Foods Public Co. Ltd.
132. Surapon Nichirei Foods Co., Ltd.
133. Suraththani Marine Products Co., Ltd.
134. Suree Interfoods Co., Ltd.
135. T.S.F. Seafood Co., Ltd.
136. Tep Kinsho Foods Co., Ltd.
137. Teppitak Seafood Co., Ltd.
138. Thai Agri Foods Public Co., Ltd.
139. Thai Hanjin Logistics Co., Ltd.
140. Thai-Ger Marine Co.; Ongkorn Cold Storage Co., Ltd.
141. Thai I Mei Frozen Food Co., Ltd.
142. Thai Mahachai Seafood Products Co., Ltd.

143. Thai Ocean Venture Co., Ltd.
144. Thai Pak Exports Co., Ltd.
145. Thai Patana Frozen Co., Ltd.
146. Thai Spring Fish Co., Ltd.
147. Thai World Import and Export Co., Ltd.; Thai World Imports and Export Co., Ltd.
148. Thai Yoo Ltd., Part.
149. Thong Thuan Co., Ltd.
150. Trang Seafood Products Public Co., Ltd.
151. Transmut Food Co., Ltd.
152. Tung Lieng Tradg.
153. Unicord Public Co., Ltd.
154. United Cold Storage Co., Ltd.
155. V. Thai Food Product Co., Ltd.
156. Wann Fisheries Co., Ltd.
157. Xian-Ning Seafood Co., Ltd.
158. ZAFCO TRDG

Appendix III

Companies Not Selected for Individual Review

1. B.S.A. Food Products Co., Ltd.
2. C.K. Frozen Fish and Food Co., Ltd.
3. Charoen Pokphand Petrochemical Co., Ltd.
4. CP Merchandising Company Limited; Charoen Pokphand Foods Public Co., Ltd.; Klang Co., Ltd; Seafoods Enterprise Co., Ltd.; Thai Prawn Culture Center Co., Ltd.
5. Good Luck Product Co., Ltd.
6. I.T. Foods Industries Co., Ltd.
7. KF Foods; KF Foods Limited; Kingfisher Holdings Limited
8. Kitchens of the Ocean (Thailand) Company, Ltd.; Kitchens of the Ocean (Thailand) Ltd.
9. Kongphop Frozen Foods Co., Ltd.
10. Lee Heng Seafood Co., Ltd.
11. S & D Marine Products Co., Ltd.
12. Seafresh Industry Public Co., Ltd.; Seafresh Fisheries
13. Tey Seng Cold Storage Co., Ltd.; Chaiwarut Company Limited
14. Top Product Food Co., Ltd.
15. Yeenin Frozen Foods Co., Ltd.

[FR Doc. 2026–09713 Filed 5–13–26; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–489–501]

Circular Welded Carbon Steel Standard Pipe and Tube Products 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 sales of circular welded carbon steel standard pipe and tube products (CWP) from the Republic of Türkiye (Türkiye) were made at less than normal value (NV) during the period of review (POR) May 1, 2023, through April 30, 2024.

DATES: Applicable May 14, 2026.

FOR FURTHER INFORMATION CONTACT: Paul Kebker, AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–2254.

SUPPLEMENTARY INFORMATION:

Background

On September 11, 2025, Commerce published the *Preliminary Results* and invited interested parties to comment.¹ This administrative review covers one exporter of subject merchandise, the sole mandatory respondent, Borusan Birlesik Boru Fabrikalari Sanayi ve Ticaret A.S. (Borusan Boru)² and Borusan Istikbal Ticaret T.A.S. (Istikbal) (collectively, Borusan).³ On October 20, 2025, Borusan submitted a case brief.⁴ On December 23, 2025, Wheatland Tube (Wheatland), a domestic producer and interested party, submitted a rebuttal brief.⁵

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 in administrative proceedings by an additional 21 days.⁷ On March 12, 2026,

¹ See *Circular Welded Carbon Steel Standard Pipe and Tube Products from the Republic of Türkiye: Preliminary Results of Antidumping Duty Administrative Review; 2023–2024*, 90 FR 44013 (September 11, 2025) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum (PDM).

² Commerce conducted a changed circumstances review and determined that Borusan Birlesik Boru Fabrikalari Sanayi ve Ticaret A.S. is the successor-in-interest to Borusan Mannesmann Boru Sanayi ve Ticaret A.S. in the context of the AD order on CWP from Türkiye. See *Circular Welded Carbon Steel Standard Pipe and Tube Products from the Republic of Türkiye; Welded Line Pipe from the Republic of Türkiye; Certain Oil Tubular Goods from the Republic of Türkiye; and Large Diameter Welded Pipe from the Republic of Türkiye: Final Results of Antidumping Duty Changed Circumstances Reviews*, 89 FR 96211 (December 4, 2024).

³ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 89 FR 55567 (July 5, 2024).

⁴ See Borusan's Letter, "Borusan's Case Brief," dated October 20, 2025.

⁵ See Wheatland's Letter, "Rebuttal Brief," dated December 23, 2025.

⁶ See Memorandum, "Deadlines Affected by the Shutdown of the Federal Government," dated November 14, 2025.

⁷ See Memorandum, "Tolling of all Case Deadlines," dated November 24, 2025.

Commerce extended the deadline for the final results by 53 days.⁸ As a result, the deadline for these final results of review is May 11, 2026.

For a complete description of the events that followed the *Preliminary Results*, see the Issues and Decision Memorandum.⁹ 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 accessed directly at <https://access.trade.gov/frnotices>.

Commerce is conducting this administrative review in accordance with section 751(a)(1)(B) of Tariff Act of 1930, as amended (the Act).

Scope of the Order¹⁰

The scope of the *Order* covers circular welded carbon steel standard pipe and tube products from Türkiye. A full description of the scope of the *Order* is contained in the Issues and Decision Memorandum.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs filed by parties are addressed in the Issues and Decision Memorandum. A list of the issues addressed in the Issues and Decision Memorandum is provided in the appendix to this notice.

Changes Since the Preliminary Results

Based on our analysis of the comments received, and for the reasons explained in the Issues and Decision Memorandum, we will revise the language used in the final liquidation instructions that are issued following the completion of this proceeding to account for Borusan's name change.

Final Results of Administrative Review

For these final results, we determine that the following estimated weighted-average dumping margins exist for the period May 1, 2023, through April 30, 2024:

Producer/exporter	Weighted-average dumping margin (percent)
Borusan Mannesmann Boru Sanayi ve Ticaret A.S., Borusan Birlesik Boru Fabrikalari Sanayi ve Ticaret A.S., Borusan Istikbal Ticaret T.A.S. ¹¹	9.31

Disclosure

Normally, Commerce discloses to interested parties the calculations of the final results of an administrative review within five days of the date of publication of the notice of final results in the **Federal Register**, in accordance with 19 CFR 351.224(b). However, because we have not modified our analysis from the *Preliminary Results*, there are no calculations to disclose for the final results.

Assessment Rates

Pursuant to section 751(a)(2)(C) of the Act and 19 CFR 351.212(b)(1), Commerce has determined in these final results of this review, and U.S. Customs and Border Protection (CBP) shall assess antidumping duties on all appropriate entries of subject merchandise in during the POR. Pursuant to 19 CFR 351.212(b)(1), we calculated importer-specific ad valorem duty assessment rates based on the ratio of the total amount of dumping calculated for examined sales to each importer to the total entered value of those sales. Where an importer-specific assessment rate is zero or *de minimis* within the meaning of 19 CFR 351.106(c)(1), we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties. Pursuant to a refinement to Commerce's assessment practice, for subject

merchandise that was entered into the United States, or withdrawn from warehouse, for consumption during the POR, that was produced or exported by Borusan for which Borusan did not report the sale in its U.S. sales database, we will instruct CBP to liquidate the entry of such merchandise at the all-others rate (*i.e.*, 14.74 percent)¹² if there is no rate for the intermediate company(ies) involved in the transaction.¹³

Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of the final results of this review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.*, within 90 days of publication).

Cash Deposit Requirements

The following cash deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of this notice in the **Federal Register**, as provided by section 751(a)(2)(C) of the Act: (1) the cash deposit rate for companies subject to this review will be equal to the weighted-average dumping margin listed in the "Final Results of Review" section above; (2) for merchandise that was exported by a company that is not under review and the company has a company-specific cash deposit rate from a completed segment of this proceeding, the cash deposit rate will continue to be the company-specific cash deposit rate from a completed segment of the proceeding that is currently applicable to the company; (3) if the exporter of the subject merchandise was not covered by this review or a previously completed segment of this proceeding, but the producer of the subject merchandise was covered, then the cash deposit rate will be equal to the company-specific cash deposit rate from a completed segment of this proceeding that is currently applicable to the producer of the subject merchandise; and (4) if neither the exporter nor the producer of the subject merchandise was covered by this review or a previously completed segment of this proceeding, then the cash deposit rate will be 14.74 percent *ad valorem*, the all-others rate

⁸ See Memorandum, "Extension of Deadline for Final Results of Antidumping Duty Administrative Review," dated March 12, 2026.

⁹ See Memorandum, "Issues and Decision Memorandum for the Final Results of the Antidumping Duty Administrative Review of Circular Welded Carbon Steel Standard Pipe and Tube Products from the Republic of Türkiye; 2023–2024," dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

¹⁰ See *Antidumping Duty Order; Welded Carbon Steel Standard Pipe and Tube Products from Turkey*, 51 FR 17784 (May 15, 1986) (*Order*).

¹¹ In prior segments of this proceeding, we treated Borusan Mannesmann Boru Sanayi ve Ticaret A.S. and Borusan Istikbal Ticaret T.A.S. as a single entity. See, e.g., *Welded Carbon Steel Standard Pipe and Tube Products from Turkey: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2013–2014*, 80 FR 76674 (December 10, 2015). We determine that there is no evidence on the record of this review for altering our treatment of Borusan Birlesik Boru Fabrikalari Sanayi ve Ticaret A.S. and Borusan Istikbal Ticaret T.A.S. as a single entity. Further, Commerce conducted a changed circumstances review and determined that Borusan Birlesik Boru Fabrikalari Sanayi ve Ticaret A.S. is the successor-in-interest to Borusan Mannesmann Boru Sanayi ve Ticaret A.S. in the context of the AD order on CWP from Türkiye. See *Circular Welded Carbon Steel Standard Pipe and Tube Products from the Republic of Türkiye; Welded Line Pipe from the Republic of Türkiye; Certain Oil Tubular Goods from the Republic of Türkiye; and Large Diameter Welded Pipe from the Republic of Türkiye: Final Results of Antidumping Duty Changed Circumstances Reviews*, 89 FR 96211 (December 4, 2024).

¹² See *Order*, 51 FR at 17784.

¹³ See *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003).

established in the less than fair value investigation.¹⁴ 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 this 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 reminder to parties subject to administrative protective order (APO) of their responsibility concerning the destruction or return 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 destruction or return 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 sanctionable violation.

Notification to Interested Parties

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

Dated: May 11, 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 Grant Borusan a Sales-Side Duty Drawback Adjustment
 - Comment 2: Whether Commerce Should Adjust Borusan's Cost of Production to Account for Unpaid Duties
 - Comment 3: Whether Commerce Should Remove Any Unpaid Import Duties Associated with Imports of Hot-Rolled Coil Allegedly for Production of Non-Subject Merchandise

- Comment 4: Whether Commerce's Price Difference and Ratio Tests Are Consistent with the Statutory Text That Requires Commerce to Demonstrate a Pattern of Prices that Differ Significantly
- Comment 5: Whether Commerce Should Account for Name Changes in the Borusan Group in the Liquidation Instructions

VI. Recommendation

[FR Doc. 2026–09714 Filed 5–13–26; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–084]

Certain Quartz Surface Products From the People's Republic of China: 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 certain quartz surface products from the People's Republic of China (China). The period of review (POR) is July 1, 2024, through June 30, 2025.

DATES: Applicable May 14, 2026.

FOR FURTHER INFORMATION CONTACT:

Rebecca Janz, 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) 482–2972.

SUPPLEMENTARY INFORMATION:

Background

On June 30, 2025, Commerce published in the **Federal Register** a notice of opportunity to request an administrative review of the AD order on certain quartz surface products from China.¹ Commerce received a timely request for review of the AD order from Karinastone (Malaysia) Sdn Bhd (Karinastone), an exporter of the subject merchandise.² On August 22, 2025, in accordance with section 751(a) of the Tariff Act of 1930, as amended, (the Act) and 19 CFR 351.221(c)(1)(i), Commerce published the initiation notice in the

¹ See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review and Join Annual Inquiry Service List*, 90 FR 27841 (June 30, 2025).

² See Karinastone's Letter, “[Karinastone] Request for Administrative Review,” dated July 31, 2025.

Federal Register.³ On September 12, 2025, we notified interested parties that information from U.S. Customs and Border Protection (CBP) indicated that there were no POR entries of the subject merchandise.⁴ Further, on September 22, 2025, we notified interested parties of our intent to rescind this administrative review due to a lack of suspended entries.⁵ We received no comments from interested parties regarding our intent to rescind.

Rescission of Review

Pursuant to 19 CFR 351.213(d)(3), it is Commerce's practice to rescind an administrative review of a AD order where it concludes that there are no entries of subject merchandise during the POR for which liquidation is suspended.⁶ Normally, upon completion of an administrative review, the suspended entries are liquidated at the AD assessment rate calculated for the review period.⁷ Therefore, for an administrative review to be conducted, there must be a reviewable, suspended entry that Commerce can instruct CBP to liquidate at the calculated AD assessment rate for the review period.⁸ As noted above, there were no suspended entries of subject merchandise for the company under review during the POR. Accordingly, in the absence of reviewable, suspended entries of subject merchandise during the POR, we are hereby rescinding this administrative review in its entirety, in accordance with 19 CFR 351.213(d)(3).

Cash Deposit Requirements

As Commerce has proceeded to a final rescission of this administrative review, no cash deposit rates will change. Accordingly, the current cash deposit requirements shall remain in effect until further notice.

Assessment

Commerce will instruct CBP to assess antidumping duties on all appropriate entries of subject merchandise. Antidumping duties shall be assessed at

³ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 90 FR 41043 (August 22, 2025).

⁴ See Memorandum, “Customs Entry Data from U.S. Customs and Border Protection,” dated September 12, 2025.

⁵ See Memorandum, “Notice of Intent to Rescind Review,” dated September 22, 2025.

⁶ See, e.g., *Diocetyl Terephthalate from the Republic of Korea: Rescission of Antidumping Administrative Review; 2021–2022*, 88 FR 24758 (April 24, 2023); see also *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).

⁷ See 19 CFR 351.212(b)(2).

⁸ See 19 CFR 351.212(d)(3).

¹⁴ See *Order*, 51 FR at 17784.

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 35 days after the date of publication of this rescission notice in the **Federal Register**.

Notification Regarding Administrative Protective Order

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

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: May 12, 2026.

/s/ Scot Fullerton

Scot Fullerton,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2026-09712 Filed 5-13-26; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A-533-883]

Glycine From India: Preliminary Results and Rescission, in Part, 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) preliminarily determines that producers and/or exporters subject to this administrative review made sales of subject merchandise at less than normal value (NV) during the period of review (POR), June 1, 2024, through May 31, 2025. In addition, we are rescinding the review with respect to 27 companies. Interested

parties are invited to comment on these preliminary results.

DATES: Applicable May 14, 2026.

FOR FURTHER INFORMATION CONTACT:

Tyler Weinhold, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-1121.

SUPPLEMENTARY INFORMATION:

Background

On July 25, 2025, based on timely requests for review, in accordance with 19 CFR 351.221(c)(1)(i), we initiated an administrative review the antidumping duty order on glycine from India.¹ On September 10, 2026, Commerce selected Avid Organics Private Limited (Avid) and Mulji Mehta Enterprises (Mulji Mehta) as the mandatory respondents in this review.² On October 23, 2025, Avid timely withdrew its request for review of itself;³ and DPG timely withdrew its administrative review requests for certain companies identified in the *Initiation Notice*, including Avid.⁴ Further, on December 5, 2025, Paras Intermediates Private Limited timely withdrew its review request for itself.⁵ On December 9, 2025, Commerce selected Medilane Healthcare Private Limited (Medilane), the only other company subject to this review in addition to Mulji Mehta, as an additional mandatory respondent.⁶

Due to the lapse in appropriations and Federal Government shutdown, on November 14, 2025, Commerce tolled all deadlines in administrative proceedings 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 proceedings by an additional 21 days.⁸ On December 22, 2025, Commerce extended the time limit for these preliminary results in accordance with section 751(a)(3)(A).⁹ Accordingly, the deadline for these preliminary results is now May 11, 2026.

For a complete description of the events that followed the initiation of this review, *see* the Preliminary Decision Memorandum.¹⁰ A list of the topics discussed in the Preliminary Decision Memorandum is attached as Appendix I to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to 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/frnotices>.

Scope of the Order

The merchandise subject to the *Order* is glycine from India. For a complete description of the scope of the *Order*, *see* the Preliminary Decision Memorandum.

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 a party who requested a review withdraws its request within 90 days of the date of publication of notice of initiation. As noted above, Commerce received timely-filed withdrawal requests with respect to the companies listed in Appendix II, and no other parties requested an administrative review of these companies. Therefore, we are rescinding this administrative review with respect to these companies, pursuant to 19 CFR 351.213(d)(1).

⁸ *See* Memorandum, "Tolling of all Case Deadlines," dated November 24, 2025.

⁹ *See* Memorandum, "Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review," dated December 22, 2025.

¹⁰ *See* Memorandum, "Decision Memorandum for the Preliminary Results of the Administrative Review of the Antidumping Duty Order on Glycine from India; 2024–2025," dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

¹ *See Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 90 FR 35268 (July 25, 2025) (*Initiation Notice*); *see also Glycine from India and Japan: Amended Final Affirmative Antidumping Duty Determination and Antidumping duty Orders*, 84 FR 29170 (June 21, 2019) (*Order*).

² *See* Memorandum, "Respondent Selection," dated September 10, 2025.

³ *See* Avid's Letter, "Withdrawal of Review Request of Anti-Dumping Duty Administrative Review for review period 2024–2025," dated October 23, 2025.

⁴ *See* DPG's Letter, "Partial Withdrawal of Request for Administrative Review," dated October 23, 2025; *see also* DPG's Letter, "Corrected Partial Withdrawal of Request for Administrative Review," dated December 8, 2025.

⁵ *See* Paras' Letter, "Withdrawal of Review Request for Anti-Dumping Duty Administrative Review," dated December 5, 2025.

⁶ *See* Memorandum, "Selection of Medilane Healthcare Private Limited as a Mandatory Respondent," dated December 9, 2025.

⁷ *See* Memorandum, "Deadlines Affected by the Shutdown of the Federal Government," dated November 14, 2025.

Methodology

Commerce is conducting this review in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act). In addition, Commerce has relied entirely on facts available with adverse inferences under sections 776(a) and (b) of the Act for Medilane Healthcare Private Limited and Mulji Mehta. 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 estimated weighted-average dumping margins exist for the period June 1, 2024, through May 31, 2025:

Producer/exporter	Weighted-average dumping margin (percent)
Medilane Healthcare Private Limited	57.17
Mulji Mehta Enterprises ..	57.17

Disclosure

Normally, Commerce discloses to interested parties the calculations performed in 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 the notice of preliminary results in the **Federal Register**, in accordance with 19 CFR 351.224(b). However, because Commerce preliminarily applied adverse facts available with adverse inferences to the individually examined companies, in accordance with section 776 of the Act, there are no calculations to disclose.

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)(1)(ii), we have modified the deadline for interested parties to submit case briefs to Commerce to no later than 21 days after the date of the publication of this notice.¹¹ Rebuttal briefs, limited to issues raised in the case briefs, may be filed no later than five days after the date for filing case briefs.¹² 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.¹³

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.¹⁴ Further, we request that interested parties limit their public executive summary of each issue to no more than 450 words, not including citations. We intend to use the public executive summaries as the basis of the comment summaries included in the 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 public 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).¹⁵

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.¹⁶

All submissions, including case and rebuttal briefs, as well as hearing requests, should be filed via ACCESS.¹⁷ An electronically filed document must be received successfully in its entirety by ACCESS by 5:00 p.m. Eastern Time on the established deadline.

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.

If the mandatory respondent's weighted-average dumping margin is not zero or *de minimis* (i.e., less than

0.50 percent) in the final results of this review, Commerce intends to calculate importer-specific assessment rates on the basis of the ratio of the total amount of dumping calculated for each importer's examined sales to the total entered value of those sales. Where we do not have entered values for all U.S. sales to a particular importer, we will calculate an importer-specific, per-unit assessment rate on the basis of the ratio of the total amount of dumping calculated for the importer's examined sales to the total quantity of those sales.¹⁸ To determine whether an importer-specific, per-unit assessment rate is *de minimis*, in accordance with 19 CFR 351.106(c)(2), we also will calculate an importer-specific *ad valorem* ratio based on estimated entered values. If the mandatory respondents' weighted-average dumping margin is zero or *de minimis* in the final results of review, or if an importer-specific assessment rate is zero or *de minimis*, Commerce will instruct CBP to liquidate appropriate entries without regard to antidumping duties.¹⁹

In accordance with Commerce's "automatic assessment" practice, for entries of subject merchandise during the POR produced by the mandatory respondents for which they did not know that the merchandise was destined for the United States, we intend to instruct CBP to liquidate those entries at the all-others rate calculated in the less-than-fair-value (LTFV) investigation if there is no rate for the intermediate companies involved in the transaction.²⁰

For the companies listed in Appendix II for which the review is being rescinded, 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). 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**.

Commerce intends to issue assessment instructions to CBP regarding Medilane and Mulji Mehta no earlier than 35 days after the date of publication of the final results of this review in the **Federal Register**. If a

¹¹ See 19 CFR 351.309.

¹² 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*).

¹³ See 19 CFR 351.309(c)(2) and (d)(2).

¹⁴ We use the term "issue" here to describe an argument that Commerce would normally address in a comment of the Issues and Decision Memorandum.

¹⁵ See *APO and Service Procedures*.

¹⁶ See 19 CFR 351.310(d).

¹⁷ See 19 CFR 351.303.

¹⁸ See 19 CFR 351.212(b)(1).

¹⁹ *Id.*; see also 77 FR at 8102–03; see also 19 CFR 351.106(c)(2).

²⁰ For a full discussion of this practice, see *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003).

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 upon publication in the **Federal Register** of the 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 companies 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 or reviewed companies not covered by this review, the cash deposit rate will continue to be the company-specific cash deposit rate published for the most recently completed segment of this proceeding in which the company participated; (3) if the exporter is not a firm covered in this review, a prior review, or the LTFV investigation but the manufacturer is, then the cash deposit rate will be the rate established in the most recently completed segment of the proceeding for the producer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 7.23 percent, the all-others rate established in the LTFV investigation.²¹ 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.

Notification to Interested Parties

We are issuing and publishing these preliminary results of review in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.221(b)(4).

Dated: May 11, 2026.

Christopher Abbott,

*Deputy Assistant Secretary for Policy
Assistant Secretary, 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. Application of Facts Available and Use of Adverse Inferences
- V. Recommendation

Appendix II

Companies for Which the Review Has Been Rescinded

1. Aditya Chemicals
2. Adwith Nutrichem Private Limited
3. Avid Organics Private Limited (Avid)
4. Bajaj Healthcare Limited
5. Elementis Specialties India Private Limited
6. Euroasias Organics Private Limited
7. Euroasia Trans Continental
8. Galaxy Surfactants Limited
9. Glisten Biotech
10. Grauer & Weil (India) Limited
11. Gujarat Ambuja Export Limited
12. Gulbrandsen Technologies (India) Private Limited
13. Indiana Chem Port
14. Kronox Lab Sciences Private Limited
15. Mass Dye Chem. Private Limited
16. Meteoric Biopharmaceuticals Private Limited
17. Mulji Mehta Pharma
18. Mumbai Merchant
19. Nature Bio
20. Paras Intermediates Private Limited
21. Priya Chemicals
22. Promois International Limited
23. Shari Pharmachem Private Limited
24. Strava Healthcare Private Limited
25. Tarkesh Trading Company
26. Valaji Pharma Chem
27. Venus International Exports Private Limited

[FR Doc. 2026–09715 Filed 5–13–26; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[C–580–888]

Certain Carbon and Alloy Steel Cut-to-Length Plate From the Republic of Korea: Final Results of Countervailing Duty Administrative Review; 2023

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

SUMMARY: The U.S. Department of Commerce (Commerce) determines that POSCO Co., Ltd. (POSCO), a producer and exporter of certain carbon and alloy steel cut-to-length plate (CTL plate) from the Republic of Korea (Korea), received countervailable subsidies during the period of review (POR) from January 1, 2023, through December 31, 2023.

DATES: Applicable May 14, 2026.

FOR FURTHER INFORMATION CONTACT: Rachel Accorsi or Joshua Nixon, AD/CVD Operations, Office VIII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–3149 or (202) 482–8361, respectively.

SUPPLEMENTARY INFORMATION:

Background

On September 11, 2025, Commerce published the *Preliminary Results* of this administrative review in the **Federal Register**.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 filled 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 3, 2026, Commerce extended the deadline for the final results of this review an

¹ See *Certain Carbon and Alloy Steel Cut-to-Length Plate from the Republic of Korea: Preliminary Results and Partial Rescission of Countervailing Duty Administrative Review; 2023*, 90 FR 44022 (September 11, 2025) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum.

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.

²¹ See *Order*.

additional 51 days.⁴ Accordingly, the deadline for these final results is now May 8, 2026.⁵

For a complete description of the events that followed the *Preliminary Results*, see the Issues and Decision Memorandum.⁶ 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 accessed directly at <https://access.trade.gov/frnotices>.

Scope of the Order ⁷

The merchandise covered by the Order is CTL plate. For a complete description of the scope of the Order, see the Issues and Decision Memorandum.

Analysis of Comments Received

All issues raised in interested parties' briefs are addressed in the Issues and Decision Memorandum. A list of the issues addressed in the Issues and Decision Memorandum is provided in the appendix to this notice.

Changes Since the Preliminary Results

Based on our analysis of the case and rebuttal briefs and the evidence on the record, we made certain changes to POSCO's countervailable subsidy calculations from the *Preliminary Results*. These changes are explained in the Issues and Decision Memorandum.

Methodology

Commerce conducted this review in accordance with section 751(a)(1)(A) of the Tariff Act of 1930, as amended (the Act). For each of the subsidy programs found countervailable, we find that there is a subsidy, *i.e.*, a government-provided financial contribution that gives rise to a benefit to the recipient, and that the subsidy is specific.⁸ For a full description of the methodology underlying Commerce's conclusions,

see the Issues and Decision Memorandum.

Verification

As provided in section 782(i) of the Act, and pursuant to 19 CFR 351.307(b)(1)(iv), in March 2026, Commerce conducted verification of the subsidy information reported by POSCO. We used standard verification procedures, including an examination of relevant sales and accounting records, and original source documents provided by the respondent.⁹

Final Results of Review

In accordance with 19 CFR 351.221(b)(5), we determine the following net countervailable subsidy rate exists for the POR January 1, 2023, through December 31, 2023:

Producer/exporter	Subsidy rate (percent <i>ad valorem</i>)
POSCO Co., Ltd. ¹⁰	3.70

Disclosure

Commerce intends to disclose its calculations and analysis performed in connection with these final results to interested parties within five days of its 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).

Assessment Rates

Pursuant to section 751(a)(2)(C) of the Act and 19 CFR 351.212(b)(2), Commerce has determined, and CBP shall assess, countervailing duties on all appropriate entries of subject merchandise in accordance with the final results of this review, for the

⁹ See Memorandum, "Verification of the Questionnaire Responses of POSCO and POSCO International," dated March 27, 2026.

¹⁰ As discussed in the *Preliminary Results*, Commerce found the following companies to be cross-owned with POSCO: POSCO Holdings Inc.; POSCO Future M Co., Ltd.; POSCO Mobility Solution Co., Ltd.; POSCO M-Tech Co., Ltd.; and POSCO Nippon Steel RHF Joint Venture Co., Ltd. The subsidy rate applies to all cross-owned companies. We note that POSCO has an affiliated trading company through which it exported certain subject merchandise during the POR, POSCO International (aka POSCO International Corporation). POSCO International was not selected as a mandatory respondent but was examined in the context of POSCO. Therefore, there is not an established countervailing duty rate for POSCO International; POSCO International's subsidies are accounted for in POSCO's total subsidy rate. Instead, 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. Thus, the subsidy rate applied to POSCO and POSCO's cross-owned companies is also applied to POSCO International for entries of subject merchandise produced by POSCO.

above-listed company at the applicable *ad valorem* assessment rate listed for the POR (*i.e.*, January 1, 2023, to December 31, 2023). We intend 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

In accordance with section 751(a)(1) of the Act, Commerce intends to instruct CBP to collect cash deposits of estimated countervailing duties in the amount shown for the company listed above based on 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.¹¹ For all non-reviewed firms subject to the Order, we will instruct CBP to continue to collect cash deposits of estimated countervailing duties at the most recent company-specific rate or the all-others rate (*i.e.*, 3.72 percent), as appropriate.¹² These cash deposit requirements, effective upon publication of these final results, shall remain in effect until further notice.

Administrative Protective Order (APO)

This notice also serves as a 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(a)(3). Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

Notification to Interested Parties

We are issuing and publishing these final results of administrative review and notice in accordance with sections 751(a)(1) and 777(i) of the Act, and 19 CFR 351.221(b)(5) and 19 CFR 351.213(h)(2).

¹¹ See, *e.g.*, *Honey from Argentina: Results of Countervailing Duty Administrative Review*, 69 FR 29518 (May 24, 2004), and accompanying Issues and Decision Memorandum at Issue 4.

¹² See Order, 82 FR at 24103.

⁴ See Memorandum, "Extension of Deadline for Final Results of Countervailing Duty Administrative Review," dated February 3, 2026.

⁵ *Id.*

⁶ See Memorandum, "Issues and Decision Memorandum for the Final Results of the Countervailing Duty Administrative Review of Certain Carbon and Alloy Steel Cut-to-Length Plate from the Republic of Korea; 2023," dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

⁷ See *Certain Carbon and Alloy Steel Cut-to-Length Plate from the Republic of Korea: Countervailing Duty Order*, 82 FR 24103 (May 25, 2017) (Order).

⁸ 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.

Dated: May 8, 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. Subsidies Valuation Information
- V. Analysis of Programs
- VI. Discussion of the Comments
 - Comment 1: Whether the Provision of Electricity is Subsidized by the Government of Korea
 - Comment 2: Whether the Provision of Korea Emissions Trading System Permits is Countervailable
 - Comment 3: Whether Commerce Incorrectly Attributed Electricity for More Than Adequate Remuneration (MTAR) Benefits Received by POSCO International to the Production of Subject Merchandise
 - Comment 4: Whether the Benchmark Selected for the Electricity for MTAR Program is Appropriate
 - Comment 5: Whether Commerce Should Correct Errors in its Calculation of POSCO International's Benefit under the Electricity for MTAR Program
 - Comment 6: Whether POSCO International's Korea Export-Import Bank Overseas Investment Credit Program Loan is Tied to the Production of Non-Subject Merchandise
- VII. Recommendation

[FR Doc. 2026–09692 Filed 5–13–26; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–227, A–580–922, A–583–882, A–552–855]

Polytetramethylene Ether Glycol From the People's Republic of China, the Republic of Korea, Taiwan, and the Socialist Republic of Vietnam: Initiation of Less-Than-Fair-Value Investigations; Correction

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

ACTION: Notice; correction.

SUMMARY: The U.S. Department of Commerce (Commerce) published notice in the **Federal Register** of May 5, 2026, in which Commerce initiated the less-than-fair-value (LTFV) investigations on polytetramethylene ether glycol (PTMEG) from the People's Republic of China (China), the Republic of Korea (Korea), Taiwan, and the

Socialist Republic of Vietnam (Vietnam). This notice corrects a typographical error with respect to the Harmonized Tariff Schedule of the United States (HTSUS) subheadings in the scope of the investigations.

FOR FURTHER INFORMATION CONTACT:

Laura Delgado at (202) 482–1468 (China), Matthew Palmer at (202) 482–1678 (Korea), Jacob Waddell at (202) 482–1369 (Taiwan), and Rebecca Janz at (202) 482–2972 (Vietnam), AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

On May 5, 2026, Commerce published in the **Federal Register** the initiation notice of the LTFV investigations on PTMEG from China, Korea, Taiwan, and Vietnam.¹ In the *Initiation Notice*, Commerce inadvertently made a typographical error with respect to one of the relevant HTSUS subheadings in the appendix, “Scope of the Investigations.”

Correction

In the **Federal Register** of May 5, 2026, in FR Doc. 2026–08727,² on page 24168, in the second column, correct the third HTSUS subheading referenced in the fourth paragraph of the section “Appendix—Scope of the Investigation” as follows:

The subject merchandise is classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) under subheading 3907.29.0000. Subject merchandise may also be imported under HTSUS subheadings 2932.11.0000 and 3404.90.5150. Although the HTSUS subheading and CAS registry number are provided for convenience and customs purposes, the written description of the scope is dispositive.

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

Notice to Interested Parties

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

¹ See *Polytetramethylene Ether Glycol from the People's Republic of China, the Republic of Korea, Taiwan, and the Socialist Republic of Vietnam: Initiation of Less-Than-Fair-Value Investigations*, 91 FR 24162 (May 5, 2026) (*Initiation Notice*).

² *Id.*

Dated: May 11, 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

Scope of the Investigations

The merchandise covered by the investigations is polytetramethylene ether glycol (PTMEG), which is a polymer consisting of linear diols (*i.e.*, organic chemical compound that has two hydroxyl (–OH) functional groups) with a molecular backbone of repeating tetramethylene units (–CH₂CH₂CH₂CH₂–) interconnected through ether bonds (*i.e.*, a single oxygen atom bonded to two carbon atoms), with a chemical formula HO{[CH₂]₄}OH. PTMEG is also referred to as Polytetrahydrofuran, PTHF, Polytetramethylene ether glycol, PTMG, and Polybutylene glycol. PTMEG is typically blended with butylated hydroxytoluene (BHT) or another stabilizer such as higher molecular weight hindered phenols or phosphoric acid. In addition to a stabilizer, PTMEG is sometimes blended with a modifier or additive, such as phosphoric acid or sulfuric acid. The scope includes all blends consisting of PTMEG and stabilizers, modifiers, and/or additives, where the stabilizers, modifiers, and/or additives collectively account for no more than two percent of the total weight of the PTMEG blend. PTMEG is normally associated with Chemical Abstracts Service (CAS) registry number 25190–06–1.

The scope includes all forms of PTMEG, regardless of physical form, purity, molecular weight, number of hydroxyls, number of acids, color, density, softening point, glass transition point, flash point, water content, viscosity, and packaging. PTMEG that has been blended with other products is included within this scope when such blends include constituent parts that have been intermingled but that have not been chemically reacted with each other to produce a different product. For such blends, only the PTMEG component of the mixture, inclusive of any stabilizers, modifiers, and/or additives collectively accounting for no more than two percent of the combined weight of the PTMEG component and the stabilizers, modifiers, and/or additives, is covered by the scope of the investigations.

The scope includes merchandise matching the above description that has been processed in a third country, including by commingling, diluting, introducing, or removing stabilizers, modifiers, or additives, or performing any other processing that would not otherwise remove the merchandise from the scope of the investigations if performed in the subject country. The scope also includes PTMEG that is commingled or blended with PTMEG from sources not subject to the investigation. Only the subject component of such commingled products is covered by the scope of the investigations.

The subject merchandise is classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) under subheading

3907.29.0000. Subject merchandise may also be imported under HTSUS subheadings 2932.11.0000 and 3404.90.5150. Although the HTSUS subheading and CAS registry number are provided for convenience and customs purposes, the written description of the scope is dispositive.

[FR Doc. 2026–09711 Filed 5–13–26; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–475–838]

Certain Cold Drawn Mechanical Tubing of Carbon and Alloy Steel From Italy: Preliminary Results 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) preliminarily determines that Dalmine S.p.A. (Dalmine) made sales of subject merchandise at less than normal value (NV) during the period of review (POR), June 1, 2024, through May 31, 2025. Interested parties are invited to comment on these preliminary results of review.

DATES: Applicable May 14, 2026.

FOR FURTHER INFORMATION CONTACT: Colin Thrasher, 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) 482–3004.

SUPPLEMENTARY INFORMATION:

Background

On July 25, 2025, based on timely requests for review, in accordance with 19 CFR 351.221(c)(1)(i), we initiated an administrative review of the antidumping duty order on certain cold-drawn mechanical tubing of carbon and alloy steel (cold-drawn mechanical tubing) from Italy.¹ On July 25, 2025, Commerce selected Dalmine S.p.A. (Dalmine) as the mandatory respondent in this review.² On September 12, 2025, Dalmine filed a letter notifying

Commerce of its intent not to participate in this proceeding.³

Due to the lapse in appropriations and Federal Government shutdown, on November 14, 2025, Commerce tolled all deadlines in administrative proceedings by 47 days.⁴ 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.⁵ Accordingly, the deadline for these preliminary results is now May 11, 2026.

For a complete description of the events that followed the initiation of this administrative review, *see* the Preliminary Decision Memorandum.⁶ A list of topics included in the Preliminary Decision Memorandum is included as Appendix II 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/frnotices>.

Scope of the Order

The product covered by this review is cold-drawn mechanical tubing from Italy. For a complete description of the scope of the *Order*, *see* the Preliminary Decision Memorandum.

Methodology

Commerce is conducting this review in accordance with sections 751(a)(1)(B) and (2) of the Act. Because Commerce preliminarily finds that Dalmine failed to cooperate to the best of its ability in responding to our requests for information, Commerce relied on facts available, with adverse inferences (AFA), in determining this company's dumping margin, consistent with section 776 of the Act. For a full description of the methodology underlying these preliminary results,

³ *See* Dalmine's Letter, "Notification of Intent Not to Participate in the Administrative Review," dated September 12, 2025.

⁴ *See* Memorandum, "Deadlines Affected by the Shutdown of the Federal Government," dated November 14, 2025.

⁵ *See* Memorandum, "Tolling of all Case Deadlines," dated November 24, 2025.

⁶ *See* Memorandum, "Decision Memorandum for the Preliminary Determination in the Less-Than-Fair-Value Investigation of Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from Italy" dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

see the Preliminary Decision Memorandum.

Preliminary Results of Review

As a result of this review, we preliminarily determine the following estimated weighted-average dumping margin exists for the period June 1, 2024, through May 31, 2025:

Exporter/producer	Weighted-average dumping margin (percent)
Dalmine S.p.A	68.95

Disclosure

Normally, Commerce discloses to interested parties the calculations performed in connection with 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 the notice of preliminary results in the **Federal Register**, in accordance with 19 CFR 351.224(b). However, because Commerce preliminarily applied AFA to the individually examined company, Dalmine, in accordance with section 776 of the Act, and the applied AFA rate is based solely on the petition, there are no calculations to disclose.⁷

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)(1)(ii), we have modified the deadline for interested parties to submit case briefs to Commerce to no later than 21 days after the date of the publication of this notice.⁸ 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.⁹ 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.¹⁰

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

⁷ *See* Preliminary Decision Memorandum at the section, "Application of Facts Available and Adverse Inferences," for a discussion of the AFA rate assigned to Dalmine for these preliminary results.

⁸ *See* 19 CFR 351.309.

⁹ *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*).

¹⁰ *See* 19 CFR 351.309(c)(2) and (d)(2).

¹ *See* *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 90 FR 35268 (July 25, 2025) (*Initiation*); *see also* *See Certain Cold-Drawn Mechanical Tubing of Carbon and Alloy Steel from the People's Republic of China, the Federal Republic of Germany, India, Italy, the Republic of Korea, and Switzerland: Antidumping Duty Orders; and Amended Final Determinations of Sales at Less Than Fair Value for the People's Republic of China and Switzerland*, 83 FR 26962 (June 11, 2018) (*Order*).

² *See* *Initiation*.

in their briefs.¹¹ Further, we request that interested parties limit their public executive summary of each issue to no more than 450 words, not including citations. We intend to use the public executive summaries as the basis of the comment summaries included in the 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 public 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).¹²

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 whether any participant is a foreign national; 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.¹³ All submission, including 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.

Final Results of Review

Unless the deadline is extended pursuant to section 751(a)(3)(A) of the Act and 19 CFR 351.213(h)(2), Commerce intends to issue the final results of this administrative review, including the results of our analysis of the issues raised in any written briefs, no later than 120 days after the date of publication of this notice.

Assessment Rates

Pursuant to section 751(a)(2)(A) of the Act and 19 CFR 351.212(b)(1), Commerce will 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.

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).

If Commerce continues to base Dalmine's weighted-average dumping margin upon AFA in the final results of this review, then Commerce will instruct CBP to assess antidumping duties on subject merchandise from Dalmine entered, or withdrawn from warehouse, for consumption during the POR at a rate equal to the weighted-average dumping margin in the final results.

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 cash deposit rate for Dalmine will be the rate established for Dalmine in the final results of this review (except, if this rate is zero or *de minimis*, no cash deposit will be required); (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the less-than-fair-value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 47.87 percent, the all-others rate established in the underlying LTFV investigation.¹⁴ These cash 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 duties prior to the 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.

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(h)(2), and 19 CFR 351.221(b)(4).

Dated: May 11, 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. Application of Facts Available and Adverse Inferences
- V. Recommendation

[FR Doc. 2026-09689 Filed 5-13-26; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-580-883]

Certain Hot-Rolled Steel Flat Products From the Republic of Korea: 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 producers and exporters subject to this administrative review made sales of subject merchandise at less than normal value during the period of review (POR) October 1, 2023, through September 30, 2024.

DATES: Applicable May 14, 2026.

FOR FURTHER INFORMATION CONTACT: Thomas Schauer or Bryan Hansen, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-0410 or (202) 482-3683, respectively.

SUPPLEMENTARY INFORMATION:

Background

On January 8, 2026, Commerce published in the **Federal Register** the preliminary results of this

¹¹ We use the term "issue" here to describe an argument that Commerce would normally address in a comment of the Issues and Decision Memorandum.

¹² See *APO and Service Procedures*.

¹³ See 19 CFR 351.310(d).

¹⁴ See *Order*.

administrative review of the antidumping duty order¹ on certain hot-rolled steel flat products (hot-rolled steel) from the Republic of Korea (Korea), rescinded the administrative review of 46 companies and invited comments from interested parties.² This review covers two producers/exporters of the subject merchandise, Hyundai Steel Company (Hyundai Steel) and POSCO and POSCO International Corporation (PIC) (collectively POSCO/PIC).³

A summary of the events that occurred since the *Preliminary Results*, as well as a full discussion of the issues raised by parties for these final results, are discussed in the Issues and Decision Memorandum.⁴ The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Issues and Decision Memorandum can be accessed at <https://access.trade.gov/frnotices>.

Commerce conducted this review in accordance with section 751(a)(1)(B) of the Tariff Act of 1930, as amended (the Act).

Scope of the Order

The products covered by the *Order* are hot-rolled steel. A full description of the scope of the *Order* is contained in the Issues and Decision Memorandum.⁵

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 *Certain Hot-Rolled Steel Flat Products from the Republic of Korea: Preliminary Results and Rescission, In Part, of Antidumping Duty Administrative Review; 2023–2024*, 91 FR 686 (January 8, 2026) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum (PDM).

³ As we did in the previous segments of this proceeding and the *Preliminary Results*, we continue to treat POSCO and PIC as a single entity for the final results of this review. See, e.g., *Certain Hot-Rolled Steel Flat Products from the Republic of Korea: Final Results of Antidumping Duty Administrative Review; 2022–2023*, 90 FR 14434 n.3 (April 2, 2025); *Preliminary Results*, 91 FR at 687 n.11.

⁴ See Memorandum, “Issues and Decision Memorandum for the Final Results of Antidumping Duty Administrative Review of Certain Hot-Rolled Steel Flat Products from the Republic of Korea; 2023–2024,” dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

⁵ *Id.*

Analysis of Comments Received

All issues raised in the case and rebuttal briefs filed by parties in this administrative review are addressed in the Issues and Decision Memorandum and listed in the appendix to this notice.

Changes Since the Preliminary Results

Based on the comments received from interested parties regarding our *Preliminary Results*, and for the reasons explained in the Issues and Decision Memorandum, we made no changes for the final results of review.

Final Results of Review

We determine that the following estimated weighted-average dumping margins exist for the period October 1, 2023, through September 30, 2024:

Producer/exporter	Weighted-average dumping margin (percent)
Hyundai Steel Company	1.49
POSCO; POSCO International Corporation	1.22

Disclosure

Normally, Commerce discloses the calculations performed in connection with these final results of review to interested parties in an administrative review within five days after public announcement of the final results 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). However, because we have made no changes to the *Preliminary Results*, there are no calculations to disclose.

Assessment Rates

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

Because Hyundai Steel's and POSCO/PIC's weighted-average dumping margins are not zero or *de minimis* (i.e., less than 0.5 percent) in the final results of this review, we calculated an importer-specific assessment rate based on the ratio of the total amount of dumping calculated for each importer's examined sales and the total entered value of those same sales in accordance with 19 CFR 351.212(b)(1).⁶ Where an

importer-specific assessment rate is zero or *de minimis* (i.e., less than 0.5 percent), the entries by that importer will be liquidated without regard to antidumping duties.⁷ The final results of this administrative 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.⁸

For entries of subject merchandise during the POR produced by either of the individually examined respondents for which it did not know that the merchandise it sold to the intermediary (e.g., a reseller, trading company, or exporter) 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(ies) involved in the transaction.⁹

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

Upon publication of this notice in the **Federal Register**, the following cash deposit requirements will be effective for all shipments of hot-rolled steel from Korea entered, or withdrawn from warehouse, for consumption on or after the date of publication as provided by section 751(a)(2) of the Act: (1) the cash deposit rates for the companies subject to this review will be equal to the company-specific weighted-average dumping margins established in the final results of the review; (2) for merchandise exported by companies not covered in this review but covered in a prior completed segment of the proceeding, the cash deposit rate will continue to be the company-specific rate published in the completed segment for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the

Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification, 77 FR 8101 (February 14, 2012).

⁷ See 19 CFR 351.106(c)(1).

⁸ See section 751(a)(2)(C) of the Act.

⁹ For a full discussion of this practice, see *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003).

⁶ In these final results, Commerce applied the assessment rate calculation method adopted in

investigation, but the producer has been covered in a prior completed segment of this proceeding, then the cash deposit rate will be the rate established in the completed segment for the most recent period for the producer of the merchandise; (4) the cash deposit rate for all other producers or exporters will continue to be 6.05 percent, the all-others rate established in the investigation.¹⁰ 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 and/or countervailing 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 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

This notice also serves as a final reminder to parties subject to an administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under the 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 terms of an APO is a violation which is subject to sanction.

Notification to Interested Parties

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

Dated: May 8, 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: Differential Pricing—Two Percent Threshold
 - Comment 2: Differential Pricing—Ratio Test
 - Comment 3: Differential Pricing—Meaningful Difference Test
- VI. Recommendation

[FR Doc. 2026–09707 Filed 5–13–26; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XF754]

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 (Pacific Council) will convene a joint webinar meeting of the Groundfish Management Team (GMT) and its Groundfish Advisory Subpanel (GAP), and a second meeting of the GMT. The GMT and the GAP will discuss items on the Pacific Council's June 2026 meeting agenda and other items. These meetings are open to the public.

DATES: The GAP and GMT joint online meeting will be held on Wednesday, June 3, 2026, from 12 p.m. to 4 p.m. Pacific Time. The GMT online meeting will be held on Friday, June 5, 2026 from 12 p.m. to 4 p.m. Pacific Time. The scheduled ending times for these meetings are an estimate. The meetings will adjourn when business for the day is completed.

ADDRESSES: These meetings will be held online. Specific meeting information, including 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, OR 97220–1384.

FOR FURTHER INFORMATION CONTACT: Jessi Waller, Staff Officer, Pacific Council; jessi.waller@pcouncil.org, telephone: (503) 820–2415.

SUPPLEMENTARY INFORMATION: The primary purpose of the GMT and GAP webinars is to prepare for the Pacific Council's June 2026 meeting agenda items. These meetings are expected to focus on groundfish agenda items, including stock assessment process review and proposed process revisions and inseason management.

A detailed agenda for each webinar will be available on the Pacific Council's website prior to the meeting. The GMT and GAP may also address other assignments relating to groundfish management. No management actions will be decided by the GMT and GAP.

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: May 12, 2026.

Key Israel Marquez,

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

[FR Doc. 2026–09701 Filed 5–13–26; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XF767]

North 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 Center of Independent Experts (CIE) review of the Eastern Bering Sea Tanner crab stock assessment will be held June 9, 2026, through June 11, 2026.

DATES: The meeting will be held on June 9, 2026, through June 11, 2026,

¹⁰ See Order, 81 FR at 67963, 67965.

inclusive, from 9 a.m. to 4 p.m. Pacific Time.

ADDRESSES: The meeting will be in-person only and will be held in conference room 2079 at the Alaska Fishery Science Center, Sand Point Way, NE, Building 4, Seattle, WA 98115. If you plan to attend, you need to notify Cody Szuwalski (cody.szuwalski@noaa.gov) at least 2 days prior to the meeting (or 2 weeks prior if you are a foreign national). You will also need a valid U.S. Identification Card.

FOR FURTHER INFORMATION CONTACT: Cody Szuwalski, Alaska Fishery Science Center staff; email: cody.szuwalski@noaa.gov.

SUPPLEMENTARY INFORMATION:

Agenda

Tuesday, June 9, 2026, Through Friday, June 11, 2026

The CIE will review the eastern Bering Sea Tanner crab stock assessment. The agenda is subject to change, and the latest version and meeting materials will be posted at https://github.com/noaa-afsc/TannerCrab_2026CIEReview.

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

Dated: May 12, 2026.

Key Israel Marquez,

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

[FR Doc. 2026-09699 Filed 5-13-26; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. 260512-0129; RTID 0648-XR135]

Endangered and Threatened Wildlife and Plants; Notice of 12-Month Finding on a Petition to List Gulf of Alaska Chinook Salmon as Threatened or Endangered Under the Endangered Species Act

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

ACTION: Notice of 12-month petition finding.

SUMMARY: We, NMFS, announce a 12-month finding on a petition to list one or more Evolutionarily Significant Units (ESUs) of Gulf of Alaska (GOA) Chinook salmon (*Oncorhynchus tshawytscha*) as threatened or endangered under the Endangered Species Act (ESA). In

response to the petition submitted by Wild Fish Conservancy, the Status Review Team (SRT) completed a review of the status of GOA Chinook salmon and defined three ESUs for GOA Chinook salmon (Southeast, Central, and Northwest GOA). Based on the best scientific and commercial data available, including the Status Review Report written by the SRT, we conclude that the three ESUs of GOA Chinook salmon are not currently in danger of extinction throughout all or a significant portion of their ranges nor likely to become so within the foreseeable future. Therefore, we find that listing any of the ESUs of GOA Chinook salmon under the ESA is not warranted at this time.

DATES: This finding was made available on May 14, 2026.

ADDRESSES: The petition, Status Review Report, **Federal Register** notices, and the list of references can be accessed electronically online at: <https://www.fisheries.noaa.gov/species/Chinook-salmon-protected#conservation-management>. The peer review report is available online at: <https://www.noaa.gov/information-technology/biological-status-of-gulf-of-alaska-chinook-salmon>.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:

Background

On January 11, 2024, we received a petition from the Wild Fish Conservancy to delineate and list one or more ESUs of Chinook salmon in southern Alaska, which the petition stated “encompasses all Chinook populations that enter the marine environment of the Gulf of Alaska,” as threatened or endangered under the ESA, and to designate critical habitat concurrently with the listing. The petition indicated that this “includes all populations on the southern side of the Aleutian Peninsula, Cook Inlet, and the coast of Alaska south of Cook Inlet to the southern end of the Alaska/British Columbia border,” hereafter referred to as GOA Chinook salmon. The petition asserted that GOA Chinook salmon are threatened by all of the ESA section 4(a)(1) factors: (A) the present or threatened destruction, modification, or curtailment of habitat or range; (B) overutilization for commercial, recreational, scientific, or educational purposes; (C) disease or predation; (D) the inadequacy of existing regulatory mechanisms to address identified

threats; and (E) other natural or manmade factors affecting its continued existence (16 U.S.C. 1533(a)(1), 50 CFR 424.11(c)). The petition is available online (see **ADDRESSES**).

On May 24, 2024, NMFS published a 90-day finding that the petition, viewed in the context of information readily available in our files, presented substantial scientific and commercial information indicating the petitioned action may be warranted (89 FR 45815). NMFS also announced the initiation of a status review of GOA Chinook salmon, as required by section 4(b)(3)(A) of the ESA, and opened a 60-day comment period to solicit pertinent information to inform the status review. In response to public requests, NMFS extended the comment period an additional 45 days (89 FR 53936, June 28, 2024). We received information from the public in response to the 90-day finding. Additionally, information gathered from Tribal participants during Tribal Consultations and Subsistence Regional Advisory Council meetings informed our analyses. All relevant information was incorporated into the Status Review Report (GOA Chinook SRT 2026; available electronically (see **ADDRESSES**)) and this 12-month finding.

Listing Determinations Under the ESA

NMFS is responsible for determining whether a species under our jurisdiction meets the definition of threatened or endangered under the ESA (16 U.S.C. 1531 *et seq.*). To make this determination, we first consider whether a group of organisms constitutes a species under section 3 of the ESA, then whether the status of the species qualifies it for listing as either threatened or endangered. Section 3 of the ESA defines species to include “any subspecies of fish or wildlife or plants, and any distinct population segment of any species of vertebrate fish or wildlife which interbreeds when mature” (16 U.S.C. 1532(16)). In 1991, we issued the Policy on Applying the Definition of Species Under the ESA to Pacific Salmon (ESU Policy; 56 FR 58612, November 20, 1991). Under the ESU Policy, a Pacific salmon population is a distinct population segment (DPS), and hence a species under the ESA, if it represents an evolutionarily significant unit (ESU) of the biological species. Under this policy, a Pacific salmon population unit must satisfy two criteria to be considered an ESU: (1) it must be substantially reproductively isolated from other conspecific population units, and (2) it must represent an important component in the evolutionary legacy of the species. The first criterion, reproductive isolation, need not be

absolute, but must be strong enough to permit evolutionarily important differences to accrue in different population units. A population would meet the second criterion if it contributes substantially to the ecological and genetic diversity of the species as a whole. The ESU Policy is used exclusively for evaluating whether a population unit of Pacific salmon qualifies as a DPS under the ESA. A joint NMFS–U.S. Fish and Wildlife Service (USFWS; jointly, the Services) policy clarifies the Services' interpretation of the phrase "distinct population segment" for the purposes of listing, delisting, and reclassifying a species under the ESA (DPS Policy; 61 FR 4722, February 7, 1996). In announcing this policy, the Services indicated that the ESU Policy was consistent with the DPS Policy and that NMFS would continue to use the ESU Policy for Pacific salmon.

Section 3 of the ESA defines an endangered species as "any species which is in danger of extinction throughout all or a significant portion of its range" and a threatened species as one "which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range" (16 U.S.C. 1532(6), (20)). Thus, we interpret an endangered species to be one that is presently in danger of extinction. A threatened species is not presently in danger of extinction but is likely to become so within the foreseeable future.

When we consider whether a species qualifies as threatened under the ESA, we must consider the meaning of the term, foreseeable future. Our implementing regulations describe the foreseeable future as extending into the future as far as we can make reasonably reliable predictions about the threats to the species and the species' responses to those threats (50 CFR 424.11(d)). The regulations instruct us to describe the foreseeable future on a case-by-case basis, using the best available data and taking into account considerations such as the species' life history characteristics, threat-projection timeframes, and environmental variability. The regulations also state that we need not identify the foreseeable future in terms of a specific period of time.

Section 4(a)(1) of the ESA requires us to determine whether any species is endangered or threatened as a result of any one or a combination of the following factors: (A) the present or threatened destruction, modification, or curtailment of its habitat or range; (B) overutilization for commercial, recreational, scientific, or educational

purposes; (C) disease or predation; (D) the inadequacy of existing regulatory mechanisms; or (E) other natural or manmade factors affecting its continued existence (16 U.S.C. 1533(a)(1)). Section 4(b)(1)(A) of the ESA requires us to make listing determinations solely on basis of the best scientific and commercial data available after conducting a review of the status of the species and after taking into account efforts, if any, being made by any state or foreign nation or political subdivision thereof to protect the species (16 U.S.C. 1533(b)(1)(A)). In evaluating the efficacy of existing domestic conservation efforts that have yet to be implemented or demonstrate effectiveness, we rely on the Services' joint Policy for Evaluation of Conservation Efforts When Making Listing Decisions (PECE; 68 FR 15100, March 28, 2003).

NMFS formed an SRT comprised of biologists from the NMFS Alaska Fisheries Science Center and the NMFS Alaska Region to conduct the status review of GOA Chinook salmon. NMFS charged the SRT with reviewing and evaluating the best scientific and commercial data available relating to GOA Chinook salmon biology to determine if any populations or groups of populations met the criteria to qualify as ESUs, and if so, to assess the extinction risk to each potential ESU. Two scientists from the Alaska Department of Fish and Game (ADF&G) and a Tribal liaison were included in the SRT review process as advisory, non-voting SRT members (which means they participated in the process except for the SRT's final assessment of extinction risk). The Status Review Report, prepared by the SRT, summarizes the best scientific and commercial information available on GOA Chinook salmon distribution, abundance, life history, genetics, and biology. Based on this information, the Status Review Report identifies ESUs and outlines reasoning for how they were chosen; evaluates the demographic factors (abundance, productivity, spatial structure, and diversity); identifies threats or stressors affecting the status of the species; and describes management, mitigation, and conservation efforts. The Status Review Report presents the SRT's risk matrix results, which assigns an estimate of risk caused by each demographic factor and threat/stressor to each stock and assigns overall risk for each ESU, incorporating the extinction risk faced now and in the foreseeable future. The SRT then evaluated each ESU's overall extinction risk (high, moderate, or low) using a qualitative risk assessment framework that

incorporates all demographic factors and threats/stressors, acting together, throughout the range of the ESU. The SRT then conducted a similar analysis for the significant portion of its range for each ESU. The Status Review Report presents the SRT's professional scientific judgement on the extinction risk facing each of the potential ESUs but makes no recommendation as to their listing status. The Status Review Report also incorporates information received in response to our request for information (89 FR 45815, May 24, 2024), Tribal outreach and engagement, and comments from four independent, external peer reviewers (see Peer Review below).

We subsequently reviewed the Status Review Report, its cited references, and the peer reviewer comments, and concluded that the Status Review Report, upon which this 12-month finding is based, provides the best available scientific and commercial data on GOA Chinook salmon. Much of the information discussed below on GOA Chinook salmon biology, ESU structure, demographics, threats, and extinction risks is attributable to the Status Review Report. However, in making the 12-month finding determination, we independently applied the statutory provisions of the ESA, including evaluation of the factors set forth in section 4(a)(1)(A)–(E), regulations regarding listing determinations (50 CFR part 424.11), and relevant policies identified herein.

Life History of Chinook Salmon

Chinook salmon (*O. tshawytscha*) were historically distributed from the Ventura River in California to Point Hope, Alaska in North America, and in northeastern Asia from Hokkaido, Japan to the Anadyr River in Russia (Healey 1991). Additionally, Chinook salmon have been reported in the Mackenzie River area of northern Canada (McPhail and Lindsey 1970). Of the Pacific salmon, Chinook salmon exhibit arguably the most diverse and complex life history strategies across their range. Healey (1986) described 16 age categories (combinations of freshwater and saltwater ages) for Chinook salmon: 7 total ages, with 3 possible freshwater ages. As described by Gilbert (1912), stream-type or yearling Chinook salmon reside in freshwater for a year or more following emergence, whereas ocean-type or sub-yearling Chinook salmon migrate to the ocean within their first year. According to the best available data, nearly all populations of Chinook salmon in Alaska comprise individuals from the stream-type life history (Taylor 1990; Lewis *et al.*, 2015). However, one

population (Situk River) contains primarily ocean-type individuals (Johnson *et al.*, 1992), and other populations (*e.g.*, Keta River, Blossom River) contain some proportion of ocean-type individuals (Pahlke 2001; Fleischman *et al.*, 2011). While there have also been some historical observations of ocean-type individuals in the Deshka River (Delaney 1982), more recent data (2005–2014) show no ocean-type individuals observed based on scale data from returning adults (Lescanec 2017).

The generalized life history of Pacific salmon involves incubation, hatching, and emergence in freshwater; migration to the ocean; and subsequent initiation of maturation and return to freshwater for completion of maturation and spawning. Additionally, some young male Chinook salmon mature in freshwater (minijacks), thereby forgoing emigration to the ocean. Minijacks have been documented only through hatchery work in Alaska, but have been anecdotally observed in some wild populations in Southeast Alaska. Salmon exhibit a high degree of variability in life history traits, which are determined by a combination of genetic and environmental factors. Many of these traits appear to have a substantial genetic component (Carlson and Seamons 2008), and some appear to be largely controlled by variation at a few or single genomic regions (Barson *et al.*, 2015; Pearse *et al.*, 2019; Thompson *et al.*, 2020; Barry *et al.*, 2024).

Several types of biological evidence were considered in evaluating the contribution of GOA Chinook salmon to the ecological and genetic diversity of the biological species under the ESA. Life history traits examined for naturally spawning Chinook salmon populations included freshwater life history, age and size at spawning, river-entry timing, spawn timing, and ocean migration. These traits are thought to have both a genetic and environmental basis, and similarities among populations could indicate either a shared genetic heritage or similar responses to shared environmental conditions.

ESU Delineations

ESUs have not been previously defined for Chinook salmon in the GOA. Consistent with the criteria outlined in the ESU Policy, the SRT considered neutral genetic data analyzed for spawning populations in this region for the reproductive isolation criterion, supplemented by inferences about barriers to migration created by environmental differences and habitat breaks. The SRT also considered information on ocean distribution and,

to a lesser extent, information on life history variation. Based on this information, the SRT defined the following three ESUs (complete information regarding ESU delineation can be found in the Status Review Report): (1) Southeast Gulf of Alaska (SEGOA: populations from the southern border of Alaska to Cape Fairweather), (2) Central Gulf of Alaska (CGOA: populations from Cape Fairweather through Prince William Sound), and (3) Northwest Gulf of Alaska (NWGOA: populations from the Kenai Peninsula through Chignik).

Southeast Gulf of Alaska ESU

The SEGOA ESU includes populations from the Chilkat River in northern Southeast Alaska to the Keta and Blossom Rivers entering Behm Canal in southern Southeast Alaska near the northern coastal border of British Columbia. Chinook populations in the SEGOA ESU are part of the eastern genetic lineage and are highly genetically diverged from the closest populations to the north (Alsek River), which are part of the western genetic lineage (Templin *et al.*, 2011). Populations from the SEGOA and the Alsek River are also separated by a large geographic distance (350 km waterway distance). Populations at the southern end of this ESU (Keta and Blossom Rivers) are separated from the nearest populations to the south in Portland Inlet across the U.S. border in British Columbia by approximately 150 km. Although some straying may occur among Chinook salmon populations in southern Southeast Alaska and British Columbia, these groups are largely genetically isolated. Therefore, we find that the SEGOA ESU is substantially reproductively isolated from other ESUs. Fish from the Taku and Stikine Rivers, classified as outside rearing, primarily rear in the GOA and Bering Sea, and are rarely captured in inside waters as immature fish. Contrastingly, other stocks in SEGOA are classified as inside rearing, and a portion of them rear in SEGOA inside waters and are caught as immature fish in this region; some also use the GOA and Bering Sea as rearing habitat. This ESU contains four primary genetic groups: Chilkat River, King Salmon River, Taku and Stikine Rivers, and the short, coastal streams in southern Southeast Alaska. We find that the SEGOA ESU contributes substantially to the ecological and genetic diversity of the species as a whole. Therefore, we find that the SEGOA ESU meets the definition for an ESU as described in the ESU Policy.

Central Gulf of Alaska ESU

The CGOA ESU includes populations from the Copper, Situk, and Alsek Rivers. Populations from the Copper River are highly genetically differentiated from Cook Inlet populations to the north, and from Southeast Alaska populations to the south. Copper River populations are also isolated by major habitat breaks. To the north, populations from the Copper River are separated from the closest populations on the Kenai Peninsula (~500 km away) by Prince William Sound, a rugged, mountainous region that does not contain any self-sustaining Chinook salmon populations. To the south, Copper River populations are separated from the Situk and Alsek Rivers by an area of rugged coastline containing glacially influenced rivers that do not contain any large, known populations of Chinook salmon, although there may be some small populations in this region. The Situk and Alsek Rivers are the only two rivers monitored for escapement by ADF&G with self-sustaining Chinook salmon (*i.e.*, no hatchery supplementation) in an 800 km region that spans from the Copper River to the Chilkat and Taku Rivers in Southeast Alaska. Both of these populations appear to be recently colonized based on genetic data, which is unsurprising given the dynamic nature of this landscape characterized by shifting glaciers. Therefore, we find that the CGOA ESU is substantially reproductively isolated from other ESUs.

The Situk River is the only known population in the GOA that is composed primarily of ocean-type individuals. The SRT determined that grouping the Alsek River populations in the same ESU as the Copper River populations was appropriate, given their genetic similarity and the fact that no conspicuous life history differences exist between the lower Copper River and Alsek River populations. Contrastingly, the Situk River is unique both in terms of life history (ocean type) and genetics (intermediate between many populations). However, the SRT did not conclude that it constitutes an evolutionarily unique population because it may have been recently recolonized from strays from many populations, may undergo periodic extinction and recolonization events, and/or may be a sink for strays that prevents it from evolving independently. The SRT therefore chose to group it in the CGOA ESU, which has the most geographically proximate populations. We find that the CGOA ESU contributes substantially to the

ecological and genetic diversity of the species as a whole. Therefore, we find that the CGOA ESU meets the definition for an ESU as described in the ESU Policy.

Northwest Gulf of Alaska ESU

The NWGOA ESU includes populations from the Chignik River on the South Alaska Peninsula, Kodiak Island (Ayakulik and Karluk Rivers), and Cook Inlet (includes the Susitna drainage and populations on the Kenai Peninsula). Populations from this ESU rear in the GOA and the eastern Bering Sea, according to the best available information. The ESU boundaries correspond to habitat breaks and genetic breaks. Populations from the North Alaska Peninsula inhabit relatively low gradient coastal tributaries that drain flat tundra areas, whereas the South Alaska Peninsula is much more rugged and mountainous. Populations in Cook Inlet at the other margin of the ESU are separated from populations in the Copper River by Prince William Sound, which contains steep mountains and glaciers that do not provide suitable habitat for self-sustaining populations of Chinook salmon.

Although genetic differences exist among populations from the Kenai Peninsula, Cook Inlet, and the South Alaska Peninsula, these differences are generally smaller than those found between ESUs. Additionally, distributional breaks in this region are generally smaller than the break between other ESUs, with the exception of the habitat break between Chignik and Kodiak. Furthermore, there is no evidence that different genetic subgroupings within this ESU contain unique life history diversity that is important to maintaining the evolutionary legacy of the species. Therefore, splitting this ESU further is not warranted. We find that the NWGOA ESU is substantially reproductively isolated from other ESUs. We also find that the NWGOA ESU contributes substantially to the ecological and genetic diversity of the species as a whole. Together, these factors indicate that the NWGOA is a single ESU that meets the definition for an ESU as described in the ESU Policy.

Analysis of Demographic Factors

After identifying the three ESUs, the SRT evaluated the best scientific and commercial data available regarding four demographic viability factors: abundance, productivity, spatial structure, and diversity. These factors, rooted in conservation biology, represent the key attributes of a viable salmonid population and collectively

serve as strong indicators of extinction risk (McElhany *et al.*, 2000). For each ESU, the SRT evaluated the demographic factors and their trends. The SRT summarized their conclusions for each ESU and each indicator stock within each ESU (stocks are populations of salmon grouped together for management purposes such as harvest accounting, assessment, and reporting) in the risk matrix results. Indicator stocks, for the purpose of the SRT's assessment, were those for which escapement data were available. See Status Review Report. These results informed our conclusions about the viability of each ESU.

For each ESU, the SRT first considered abundance. Producing an overall estimate of total abundance for salmon ESUs is a complex process due to their anadromous nature, multiple life stages, and multiple stocks. Run size estimates represent the estimated number of returning adults (specifically wild Chinook), which is an appropriate measure of stock abundance. The SRT was provided minimum estimates for each of the 22 stocks for which run size data exist from ADF&G. These data are presented in the Status Review Report. For the SEGOA and NWGOA ESUs, the SRT also estimated the minimum estimated annual return of wild adult Chinook salmon between 2010 and 2023, based on ADF&G-provided run reconstruction data for the major Chinook systems. Because the SRT generated these estimates to compare to the estimated annual returns of hatchery adults, results are not available for the CGOA, which does not host any Chinook-producing hatcheries. The SRT also considered a study that compared the relative abundance of different stocks among areas by scaling the proportion of each stock from a mixed stock sample to the overall abundance of that stock (Larson *et al.*, 2013). This method produces coarse estimates, reported below for each ESU, and the SRT used this study to indicate that the SEGOA and NWGOA ESUs have relatively similar abundances, while the CGOA ESU's abundance is roughly one-third lower than the other two.

To investigate trends in the abundance of GOA Chinook salmon, the SRT focused on two primary questions: Have there been any short-term (15-year periods) declines in abundance across the available data? And have there been any long-term (full time series, since 1980) declines in abundance across the available data? To address these questions, the SRT analyzed the 31 stocks monitored by ADF&G within the three ESU designations. While similar reviews conducted by other SRTs across

the Pacific Northwest have identified escapement data as the most reliable metric of the available data for such assessments (Ford 2022, OC and SONCC SRT 2024), the SRT distinguished between escapement data (a productivity measure of the number of salmon that survive to spawn) and escapement goals, which are a management target. Escapement goals (the number of fish allowed to escape the fishery and spawn) in Alaska are designed for sustained yield, not as thresholds for population viability. As described above, run size estimates provide a more accurate estimate of minimum abundance and are a better metric to assess population trends. However, run size estimates, which integrate harvest and escapement data, were available for only 22 stocks.

As noted above, for each ESU, the SRT also considered productivity. As described above, escapement is one measure of productivity. They also considered size and age at maturity. These data do not exist at the stock level for every indicator stock, which precluded a comprehensive assessment of these metrics at the ESU level. Therefore, the SRT considered available literature on changes in size and age at maturity more broadly in the GOA as a whole. Reductions in size can potentially reduce productivity through decreases in fecundity and/or egg quality (Oke *et al.*, 2020; Malick *et al.*, 2023), and smaller females may not be able to dig deep enough redds to reduce susceptibility to scouring (Healey 1991). Reduction of age diversity could increase variation in abundance and decrease portfolio effects and population stability (Schindler *et al.*, 2010). For stocks with run size estimates, the SRT also performed a depensation analysis. Depensation (also known as Allee effects) refers to a decline in productivity at low abundance. Mechanisms for depensation include impaired reproduction (difficulty finding mates) and predator saturation. Results from the depensation analysis were highly variable, and no significant trends were found. See the Status Review Report for details.

Finally, the SRT considered the spatial distribution and diversity of each ESU. Spatial distribution includes geographic range and connectivity. Diversity includes genetic, habitat, and life history diversity.

Southeast Gulf of Alaska ESU

The SEGOA ESU exhibits a large total abundance. Using mixed stock analyses, Larson *et al.* (2013) estimated a total stock size of 181,000 salmon in

Southeast Alaska and Northern British Columbia, grouped in this study due to poor genetic resolution. The SRT estimated a minimum annual return of 53,000 wild adult Chinook salmon in the SEGOA ESU. The ESU includes 25 indicator stocks, and run size data are available for 9 representative indicator stocks.

Overall trends in abundance do not indicate long-term decline for the ESU. Short-term declines have been observed in certain stocks; these patterns are highly variable, but are within the historical variability and have either stabilized or begun to rebound in recent years. Evaluating escapement and run size for each stock, the SRT found little support for sustained, long-term declines (*i.e.*, the 50 and 90 percent credible intervals overlapped with zero). Short-term analyses indicate a high degree of variability over space and time. There have been recent declines in estimated total run size and spawning escapements for several stocks within the SEGOA ESU, particularly since the early 2000s and 2010s. For example, run size and escapement have decreased in systems such as the Chilkat, Unuk, King Salmon, Stikine, and Taku Rivers. However, the stocks in King Salmon, Taku, and Chilkat Rivers have shown early signs of recovery in the most recent 5-year period. For most stocks, long-term trend estimates indicate that these short-term declines largely fall within the range of historical variability. See the Status Review Report for stock-specific results. There is some synchrony (*i.e.*, correlation among run size and/or escapement trends) among stocks.

To evaluate productivity, the SRT first considered escapement. As described above, the data do not support a long-term, sustained decline in escapement for the ESU. Mean age and size-at-age have declined over the past 20–25 years (Lewis *et al.*, 2015; Ohlberger *et al.*, 2018; Oke *et al.*, 2020). In particular, the abundance of the oldest age classes has declined. Additionally, the size at age of older age classes (3 to 5 years in the ocean) has decreased, while the sizes of younger age classes (1 to 2 years in the ocean) have increased (Ohlberger *et al.*, 2018). The SRT analyzed the missed escapement goals and evidence of decreasing size and age at maturity, potential threats specifically identified in the petition and 90-day finding, and found that these measures of productivity remain within the range for viable populations. We agree.

The SEGOA ESU demonstrates broad spatial distribution with spawning populations in numerous rivers and creeks throughout Southeast Alaska.

Seasonally, immature fish from this ESU are distributed throughout the GOA and Bering Sea. Genetic data generally support four primary groupings within the ESU: Chilkat River, King Salmon River, Taku and Stikine Rivers, and the short, coastal streams in southern Southeast Alaska. In general, population structure follows an isolation by distance pattern and is organized hierarchically by major river systems. The SRT found, and we agree, that spatial distribution is unlikely to contribute significantly to, and is likely a buffer against, the ESU's risk of extinction.

The SEGOA ESU demonstrates high genetic diversity. Despite genetic isolation among some rivers, there is limited evidence of reduced genetic diversity in stocks. For example, while the King Salmon River stock displays relatively lower genetic diversity, this is consistent with a small, stable population size across many generations. Thus, concerns regarding reductions in genetic diversity or inbreeding are minimal. Habitat diversity is also high. Some populations occupy shorter, coastal streams, while others occur in rivers that traverse the coastal mountain range. Spawning populations in the Taku and Stikine rivers are found in upland plateaus. This diversity makes it highly unlikely that a single catastrophe could impact the entire ESU. Therefore, the SRT found, and we agree, that diversity is unlikely to contribute significantly to, and is likely a buffer against, the ESU's risk of extinction.

Central Gulf of Alaska ESU

The CGOA ESU exhibits a large total abundance. Using mixed stock analyses, Larson *et al.* (2013) estimated a total stock size of 89,000 salmon in Copper, Situk, and Alsek Rivers. The SRT estimated a minimum annual return of 103,865 wild adult Chinook salmon. The ESU includes three indicator stocks with run size data for each. Trends in abundance indicate an overall stable population trajectory, with no strong evidence of sustained declines across the ESU. Evaluating escapement and run size for each stock, the SRT found little support for sustained, long-term declines (*i.e.*, the 50 and 90 percent credible intervals overlapped with zero). The largest stock, Copper River, has exhibited increasing escapement over multiple decades. Short-term analyses of the Alsek and Situk stocks indicate reductions since the early 2000s; however, recent abundance estimates are similar to long-term median values. A notable characteristic of the CGOA ESU is the lack of strong interannual

synchrony among stocks for both escapement and run size.

To evaluate productivity, the SRT first considered escapement. As described above, the data do not support a long-term, sustained decline in escapement for the ESU. Similar to the SEGOA ESU, mean age and size-at-age have declined over the past 20–25 years (Lewis *et al.*, 2015; Ohlberger *et al.*, 2018; Oke *et al.*, 2020). After analyzing missed escapement goals and evidence of decreasing size and age at maturity, the SRT concluded that productivity remains within the range for a viable population. We agree.

The CGOA ESU demonstrates broad, albeit patchy, spatial distribution. This has led to significant population structure within the ESU. Populations spawn in the upper, middle, and lower Copper River, which are genetically differentiated. While the Alsek stock is genetically similar to the lower Copper River populations, the Situk stock is genetically unique. The Situk and Alsek stocks were likely recently colonized, possibly as glaciers shifted. The SRT found, and we agree, that spatial distribution is unlikely to contribute significantly to, and is likely a buffer against, the ESU's risk of extinction.

Although smaller and with fewer stocks than the other two ESUs, the CGOA ESU exhibits high diversity. Spawning habitats range from recently deglaciated rivers in rugged mountainous terrain to upland highlands draining tundra. Its life history characteristics are also diverse. The Situk River stock is the only population in Alaska composed primarily of ocean-type Chinook salmon. Genetic diversity includes fine-scale adaptive variation among Copper River populations. This diversity makes it highly unlikely that a single catastrophe could impact the entire ESU. Therefore, the SRT found, and we agree, that diversity is unlikely to contribute significantly to, and is likely a buffer against, the ESU's risk of extinction.

Northwest Gulf of Alaska ESU

The NWGOA ESU exhibits a large total abundance. Using mixed stock analyses, Larson *et al.* (2013) estimated a total stock size of 131,000 salmon in the South Peninsula and Cook Inlet. The SRT estimated a minimum annual return of 103,865 wild adult Chinook salmon. The ESU includes 19 indicator stocks with run size data available for 10 of them.

Run size and escapement data provide evidence for long-term declines in several stocks of the NWGOA ESU. For these stocks, the 95 percent credible

intervals overlapped with zero, but the 50% credible intervals were negative. Short-term analyses indicate that many stocks, including Alexander Creek, Deshka River, Theodore River, Ninilchik River, and Karluk River, have experienced significant reductions in escapement in recent decades. Similarly, declines in run size have been observed in several stocks, including the Anchor River, Kenai River (early and late runs), East Susitna, Talkeetna, and Yentna Rivers. While these declines have persisted over multiple 15-year periods, some stocks show signs of stabilization, though at lower abundance levels than historical averages. The degree of decline varies by system, with some stocks exhibiting gradual reductions while others have shown more abrupt decreases, particularly in the early 2000s. There is some synchrony (*i.e.*, correlation among run size and/or escapement trends) among stocks. The SRT expressed concern over abundance trends in this ESU. However, the declining trend is buffered by the number of stocks (19) and the overall large abundance of the ESU. For these reasons, the SRT concluded, and we agree, that abundance is unlikely to contribute significantly to the ESU's risk of extinction now or in the foreseeable future. The SRT found that the small abundance of Theodore River may significantly influence the long-term persistence of this stock. However, this stock is small and is geographically located near 12 other stocks in the Upper Cook Inlet. Therefore, this stock did not substantially influence or determine the SRT's risk assessment for the abundance of the NWGOA ESU as a whole.

To evaluate productivity, the SRT first considered escapement. As described above, the data indicate a long-term, sustained decline in escapement for multiple stocks within the ESU. Similar to the other ESUs, mean age and size-at-age have declined over the past 20–25 years (Lewis *et al.*, 2015; Ohlberger *et al.*, 2018; Oke *et al.*, 2020). Although missed escapement goals and shifts toward smaller, younger fish indicate reduced productivity, the magnitude and nature of these changes are not consistent with conditions that would place the ESU at risk of extinction. Escapement goals are designed to optimize yield rather than define viability thresholds, and thus viable populations may miss escapement goals repeatedly without necessarily reaching the point of elevated risk of extinction. Accordingly, the SRT concluded based on both current numbers and observed

trends in escapement that population viability is not threatened within the foreseeable future. We agree.

The NWGOA ESU demonstrates broad spatial distribution. It occurs in numerous rivers and creeks, across multiple major watersheds (Susitna, Kenai, Karluk, Chignik), and throughout Cook Inlet, the Kenai and South Alaska Peninsulas, and Kodiak Island. Seasonally, immature fish from this ESU are distributed throughout the GOA and eastern Bering Sea. Genetic data generally indicate three primary groupings within the ESU: South Alaska Peninsula and Kodiak Island, northern Cook Inlet, and Kenai Peninsula. There may be additional population sub-structuring within these groups. The SRT found, and we agree, that spatial distribution is unlikely to contribute significantly to, and is likely a buffer against, the ESU's risk of extinction.

The NWGOA ESU demonstrates high genetic diversity. There is also temporal diversity in run timing. The Kenai Peninsula group contains some late run populations in the Kenai and Kasilof Rivers that spawn 4 to 6 weeks later than other populations in these systems. Habitat diversity is also high. Populations on the South Alaska Peninsula inhabit rugged coastal rivers that drain from mountainous regions and contain large lakes. Populations in northern Cook Inlet inhabit a myriad of low-lying coastal streams or tributaries. This diversity makes it highly unlikely that a single catastrophe could impact the entire ESU. Therefore, the SRT found, and we agree, that diversity is unlikely to contribute significantly to, and is likely a buffer against, the ESU's risk of extinction.

Analysis of Section 4(a)(1) Factors

As described above, section 4(a)(1) of the ESA and NMFS' implementing regulations (50 CFR 424.11(c)) state that we must determine whether a species is endangered or threatened because of any one or a combination of the following factors: the present or threatened destruction, modification, or curtailment of its habitat or range; overutilization for commercial, recreational, scientific, or educational purposes; disease or predation; the inadequacy of existing regulatory mechanisms; or other natural or manmade factors affecting its continued existence. The SRT evaluated whether and the extent to which each of the foregoing factors contributes to the overall extinction risk of the GOA chinook salmon ESUs. The SRT summarized their conclusions for each ESU and each stock in the risk matrix results. See Status Review Report. This

informed our conclusions about whether the ESUs are threatened or endangered because of any one or a combination of these factors.

The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range

In all three ESUs, a large portion of land is protected at the state or Federal level, ranging from approximately 40 to 80 percent, depending on the ESU. Due to these protections and the regulatory measures described below, many habitats in the corresponding watersheds are in good condition. Therefore, much of the ESUs' habitat remains intact and, given existing regulatory mechanisms, is expected to remain so in the foreseeable future.

To assess present and threatened modification of habitat, the SRT focused on human activities that can have adverse impacts on the different life history stages of Chinook salmon in watersheds within the boundaries of the three ESUs. The intensity of the various activities differs among ESUs, though the impacts are largely the same. In particular, the SRT quantified land use (timber harvest, agriculture, oil and gas extraction, and mining) and urbanization (including proximity to cities, population size, roads and culverts, and dams) that may negatively impact the ESUs and their habitat at present and through the foreseeable future (GOA Chinook SRT 2026).

Although not at a large scale, timber harvest occurs in the ranges of all three ESUs. Some of the primary concerns associated with timber harvest are erosion, removal of streamside vegetation, water quality degradation, and the construction of roads and culverts (Limpinsel *et al.*, 2023). Impacts may include smothering salmon eggs, impeding fish passage, altering stream temperature, or reducing in-stream habitat complexity (Limpinsel *et al.*, 2023). However, the Alaska Forest Resources and Practices Act and the U.S. Forest Service plans for the Tongass and Chugach National Forests aim to minimize the impacts of timber harvest on fish habitat. These laws and guidelines include designing roads and culverts in ways that minimize impacts to streams, preserving vegetated buffers along streams, and reforestation (USDA 2016; USDA 2020; ADNR 2017). The SRT found that land use for active timber harvest is less than 0.01 percent in SEGOA habitat and less than 0.1 percent in NWGOA habitat. There is no active timber harvest in CGOA habitat. Given the minimal exposure to timber harvest and guidelines in place to reduce impacts to Chinook habitat, we

find timber harvest to be a low risk to habitat for all three ESUs.

Mining also occurs in the ranges of all three ESUs. Mines may negatively impact water quality, including through the leaching of heavy metals and other contaminants into river systems (Sergeant *et al.*, 2022). Active mines are limited in each ESU such that the ESU-wide risk from any localized reduction in water quality is considered minimal. Additionally, most mines are not located near Chinook-bearing streams, and there are regulations in place to reduce the impact of mining on fish habitat. Thus, we find mining to be a low risk to habitat for all three ESUs.

Two more land uses with potential impacts are agriculture and oil and gas extraction. These land uses are found only in the NWGOA watersheds and are not present in the CGOA or SEGOA watersheds. Agricultural areas can lead to both physical habitat loss and reductions in water quality (Limpinsel *et al.*, 2023) but are minimal throughout the state and primarily concentrated in the Matanuska-Susitna Valley and some parts of the Kenai Peninsula in the NWGOA. Oil and gas extraction can lead to habitat alteration and pollution (Limpinsel *et al.*, 2023), but these activities are limited to Cook Inlet in the NWGOA. Due to their absence in the CGOA and SEGOA ESUs, the SRT found that agriculture and oil and gas extraction poses no risk to habitat for these ESUs. While these land-uses do occur in the NWGOA, they are limited in magnitude and spatially-restricted. Thus, agriculture and oil and gas extraction pose a low risk to habitat for the NWGOA ESU.

Multiple aspects of urbanization present threats to fish and fish habitat, including physical loss of habitat and increased runoff from impervious surfaces, often containing pollutants (McCarthy *et al.*, 2008; Limpinsel *et al.*, 2023). Road development extends these impacts from impervious surfaces and is also associated with the construction of culverts that may block or impede fish passage (Limpinsel *et al.*, 2023). Dams, including hydropower facilities, may also block or impede fish passage, in addition to altering flow and water temperature (Limpinsel *et al.*, 2023). While large areas of land in the ranges of all three ESUs remain undeveloped or minimally developed, the NWGOA ESU experiences significantly more impacts from urbanization in comparison to the SEGOA and CGOA ESUs. However, even within NWGOA habitat, increased urbanization impacts remain limited to a few systems in the Cook Inlet area, and habitat within the ESU as a whole is largely intact.

As described in detail in the Status Review Report, and summarized here, the SRT reviewed all present or threatened impacts to the ESUs' habitat and range. The SRT reviewed such impacts for each stock and overall for each ESU. The data demonstrate that exposure to such threats is limited due to the limited development across the broad spatial distribution of each ESU. Each ESU retains predominantly intact habitats such that potential impacts to the ESU have not materialized and are not likely to materialize in the foreseeable future. Therefore, the SRT found it unlikely that habitat threats contribute significantly to each ESU's extinction risk, now or in the foreseeable future. We agree that the present or threatened destruction, modification, or curtailment of each ESU's habitat or range is a low-level threat.

Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

For this review, the SRT analyzed 133 years (1890–2022) of GOA Chinook salmon harvest estimates (GOA Chinook SRT 2026). Since marine harvests are often mixed stocks, stock-specific estimates were derived by subtracting spawning escapement from total run size. Historical harvest levels are strongly influenced by regulations and management actions, meaning harvest levels do not necessarily indicate overall stock abundance or health.

Harvests occur across various fisheries (commercial, recreational, subsistence, *etc.*) and are conducted using multiple methods (*e.g.*, purse seine, gillnet, troll). Contemporary data comes from ADF&G reports and databases, reports on bycatch in federally managed groundfish fisheries, and the Cook Inlet EEZ Area fishery (since 2024). Data are largely collected by ADF&G and attributed to their management areas, which do not align with the ESUs identified herein, so the SRT focused on stock-specific data that could be attributed to stocks within the ESUs. These data represent the best available scientific and commercial information.

Overall, for the time series, the mean annual harvest of GOA Chinook salmon was 423,484 fish, the median harvest was 410,237 fish, and the average harvest over the last 10 years was 434,081 fish. The maximum harvest was 992,000 fish in 1937, and the minimum was 0 fish harvested in 1892. Overall, harvests appear to be variable but stable (neither increasing nor decreasing) since the 1960s. Commercial catch accounts for the majority of the harvest, followed

by sport, groundfish bycatch, and subsistence. The SRT estimated harvest for each stock for which both run size and escapement data were available. See the Status Review Report for stock-level results.

Southeast Gulf of Alaska ESU Harvest

Chinook salmon harvest estimates for stocks associated with the SEGOA ESU are complex, involving a mixture of stocks from Alaska, British Columbia, Washington, and Oregon, as well as various gear types and fisheries within ADF&G's Southeast Alaska Region. Available data varies, with some reports providing total estimated Chinook harvests by fishery (*e.g.*, Hagerman *et al.*, 2022) and others offering stock-specific breakouts for SEGOA and non-SEGOA stocks (Peterson *et al.*, 2024). The SRT focused on stock-specific harvest estimates for the nine indicator stocks representative of the 25 known Chinook stocks in the SEGOA ESU, noting that these estimates are confined to large fish or a specific size/age class, consistent with escapement goals. For untagged stocks, surrogate harvest rates from nearby hatcheries, such as the ACI (Andrew Creek/King Salmon River) and AKB (Blossom/Chickamin/Keta Rivers) indicators produced by the Pacific Salmon Commission Chinook Technical Committee, are used for run reconstruction, where total run is calculated as escapement divided by the mature run equivalent exploitation rate, with adjustments for differences between hatchery indicators and wild stocks.

Central Gulf of Alaska ESU Harvest

Historical harvest information for Chinook salmon associated with the CGOA ESU, focused on the three indicator stocks: the Alsek, Situk, and Copper Rivers. The Alsek and Situk rivers drain into the marine waters of ADF&G's Yakutat Management Area, part of ADF&G's Southeast Alaska Region. The Copper River drains into the marine waters of ADF&G's Copper River District, which is part of ADF&G's Central Region (encompassing Prince William Sound, Cook Inlet, and Bristol Bay management areas).

Northwest Gulf of Alaska ESU Harvest

The SRT provides Chinook salmon harvest estimates for the NWGOA ESU, which encompasses indicator stocks and associated harvests in ADF&G's Central Region and Westward Region. The NWGOA ESU includes ten Chinook salmon indicator stocks, but the disparate management boundaries used by ADF&G's Divisions of Sport and Commercial Fisheries, such as the

Commercial Fisheries Division's Central Region versus the Sport Fish Division's larger Southcentral Region, complicate harvest reporting. Nevertheless, this assessment attempts to compile complete harvests across all management boundaries and fisheries.

Summary of Gulf of Alaska ESU Harvest Trends

Across ESUs, estimates of stock-specific Chinook salmon harvests and harvest rates (harvest relative to total run size) have generally declined in recent years, when compared to historical rates, likely as management actions have restricted fisheries in response to lower levels of Chinook salmon abundance. However, for some stocks in the SEGOA ESU, harvest rates have been relatively high during the last decade (see section 7.3 of the Status Review Report).

Bycatch

Chinook salmon originating from the GOA are caught incidentally in the GOA and Bering Sea and Aleutian Islands (BSAI) Federal groundfish fisheries, especially in the pollock pelagic trawl fishery. Salmon are considered a prohibited species catch (PSC) in groundfish fisheries, and cannot be retained for sale or personal use (50 CFR 679.7; 50 CFR 679.21). These fish are counted and sampled by fisheries observers (none are released), and some are retained for seafood donation programs. Nearly all salmon taken as bycatch in these fisheries are Chinook salmon or chum salmon. To limit the amount of bycatch of Chinook salmon, the North Pacific Fishery Management Council (NPFMC) and NMFS have implemented mandatory Chinook salmon PSC limits, apportioned by fishery sector; the attainment of a PSC limit results in the closure of the responsible fishery. Other Chinook bycatch reduction measures in place for the GOA groundfish fisheries include the use of gear modifications (*i.e.*, salmon excluder devices) and incentive plan agreements designed to incentivize vessel operator avoidance of Chinook bycatch.

The estimated average number of GOA-origin Chinook salmon incidentally caught in the Federal Bering Sea (mainly in summer) and GOA groundfish fisheries each year from 2010 to 2023 averaged 1,081 fish (range = 198–2,336) and 3,325 fish (range = 1,633–5,857) respectively. The primary Chinook salmon stocks bycaught in these fisheries between 2011 and 2023 were from the SEGOA and NWGOA ESUs, with annual bycatch averaging 2,755 fish (range =

1,810–4,091) from the SEGOA ESU and 1,416 fish (range = 500–4,333) from the NWGOA ESU. Stocks from the CGOA ESU were rarely encountered in these fisheries (2011–2023 yearly average = 234, range = 35–646). A small number of Chinook salmon originating from the GOA are also caught as bycatch in state-managed non-salmon fisheries (*e.g.*, state-managed trawl fisheries; <1,000 fish annually between 2008 and 2023, with an annual average of 275 fish), and many of those salmon are likely from stocks outside the GOA (ADF&G 2024). Because bycatch rates are low for GOA stocks, we consider impacts of bycatch on abundance and productivity to be limited and thus presents a low risk to each ESU.

Summary of Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

As described in detail in the Status Review Report, and summarized here, the SRT reviewed all available catch and bycatch data for each ESU. Overall, the SRT found that current state and Federal management practices are effective for managing GOA Chinook stocks in a way that mitigates the risk of overutilization (GOA Chinook SRT 2026). Therefore, the SRT found it unlikely that overutilization contributes significantly to each ESU's extinction risk, now or in the foreseeable future. We agree that overutilization is a low-level threat.

Disease and Predation

Disease

Infectious disease is one of many factors that influence adult and juvenile salmon survival. Chinook salmon are exposed to numerous bacterial, fungal, protozoan, viral, and parasitic organisms in spawning and rearing areas, hatcheries, migratory routes, and the marine environment. However, no indigenous or emerging exotic diseases have been identified as threats to Chinook salmon in the GOA (GOA Chinook SRT 2026). Additionally, the State of Alaska has a robust fish health monitoring program and strict protocols to minimize transmission of diseases between hatchery and wild fish, including Chinook salmon (ADF&G 2026).

Predation

Salmon are an integral part of the food web, and predation on salmon naturally occurs at all salmon life stages in both freshwater and marine environments. Predation occurs from a variety of native piscine, avian, and mammalian species. In the marine environment, it has been

hypothesized that the broadly observed demographic changes (*e.g.*, decline in age at maturity) in Chinook salmon could be due to size-selective predation by sharks or marine mammals. However, based on the synthesis of a suite of studies detailed in the Status Review Report, there is no direct evidence that predatory impacts are outside normal ecosystem dynamics and imperiling the long-term existence of GOA Chinook salmon populations.

The introduced northern pike (*Esox lucius*) is the only freshwater predator identified as a potential threat to early life stages of GOA Chinook salmon, but their impact is limited to only certain systems in the NWGOA ESU. Although northern pike have driven declines in the Alexander Creek stock, the state and its partners have multiple management strategies for eradication and suppression, particularly in high-impact areas such as the Kenai Peninsula, Anchorage, and Mat-Su Valley (Dunker *et al.*, 2022). The use of rotenone treatments has increased, and in conjunction with fish salvage programs, native salmonids are being reintroduced into lakes where pike populations have been eradicated. Improved gillnetting strategies, with year-round monitoring efforts, have led to significant reductions in pike densities in targeted lakes. Experimental exclusion barriers are being installed in critical migration corridors to prevent pike from entering high-priority salmon habitats. Long-term monitoring and mitigation efforts are planned to ensure that restored salmon populations remain stable and viable in previously impacted watersheds (Dunker *et al.*, 2022).

The SRT concluded that current state management practices are effective for mitigating the risk of northern pike predation (GOA Chinook SRT 2026). Therefore, the SRT found it unlikely that predation and disease contribute significantly to each ESU's extinction risk, now or in the foreseeable future. We agree that disease and predation are low-level threats.

Inadequacy of Existing Regulatory Mechanisms

Numerous regulatory mechanisms exist to protect GOA Chinook salmon from present and future impacts of threats. The SRT reviewed each of these existing regulatory mechanisms in detail. See Status Review Report. In the paragraphs below, we summarize their findings.

A wide array of Federal, state, Tribal, and local laws, regulations, and treaties currently and effectively address the survival and habitat quality of GOA Chinook salmon. Fisheries management

is primarily conducted by the State of Alaska and is supplemented by state and Federal policies governing subsistence and personal use. Federally, the Magnuson–Stevens Fishery Conservation and Management Act governs marine fisheries, includes provisions to designate Essential Fish Habitat, and requires Federal agencies to consult with NMFS on actions that may impact that habitat. Additionally, Chinook hatchery propagation is guided by state policies aimed at maintaining wild stock genetic integrity, preventing disease spread, and prioritizing wild stock conservation in mixed-stock fisheries.

Land and water management across the GOA region involves significant Federal oversight. The U.S. Forest Service, USFWS, Bureau of Land Management, and National Park Service manage millions of acres that overlap with Chinook watersheds, with management plans that include objectives for fish and fish habitat protection. Federal water regulation is fairly comprehensive, with statutes such as the Clean Water Act and Rivers and Harbors Act providing authority to the U.S. Army Corps of Engineers to regulate activities such as wetland filling, the discharge of dredged material, and construction in navigable waters. Furthermore, the Federal Energy Regulatory Commission regulates non-Federal hydropower under the Federal Power Act, which grants NMFS the authority to issue mandatory prescriptions for fish passage and to recommend other measures to protect anadromous salmon and to improve their habitat.

State and local agencies also play a crucial role in regulating salmon habitat. ADF&G enforces the Anadromous Fish Act, requiring permits for activities in essential anadromous waters. The Alaska Department of Natural Resources (ADNR) administers laws like the Alaska Forest Resources and Protection Act, setting standards for protecting fish habitat and water quality. Locally, many boroughs and the Municipality of Anchorage enforce development setbacks from anadromous streams. On Tribal lands, Alaska Native Claims Settlement Act corporations manage substantial acreage with varied priorities, while Tribal Conservation Districts and Tribes actively work to conserve and restore salmon habitat for cultural and subsistence use. Internationally, the Pacific Salmon Treaty and the Boundary Waters Treaty foster cooperation between the U.S. and Canada on salmon management and transboundary water protection, and the Canadian Environmental Assessment

Acts address large projects in transboundary streams.

The SRT reviewed all existing regulatory mechanisms relevant to GOA Chinook and concluded that none are inadequate to such an extent that they are posing a threat to any of the ESUs. For example, land use regulatory mechanisms reduce the impacts of timber harvest, mining, agriculture, and oil and gas extraction. Fisheries management reduces the impact of overutilization. Northern pike eradication and prevention measures reduce the impact of predation. The extensive proactive management strategies and measures in place to protect and monitor Chinook salmon allow management to respond long before population viability is threatened. Thus, the SRT found it unlikely that the inadequacy of existing regulatory mechanisms contributes significantly to each ESU's extinction risk, now or in the foreseeable future. We agree that this is a low-level threat.

Other Natural or Human Factors Affecting Its Continued Existence

Environmental Variability

Increasing environmental variability observed throughout the range of GOA Chinook salmon is a challenge for maintaining stock productivity and predictability. Trends of increased environmental variability include observations of pronounced changes to hydrologic structures and processes in GOA Chinook salmon freshwater systems, and increased prevalence and severity of marine heatwaves. See the Status Review Report for details. Such trends are likely to continue in the foreseeable future.

Recent climate vulnerability assessments for salmon indicate that some populations exhibit moderate-to-high vulnerability to increased environmental variability, depending on their life history, geographic location, and habitat use (Crozier *et al.*, 2019). Changes in freshwater temperature, flow variability, and marine prey availability all contribute to their vulnerability. Chinook salmon, which exhibit extended freshwater rearing and extensive marine migrations, are considered to be among the more sensitive salmon species (Crozier *et al.*, 2019). The SRT found that environmental variability poses the greatest threat to GOA Chinook of all threats considered, and continued monitoring of environmental changes and responses to these changes in Chinook salmon is warranted. However, the SRT did not find any stock nor any ESU to be at high or moderate risk of

extinction (*i.e.*, now or in the foreseeable future) due to changing environmental conditions. Please see the Status Review Report for details. Below, we summarize their reasoning.

Within the GOA river systems, there have been documented widespread premature mortality of salmon in some years due to high water temperatures and drought conditions (von Biela *et al.*, 2022); however, GOA Chinook salmon were not among these premature mortality observations. It has also been posited that deglaciation may increase available spawning habitat for Alaskan salmon (Pitman *et al.*, 2020; Pitman *et al.*, 2021). Climatic variability is estimated to be more impactful to Alaska stream fishes compared to other anthropogenic stressors (*e.g.*, land use or fire; Murdoch *et al.*, 2020). However, it should be noted that actual hydrologic changes in GOA freshwater landscapes will be impacted by local factors, such as vegetation, fine-scale topography, and wind (Littell *et al.*, 2018); therefore, the timing, magnitude, and ecological consequences of these transitions will vary depending on microclimate, watershed physiography, and elevation. The SRT considered all of these conditions in its risk assessment of each stock and overall for each ESU. While environmental variability has localized impacts in some cases depending on the individual river system, the SRT found it unlikely that environmental variability contributes significantly to each ESU's extinction risk, now or in the foreseeable future. While it will likely increase over time, we agree that this is a low-level threat now and in the foreseeable future.

Hatcheries

Concerns regarding hatchery and wild salmon interactions generally fall into three categories: (1) genetic and epigenetic interactions, (2) spatial competition for freshwater habitat, and (3) competition for food resources (Naish *et al.*, 2008). Typically, the first category references intraspecific interactions, while the latter two categories may refer to either intraspecific or interspecific interactions, particularly with large-scale hatchery releases of pink or chum salmon.

Hatchery-reared salmon populations are at risk of genetic and phenotypic change (Grant 2012). Changes in hatchery-reared salmon can occur through domestication selection, inbreeding, genetic drift, epigenetic modifications, or a combination of these mechanisms. These changes can affect genetic diversity, individual fitness, population productivity, and probability

of extinction (Keller and Walker 2002; Frankham 2005; O'Grady *et al.*, 2006; Kardos *et al.*, 2016). Of the five species of Pacific salmon propagated in Alaska hatcheries, Chinook salmon may be the most vulnerable to hatchery influences due to the extended rearing time typically required before their release into the marine environment. However, the extended rearing time and resources required (e.g., food, water, personnel) also make Chinook the least propagated species of anadromous salmonid in Alaska hatcheries (Wilson 2024). The comparatively low release numbers, coupled with the ADF&G Genetic Policy (Davis *et al.*, 1985), likely reduce the potential for hatchery Chinook to adversely impact wild stocks. However, the degree of risk may vary between ESUs.

Spatial competition or habitat displacement of wild Chinook salmon by hatchery-origin fish during their juvenile, freshwater life history stages are unlikely in the GOA, as hatchery-origin Chinook are released as smolts to begin their marine migration. However, spatial competition or habitat displacement of adult wild Chinook by adult hatchery-origin fish on the spawning grounds may be more likely. Such intraspecific spatial competition has been documented outside of Alaska, particularly in areas where hatchery release (*i.e.*, imprinting) sites are near wild stocks. Interspecific spatial interactions between wild Chinook and more abundant hatchery species, like chum and pink salmon, which have higher stray rates, are also possible. Generally, species-specific redd site requirements, habitat partitioning, and temporal differences in spawn timing reduce the likelihood of this type of interspecific competition (Fukushima and Smoker 1998; Geist *et al.*, 2002; Quinn 2005; Beechie *et al.*, 2008). However, data gaps exist regarding potential intraspecific and interspecific spatial competition, so increased monitoring of localized impacts of stray hatchery fish on wild populations is warranted.

The spread of disease from hatchery fish to wild stocks is also a concern. Within Alaska hatcheries, several management strategies and health policies implemented by ADF&G's Fish/Shellfish Health Program exist to prevent transmission of new pathogens to wild stocks as well as to surveil existing, emerging, and exotic disease agents (ADF&G 2026). The State of Alaska's Fish Health and Disease Control Policy (5 AAC 41.080) is designed to prevent the spread of infectious diseases in fish and shellfish (Evenson *et al.*, 2018). It mandates

rigorous health protocols for hatcheries, including disinfection of salmon eggs transported between watersheds, regular inspections of hatchery facilities, and detailed disease reporting and isolation measures to control disease spread.

The SRT concluded that current state management practices are effective for mitigating risks caused by hatcheries. Therefore, the SRT found it unlikely that hatcheries contribute significantly to each ESU's extinction risk, now or in the foreseeable future. We agree that hatcheries present a low-level threat.

Rangewide Risk of Extinction

Based on the best scientific and commercial data available on each of the demographic and ESA section 4(a)(1) factors, the SRT completed a risk matrix for each stock and ESU. Following the assessment of stock-level demographic factors and threats using this risk matrix approach, each team member independently evaluated the overall extinction risk for each ESU as low, moderate, or high (defined below). To accommodate individual uncertainty and support a representative expression of expert opinion, the team applied the "likelihood point" method, commonly referred to as the Forest Ecosystem Management Assessment Team (FEMAT) approach, based on its use in the FEMAT process (FEMAT 1993). Under this method, each reviewer allocated 10 likelihood points across the 3 risk categories to represent their confidence in the ESU's true status. For example, a reviewer confident in a low-risk classification might assign all 10 points to that category, while a reviewer with greater uncertainty could distribute points across 2 or all 3 categories. This approach has been used in most anadromous Pacific salmonid status reviews since 1999. The three risk levels have been used in prior Pacific Northwest salmonid species reviews with minor wording changes (Stout *et al.*, 2012; Ford 2022; OC and SONCC SRT 2024).

- **High Risk:** A species or ESU with a high risk of extinction is at or near a level of abundance, productivity, spatial structure, and/or diversity that places its continued persistence in question. The demographics of a species or ESU at such a high level of risk may be highly uncertain and strongly influenced by stochastic or compensatory processes. Similarly, a species or ESU may be at high risk of extinction if it faces clear and present threats (e.g., confinement to a small geographic area; imminent destruction, modification, or curtailment of its habitat; or disease epidemic) that are likely to create

imminent and substantial demographic risks.

- **Moderate Risk:** A species or ESU is at moderate risk of extinction if it is on a trajectory that puts it at a high level of extinction risk in the foreseeable future (see description of "High risk" above). A species or ESU may be at moderate risk of extinction due to current and/or projected threats or declining trends in abundance, productivity, spatial structure, or diversity. The appropriate time horizon for evaluating whether a species or ESU is more likely than not to be at high risk in the foreseeable future depends on various case- and species-specific factors. For example, the time horizon may reflect certain life history characteristics (e.g., long generation time or late age-at-maturity) and should also reflect the time frame or rate over which identified threats are likely to impact the biological status of the species or ESU (e.g., the rate of disease spread). The appropriate time horizon is not limited to the period that status can be quantitatively modeled or predicted within predetermined limits of statistical confidence. The biologist (or Team) should, to the extent possible, clearly specify the time horizon over which it has confidence in evaluating moderate risk.

- **Low Risk:** A species or ESU is at low risk of extinction if it is not at moderate or high level of extinction risk (see "Moderate risk" and "High risk" above). A species or ESU may be at low risk of extinction if it is not facing threats that result in declining trends in abundance, productivity, spatial structure, or diversity. A species or ESU at low risk of extinction is likely to show stable or increasing trends in abundance and productivity with connected, diverse populations.

The extinction risk determination reflects the informed professional judgment of each SRT voting member, based on a synthesis of available information. This assessment was structured around a risk matrix framework that integrated demographic risk indicators with anticipated interactions among threats and other relevant factors, now and in the foreseeable future. For a detailed explanation of the risk matrix framework methods, see section 8 in the Status Review Report. The foreseeable future was defined as a period of 25 to 40 years, corresponding to approximately 5 to 8 generations of GOA Chinook salmon. This timeframe extends as far into the future as the SRT could make reasonably reliable predictions about threats to the species and the species' responses to those

threats. The SRT based this timeframe on the availability of comprehensive demographic data for each ESU and the projected impacts of environmental variability, ocean conditions, and freshwater habitat trends on GOA Chinook salmon viability. Further justification of this timeframe can be found in Section 8.2 of the SRT report (GOA Chinook SRT 2026).

Southeast Gulf of Alaska ESU

The SRT concluded, and we agree, that the SEGOA ESU is at low risk of extinction now and for the foreseeable future, throughout its range. Of 90 points total, the SRT assigned 87 points to low extinction risk and three points to moderate extinction risk, reflecting their confidence in this conclusion.

The SEGOA ESU exhibits a large total abundance based on mixed-stock analyses and the minimum estimated annual return of wild adult Chinook salmon. The ESU includes 25 stocks, nine of which have estimated run sizes and escapements in the thousands. These data do not indicate sustained, long-term declines in abundance for the ESU. Many SRT members emphasized that although short-term declines have been observed in certain stocks, these patterns are highly variable, fall within the historical variability, and have either stabilized or begun to rebound in recent years. Productivity has also declined but has remained within limits for viable salmon populations. Further buffering the SEGOA ESU from extinction risk are high spatial distribution and diversity, which includes genetic, habitat, and life history diversity. In conclusion, the risk matrix evaluations across the demographic factors (abundance, productivity, spatial structure, and diversity) were uniformly low.

Next, the SRT considered the threats caused by the ESA section 4(a)(1) factors, individually and combined. They found it unlikely that the ESA section 4(a)(1) factors, individually or combined, contribute significantly to the extinction risk of the ESU. Instead, the SRT found that estuarine and freshwater habitats remained in relatively pristine condition. Hatchery influence, predation, and overutilization occur at low levels. While productivity, habitat quality, and diversity and connectivity among populations were key factors supporting a low-risk determination, several SRT members acknowledged environmental variability as the most pressing emerging threat to this ESU. Concerns included shifts in streamflow patterns, reduced snowpack, increased peak flows, and marine heatwaves, all of which could

negatively impact key life stages. However, these climate-related risks were generally viewed as insufficient to conclude that the ESU is likely to become endangered within the next 25–40 years, alone or in combination with other threats. Some SRT members assigned a small portion of likelihood points to the moderate risk category to reflect uncertainty about future environmental impacts, particularly in glacially influenced systems such as the Taku and Stikine. Nonetheless, SRT members agreed that current management actions, low levels of other threats (e.g., hatchery influence, predation, overutilization), and demographic resilience support the conclusion that this ESU is not in danger of extinction or likely to become so in the foreseeable future, throughout its range.

Central Gulf of Alaska ESU

The SRT concluded, and we agree, that the CGOA ESU is at low risk of extinction now and for the foreseeable future, throughout its range. Of 90 points total, the SRT assigned 87 points to low extinction risk and three points to moderate extinction risk, reflecting their confidence in this conclusion.

The CGOA ESU exhibits a moderately large total abundance based on mixed-stock analyses. The ESU includes three stocks; in addition, the largest stock (Copper River) is composed of numerous metapopulations that provide demographic and spatial resilience. There is little evidence for sustained, long-term declines for the ESU overall. The Copper River stock abundance has been increasing over multiple decades. Short-term analyses of the Alsek and Situk stocks indicated reductions since the early 2000s; however, recent abundance estimates are similar to long-term median values and fall within historical variability. Productivity has also declined but remained within limits for viable salmon populations. Further buffering the CGOA ESU from extinction risk are high spatial distribution and diversity, which includes genetic, habitat, and life history diversity. In conclusion, the risk matrix evaluations across the four demographic factors (abundance, productivity, spatial structure, and diversity) were uniformly low.

Next, the SRT considered the threats caused by the ESA section 4(a)(1) factors, individually and combined. They found it unlikely that the ESA section 4(a)(1) factors, individually or combined, contribute significantly to the extinction risk of the ESU. Instead, the SRT found that habitat conditions remain largely intact. Predation and

overutilization occur at low levels. While the overall risk was low, several SRT members acknowledged environmental variability as the most pressing emerging threat to this ESU, particularly related to environmental variability and potential ecological isolation among populations. Environmental-related concerns included altered hydrology, warming stream temperatures, and changing marine conditions, which may impact key life stages and reduce productivity over time, but not to the point of endangering the ESU within the foreseeable future. Some SRT members assigned some points to the moderate-risk category, citing environmental variability and past declines as justification for acknowledging uncertainty about the ESU's long-term trajectory. Additionally, concerns were noted about limited buffering capacity due to the isolation of populations and potential ecological risks from hatchery programs. However, these factors were generally not considered sufficient to elevate the extinction risk above the low category due to low levels of all factors, considered alone or in combination. Within this ESU, high levels of diversity and habitat intactness, combined with recently stable or increasing trends in abundance and productivity, support the conclusion that this ESU is not in danger of extinction or likely to become so in the foreseeable future, throughout its range.

Northwest Gulf of Alaska ESU

The SRT concluded, and we agree, that the NWGOA ESU is at low risk of extinction now and for the foreseeable future, throughout its range. Of 90 points total, the SRT assigned 75 points to low extinction risk and 15 points to moderate extinction risk, reflecting their confidence in this conclusion, which is slightly lower than their confidence in the conclusions for the other ESUs.

The NWGOA ESU exhibits the largest total abundance of all GOA ESUs based on mixed-stock analyses and the minimum estimated annual return of wild adult Chinook salmon. The ESU includes 19 stocks, most of which have estimated run sizes and escapements in the thousands. There is moderate evidence (negative 50 percent confidence intervals, but the 95 percent confidence intervals overlap with zero) for declines in multiple stocks within the ESU. Some stocks also exhibit signs of demographic stress. Despite these declines, abundance, productivity, spatial structure, and diversity all remain high, providing resilience and buffering against future threats. With one exception (abundance in Theodore

River, a small stock in Upper Cook Inlet), the risk matrix evaluations across the four demographic factors (abundance, productivity, spatial structure, and diversity) were low.

Next, the SRT considered the threats caused by the ESA section 4(a)(1) factors, individually and combined. Environmental variability was identified as the most prominent overarching threat to the ESU, with additional cumulative stressors including predation by invasive northern pike, habitat impacts associated with urban development, and ecological risks from hatchery interactions, particularly in Cook Inlet and other road-accessible watersheds.

While these risks warrant continued attention within the NWGOA ESU, there are numerous measures in place that mitigate them. Within Cook Inlet, the state has management strategies for controlling the expansion of the northern pike, an escapement-based management approach for addressing demographic stress, and habitat protections for urbanization impacts. These risks, mitigated by current actions, do not rise to a level that would place the ESU beyond the low-risk category. The SRT's inclusion of a few moderate-risk points reflects some uncertainty regarding the level of risk posed by demographic stress and the *potential* for cumulative threats to influence long-term outcomes within the foreseeable future of 25 to 40 years. Overall, the SRT's assessment reflects a low extinction risk for the NWGOA Chinook salmon ESU throughout its range. Within this ESU, high abundance, productivity, spatial structure, and diversity in addition to ongoing monitoring, threat mitigation, and proactive management support the conclusion that this ESU is not in danger of extinction or likely to become so in the foreseeable future, throughout its range.

Significant Portion of Its Range Analysis

As noted above, the definitions of threatened and endangered species contain the phrase: throughout all or a significant portion of its range (SPR). This phrase provides two independent bases for listing: a species may be endangered or threatened throughout all of its range or a species may be endangered or threatened throughout a SPR. Thus, in construing the statutory definitions of threatened and endangered species, NMFS is required to give independent meaning to the SPR phrase to avoid rendering it superfluous to the "throughout all" language (*see*

Defenders of Wildlife v. Norton, 258 F.3d 1136, 1141–45 (9th Cir. 2001)).

A joint USFWS–NMFS policy, finalized in 2014, provided the Services' interpretation of the SPR phrase (SPR Policy; 79 FR 37578, July 1, 2014). It explains that we will use the same standards and methodology to determine whether a species is endangered or threatened throughout a portion of its range that we use to determine if a species is endangered or threatened throughout its range. Further, depending on the case, it might be more efficient for us to address the significance question or the status question first. Regardless of which question we choose to address first, if we reach a negative answer with respect to either question, we do not need to evaluate the other question for that portion of the species' range. In other words, if we determine that a portion of the range is not significant, we will not need to determine whether the species is endangered or threatened there; if we determine that the species is not endangered or threatened in a portion of its range, we will not need to determine if that portion was significant.

Courts have held that the threshold definition of significant contained in the SPR Policy was invalid, stating it set too high a standard to allow for an independent basis for listing species—*i.e.*, it did not give independent meaning to the phrase "throughout . . . a significant portion of its range" (*see, e.g., Center for Biological Diversity, et al. v. Jewell*, 248 F. Supp. 3d 946, 958 (D. Ariz. 2017); *Desert Survivors v. Dep't of the Interior*, 321 F. Supp. 3d 1011, 1069–74 (N.D. Cal. 2018)). However, those courts did not take issue with the fundamental approach of evaluating significance in terms of the biological significance of a particular portion of the range to the overall species. NMFS did not rely on the definition of significant in the SPR Policy when making this 12-month finding. While certain other aspects of the SPR Policy have also been addressed by courts, the policy framework and key elements remain in place, and until the policy is withdrawn, we apply those aspects of it that remain valid.

For salmonids, status reviews generally include detailed population- or subpopulation-level assessments to inform the rangewide extinction risk determination. In these cases, the SPR analysis draws directly from that foundational work, using population-level data to assess whether any portion of the range may independently meet the criteria for listing as threatened or endangered. In other words, the individual stocks within the ESUs

comprised the portions that were assessed during the SPR analysis. The SRT took guidance for this process from other recent NMFS salmon status reviews (*e.g.*, OC and SONCC SRT 2024).

Following the determination of the overall ESU level risk for all three GOA Chinook salmon ESUs, the SRT analyzed individual stocks comprising each ESU as portions to evaluate in the SPR analysis. The SRT used the risk matrix approach, evaluating the demographic and section 4(a)(1) factors for each stock. All factors were found to pose low-level threats or risks, except for one small stock (Theodore River) at one factor (abundance). The SRT found that the low abundance of this stock contributes to its long-term risk of extinction (*i.e.*, moderate score); however, all other factors fell into the low-risk category, and thus this stock was rated at low-risk for extinction overall. Therefore, the SRT concluded that the Chinook in this portion of the ESU's range are at low risk of extinction now and within the foreseeable future. We agree with this conclusion and find that the NWGOA ESU is not in danger of extinction, or likely to become so in the foreseeable future, throughout any significant portions of its range. Based on our review of the SRT's assessment, we also conclude that the SEGOA and CGOA ESUs are not at risk of extinction, or likely to become so in the foreseeable future, throughout any significant portions of their ranges.

Peer Review

In December 2004, the Office of Management and Budget (OMB) issued a Final Information Quality Bulletin for Peer Review (M–05–03; December 16, 2004) establishing minimum peer review standards, a transparent process for public disclosure of peer review planning, and opportunities for public participation. The OMB Bulletin, implemented under the Information Quality Act (Pub. L. 106–554), is intended to enhance the quality and credibility of the Federal government's scientific information, and applies to influential or highly influential scientific information disseminated on or after June 16, 2005. To satisfy our requirements under the OMB Bulletin, we solicited independent peer review comments on the draft Status Review Report from four scientists selected from the academic and scientific community with expertise in conservation biology, salmonid genetics, stock assessment, and Chinook salmon biology. All peer review comments on the Status Review Report were addressed prior to dissemination of the final version of the

report that was referenced for this 12-month finding. The peer review report can be found online at: <https://www.noaa.gov/information-technology/biological-status-of-gulf-of-alaska-chinook-salmon>.

Final Determination

Section 4(b)(1) of the ESA requires that we make listing determinations based solely on the best scientific and commercial data available after conducting a review of the status of the species and taking into account those efforts, if any, being made by any state or foreign nation, or political subdivisions thereof, to protect and conserve the species. We have independently reviewed the best scientific and commercial information available, including the petition, public comments submitted on the 90-day finding, the Status Review Report (GOA Chinook SRT 2026), and other published and unpublished information, and have consulted with species experts and individuals familiar with GOA Chinook salmon.

After reviewing the SRT's analysis of reproductive isolation and evolutionary legacy according to the ESU Policy, we identify three ESUs: SEGOA, CGOA, and NWGOA. For each of the three ESUs, we assessed the four demographic factors: abundance, productivity, spatial distribution, and diversity. We then evaluated each ESU to determine whether it is endangered or threatened because of any one or a combination of the ESA section 4(a)(1) factors. Despite some declines in abundance and productivity, the ESUs exhibit large overall population sizes spread across multiple stocks, viable levels of productivity, broad spatial distributions, and high diversity. As described in the Status Review Report, the habitat of GOA Chinook salmon in all three ESUs remains undeveloped or minimally developed. While the NWGOA ESU experiences more impacts from urbanization than other ESUs, increased urbanization impacts are limited to a few systems in the Cook Inlet area, and habitat within the ESU as a whole is largely intact. Across the three ESUs, current state and Federal management practices specific to harvest and bycatch are effective for managing GOA Chinook stocks in a way that mitigates the risk of overutilization. No indigenous or emerging exotic diseases have been identified as major threats to Chinook salmon in the GOA, and the State of Alaska maintains a robust fish health surveillance program. Predation on GOA Chinook salmon is considered to be within normal ecosystem dynamics, with the exception of invasive northern

pike, which is limited to only a few systems in the NWGOA. Comprehensive regulatory mechanisms enforced by Federal, state, and Tribal entities, as well as laws and regulations at the local level, currently and effectively address the harvest, northern pike predation pressure, and habitat quality of GOA Chinook salmon. Other human factors, *e.g.*, risks posed by hatchery interactions, are controlled and well-mitigated through established policies and protocols implemented by the State of Alaska. Natural factors, specifically environmental variability, pose a threat to GOA Chinook salmon, and there is uncertainty about future environmental conditions. However, GOA Chinook salmon are ecologically resilient, and fluctuations in abundance and productivity levels are expected for salmon. Stocks in the SEGOA ESU have experienced short-term and highly variable declines, which have stabilized or have begun to rebound in recent years. High quality habitat as well as the high abundance, productivity, spatial distribution, and diversity indicate long-term population viability in this ESU. The CGOA ESU shows an overall stable population trajectory, without evidence of sustained declines. Additionally, high quality, intact habitat and high levels of spatial distribution and diversity support long-term population viability in this ESU. The NWGOA ESU has experienced multiple periods of persistent declines and is currently at lower abundances than historical averages. However, some stocks are showing signs of stabilization. While additional stressors impact the NWGOA ESU, such as predation by invasive northern pike and increased urban development, these stressors are mitigated by dedicated management actions that are likely to continue into the foreseeable future. Large abundance, spatial connectivity, robust spatial structure and diversity, and broad geographic distribution in conjunction with established proactive management strategies, monitoring protocols, and habitat protections support the long-term population viability of this ESU. Therefore, we find that the ESA section 4(a)(1) factors, collectively and individually, present a low extinction risk to the SEGOA, CGOA, and NWGOA ESUs of Chinook salmon.

Within each of the three ESUs, we did not find any portion of the range that was both significant and had a high or moderate risk of extinction (*i.e.*, at risk of extinction now or in the foreseeable future). Based on the best available scientific and commercial information, we conclude that the SEGOA, CGOA,

and NWGOA ESUs of GOA Chinook salmon are not in danger of extinction throughout all or a significant portion of their ranges, nor likely to become so within the foreseeable future. Therefore, the SEGOA, CGOA, and NWGOA ESUs do not meet the definition of an endangered or threatened species and do not warrant listing under the ESA.

This is a final action, and, therefore, we are not soliciting public comments.

References

A complete list of all references cited herein is available online (see **ADDRESSES**) and upon request (see **FOR FURTHER INFORMATION CONTACT**).

Authority: The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: May 12, 2026.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

[FR Doc. 2026–09665 Filed 5–13–26; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XF609]

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental To Research, Monitoring, and Management Activities on the South Farallon Islands, Farallon Islands National Wildlife Refuge, California

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 the U.S. Fish and Wildlife Service, Farallon Islands National Wildlife Refuge (USFWS Refuge) for authorization to take marine mammals incidental to research, monitoring, and management activities on the South Farallon Islands, Farallon Islands National Wildlife Refuge, California (CA). 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, 1-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 June 15, 2026.

ADDRESSES: Comments should be addressed to the Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service, and should be submitted via email to ITP.Graham@noaa.gov. 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.

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 <https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-research-and-other-activities> without change. All personal identifying information (e.g., name, address) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information.

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

SUPPLEMENTARY INFORMATION:

Background

The MMPA prohibits the “take” of marine mammals, with certain exceptions. Section 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) directs 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; 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 as “mitigation”); and requirements pertaining to the monitoring and reporting of the takings. The definitions of all applicable MMPA statutory terms used above are included in the relevant sections below (see also 16 U.S.C. 1362; 50 CFR 216.3, 216.103).

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 NAO 216-6A, which do not individually or cumulatively have the potential for significant impacts on the quality of the human environment and for which we have not identified any extraordinary circumstances that would preclude this categorical exclusion. Accordingly, NMFS has preliminarily determined that the issuance of the proposed IHA qualifies to be categorically excluded from further NEPA review.

Summary of Request

On March 14, 2026, NMFS received a request from the USFWS Refuge for an IHA to take marine mammals incidental to research, monitoring, and management activities on the South Farallon Islands, Farallon Islands National Wildlife Refuge off San Francisco, CA. Following NMFS’ review of the application, the USFWS Refuge submitted a revised, adequate and complete version on April 9, 2026. The USFWS Refuge’s request is for authorization of the take of five species of marine mammals by Level B

harassment only. Neither the USFWS Refuge nor NMFS expect serious injury or mortality to result from this activity, and, therefore, an IHA is appropriate.

NMFS previously issued an IHA to the USFWS Refuge for similar work from September 10, 2025, through September 9, 2026 (90 FR 42750). To date, the USFWS Refuge has complied with all requirements (e.g., mitigation, monitoring, and reporting) of the previous IHA, and information on the monitoring results can be found in the Estimated Take section.

Description of Proposed Activities

Overview

The Farallon National Wildlife Refuge consists of several islands designated into four groups: the North Farallons, the Middle Farallons, the South Farallon Islands (the largest group, consisting of Southeast Farallon Island and West End Island), and Noonday Rock. The North Farallons, Middle Farallons, and Noonday Rock were originally designated as the Farallon Refuge by President Theodore Roosevelt in 1909 (Executive Order 1043). In 1969, the South Farallon Islands were given Refuge status. Congress further designated all these islands, except for the Southeast Farallon Island, as the Farallon Wilderness Area in 1974 (Pub. L. 93-550). More information on the history and management of the Refuge can be found in the Farallon National Wildlife Refuge Comprehensive Conservation Plan (USFWS, 2009) and on its website (<https://www.fws.gov/refuge/farallon-islands/what-we-do>).

The Farallon National Wildlife Refuge, managed by the USFWS, is encompassed within the Greater Farallones National Marine Sanctuary (GFNMS or Sanctuary), which is managed separately by NOAA’s National Ocean Service. The GFNMS encompasses 3,295 square miles (mi²) (8,534 square kilometers (km²)) of open ocean and nearshore waters off the California coast, surrounding the Farallon Islands. Originally designated as the Gulf of the Farallones National Marine Sanctuary in 1981 by the Department of Commerce, its boundaries were significantly expanded in 2015 to include waters further north and offshore (80 FR 13077, March 12, 2015).

The proposed activities on the South Farallon Islands are intrinsically linked to the management of the Refuge and the Sanctuary. Since the USFWS Refuge would be the IHA Holder, the research, monitoring, and management activities covered under this proposed IHA would predominantly be carried out by

USFWS Refuge staff. Similar but separate research and monitoring activities would be carried out by Sanctuary staff. For the proposed take estimation discussed later, we distinguish the proposed activities for the GFNMS from those for the USFWS Refuge.

Broadly, activities include several management actions (*i.e.*, island access and transit to and from via small motorboat, sailboat, and helicopter; habitat restoration, facilities upkeep including maintenance, repair, removal, and construction; and cultural resource upkeep) and research and monitoring actions (*i.e.*, rocky intertidal habitat surveys and sampling, oil spill monitoring). Field personnel and boat/helicopter use may occasionally cause incidental take via behavioral disturbance (Level B harassment) of pinniped species that reside year-round and haul out on the South Farallon Islands.

Dates and Duration

Management and research activities, some of which are commonly performed by Point Blue Conservation Science (Point Blue), typically occur year-round. However, given a recent shift in resource allocation, staff from the USFWS Refuge and GFNMS are assisting Point Blue in some specific research, monitoring, and management activities, while also performing work mandated under their respective laws (*i.e.*, the National Wildlife Refuge System Improvement Act of 1997 (Pub. L. 105–57, 111 Stat. 1252; 16 U.S.C. 668dd *et seq.*) and Title III of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1431 *et seq.* and 15 CFR part 922, subpart H)). The USFWS Refuge and GFNMS are

planning activities primarily for the fall/winter of 2026 to 2027 (September through mid-March).

Specified activities, discussed below, will vary in duration. Island access and resupply efforts, which could be conducted by motorboat or sailboat, are expected to occur about 2 days per month and typically last 1 to 3 hours. Maintenance efforts, necessary for crevice-nesting seabirds and to serve as a disturbance barrier for seabirds, typically occur every few years and are conducted in the winter when California sea lion (*Zalophus californianus*) numbers are lower. These efforts may require removing excess materials (*e.g.*, old plumbing, electrical conduit, lumber), which are expected to take 1 to 3 days and would require a helicopter or boat. The maintenance, repair, removal, and construction of onshore facilities are expected to take 1 to 2 months of effort, although the effort may be spread over a continuous or non-consecutive period, as this work depends heavily on the contractor and weather. Plant surveys would be conducted over approximately 7 days, sometime between mid-March and early April, and intertidal research and sampling, planned between November 1 and March 15, are expected to last 4 to 5 hours at the survey sites.

Helicopters and small motorized boats/sailboats would be used to transport personnel and supplies on and off the island. Helicopter use would only be from September 1 through March 15 to avoid the breeding season for most of the seabirds and pinnipeds located on the island. Currently, any helicopter use that may be required is planned for October to March to avoid a late-summer surge in California sea lion presence. Boat use is planned when

it is safe to do so (less likely in the fall and winter seasons, as storms make boat landings dangerous), which is more likely in the spring/summertime, but some use in the fall/winter may be needed.

The proposed IHA would be valid for the statutory maximum of 1 year from the date of effectiveness, and would become effective upon written notification from the applicant to NMFS, but not beginning later than 1 year from the date of issuance or extending beyond 2 years from the date of issuance. As noted above, the specified activity is expected to occur from September 10, 2026, through September 9, 2027.

Specific Geographic Region

The Farallon National Wildlife Refuge consists of 211 acres (0.33 mi²) located near the edge of the continental shelf. The proposed project would occur within the South Farallon Islands, which are located approximately 28 miles (mi; 45 kilometers (km)) offshore of San Francisco, CA, and contain an approximate land area of 120 acres (0.19 mi²) across two islands (Southeast Farallon Island and West End Island) and several smaller islets (see figures 1 and 2). Of all the islands that make up the Refuge, only the Southeast Farallon Island is inhabited and contains infrastructure, as nearly all the proposed activities occur on this island. Southeast Farallon Island has two landings, North Landing and East Landing, where pinnipeds are known to haul out and reside year-round. All specified activities, as described herein, will occur on land (with the exceptions of transit via motorboat and/or helicopter, when needed).

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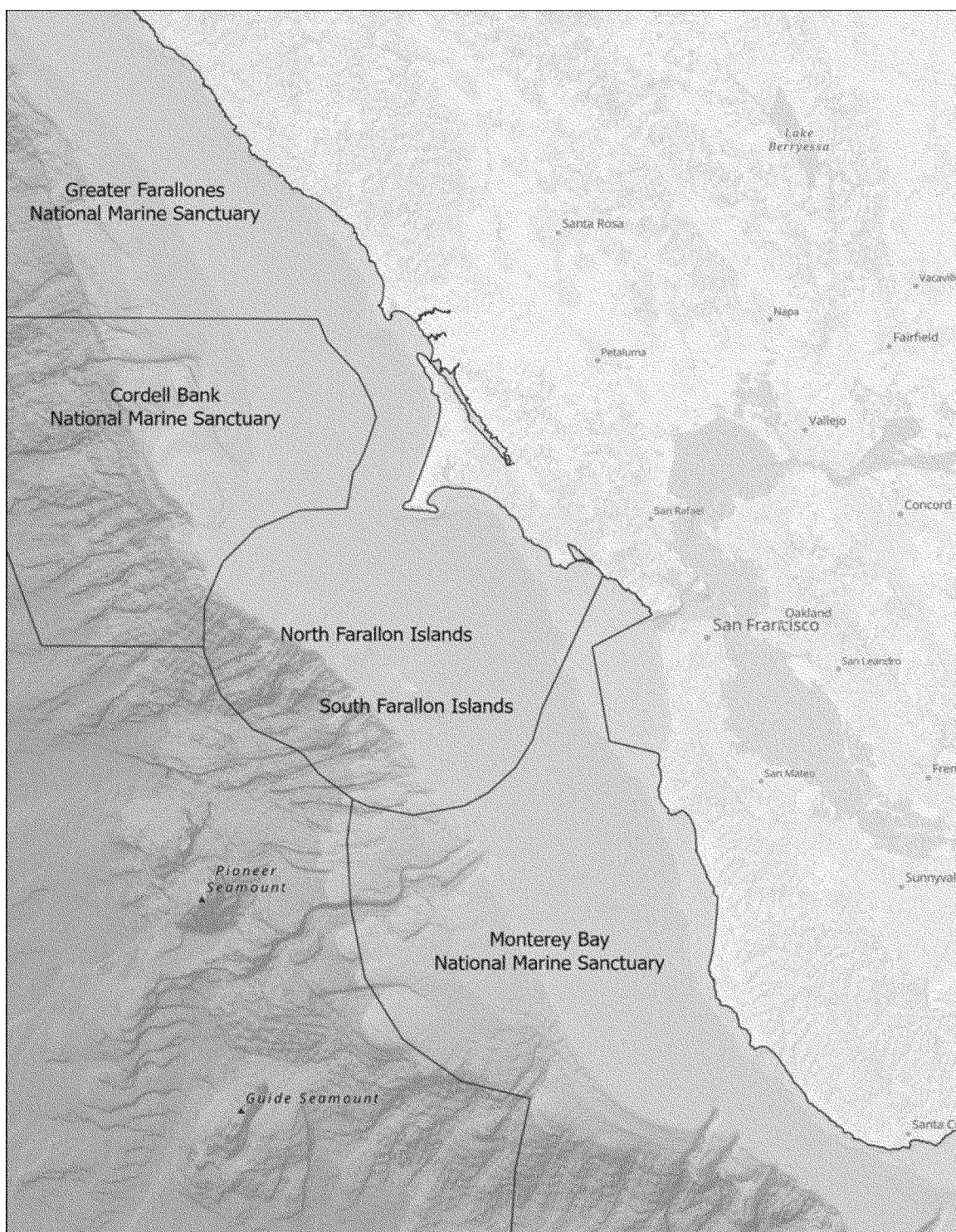


Figure 1 -- Southeast Farallon Island is the southernmost island within the South Farallon Islands Group and within the GFNMS

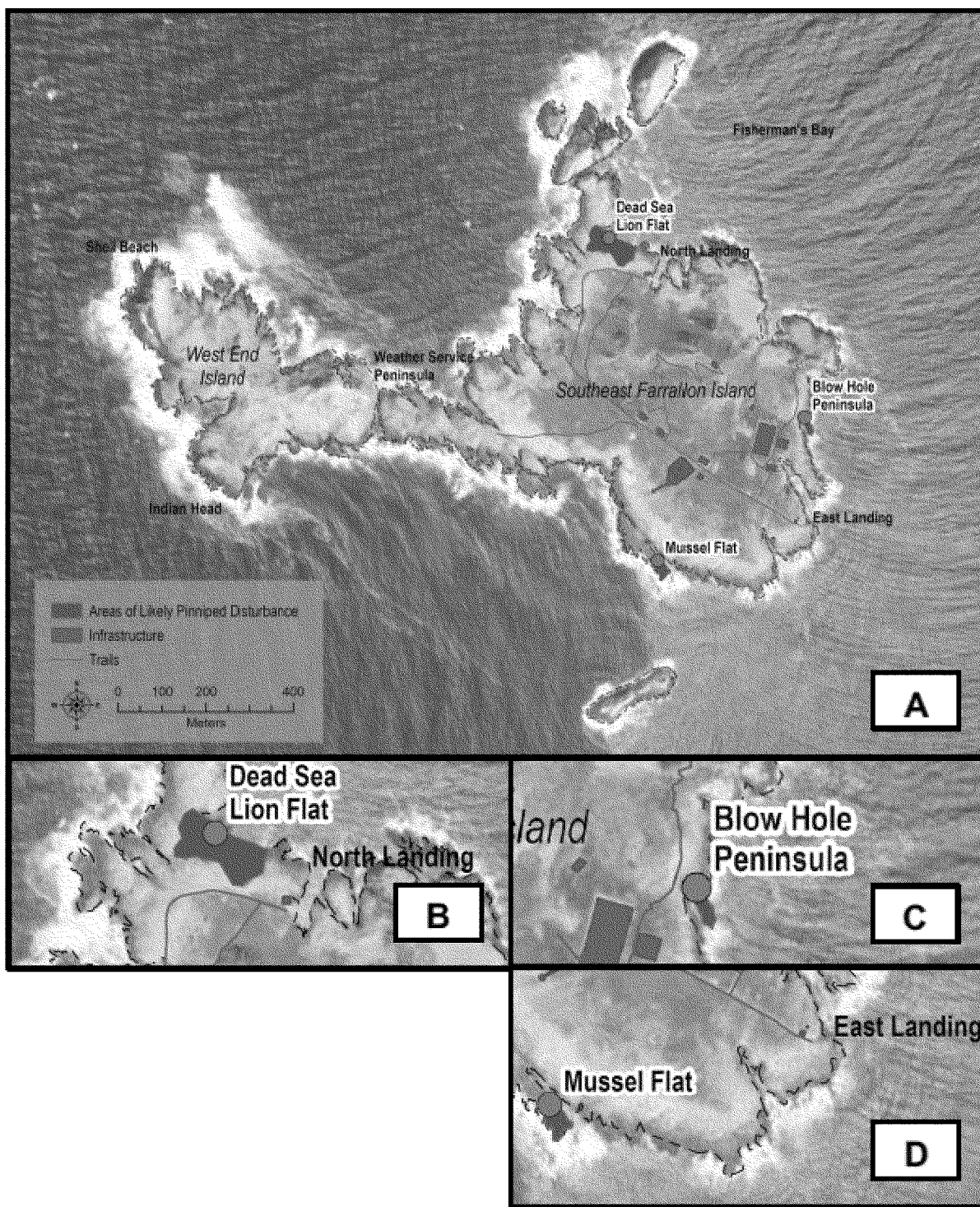


Figure 2 -- The South Farallon Island with specific areas and access points marked

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Detailed Description of the Specified Activities

The proposed activities at the South Farallon Islands are directly associated with Refuge and Sanctuary management as well as natural resource research and monitoring. Each is described below.

Management Activities—Island Access

To access the main island of Southeast Farallon Island, small motorboats/sailboats and helicopters are needed. Typically, personnel and cargo/supplies travel to and from the Southeast Farallon Island by motorboat/sailboat, where they are then transferred to smaller 14-to-20-foot (ft (4.3 to 6.1

meters (m))) motorboats, which are hoisted by a derrick to one of two boat landings (i.e., East Landing and North Landing). Boat landings occur approximately 2 days per month for supplies and personnel, and typically take between 1 and 3 hours. Each boat landing consists of launching the boat with a single operator and two to four

other personnel assisting from land. Loading activities at North Landing would occur at the water level during the intertidal phase, and activities at the East Landing (the primary landing site) would occur using a loading platform raised 30 ft (9.1 m) over the water.

Given resource allocation constraints, the Southeast Farallon Island, which is normally inhabited year-round (and has been for several decades), will likely be vacant for most of the fall and winter period, starting in the fall of 2026. Because of this (as well as stormy

weather during the fall/wintertime), boat landings become more difficult and dangerous for field personnel. When the island's support staff is not present, helicopters are the primary means of transporting staff and supplies/cargo on and off Southeast Farallon Island. On Southeast Farallon Island, helicopters are allowed to land at the helipad only from September 1 through March 15 annually, upon receiving appropriate authorization from the USFWS Refuge. For the rest of the year, there is a closure prohibiting helicopter usage. This is to

protect sensitive wildlife during their breeding seasons.

To reduce impacts on marine mammals, the USFWS Refuge has developed a flight plan for the helicopter during landings and departures to minimize impacts on wildlife and maximize aircraft and crew safety. Generally, most of the pinniped habitat is located away from the flight path, except for Mussel Flat, which lies near the southwestern flight path and cannot be avoided by USFWS Refuge staff (see figure 3).

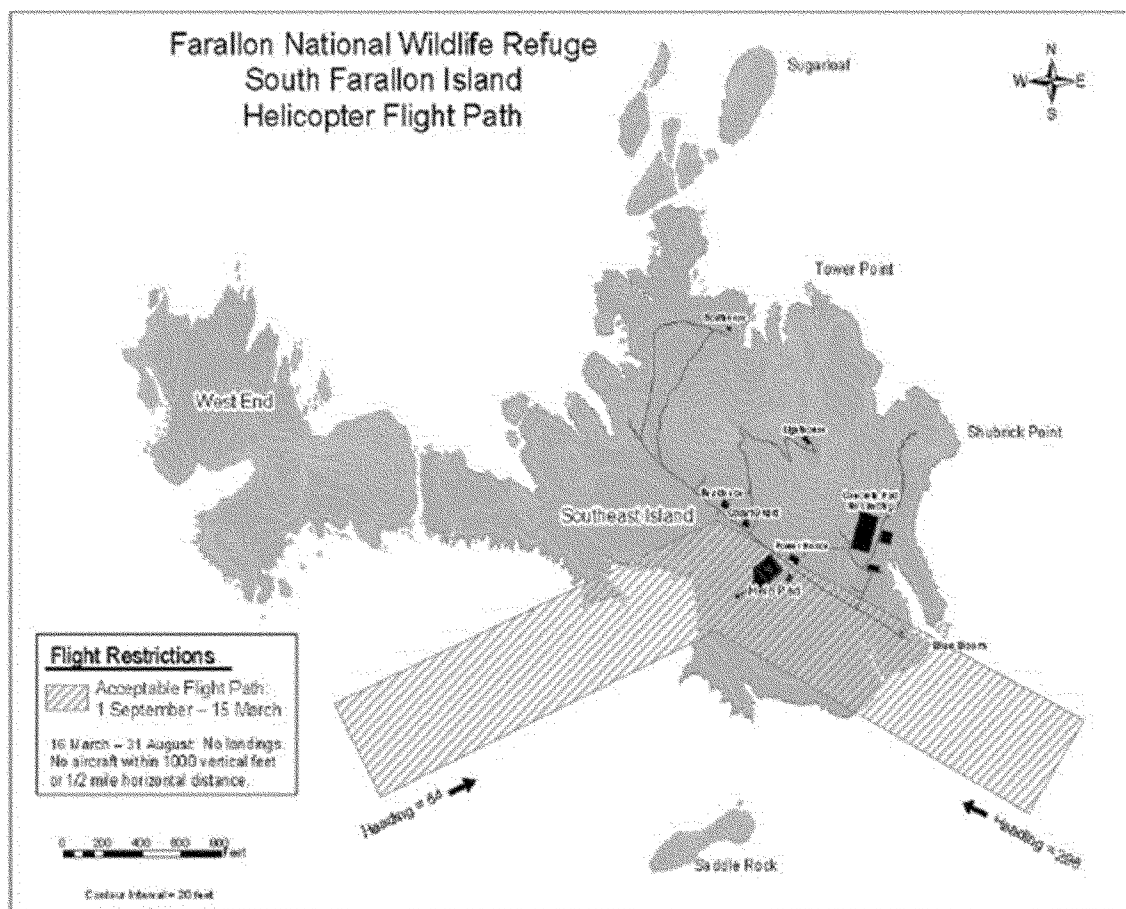


Figure 3 -- Farallon Islands National Wildlife Refuge helicopter flight map

Harassment of marine mammals is likely to occur given the presence of people and the use of boats and helicopters (including their presence and noise). Additionally, some California sea lions have been observed hauling out near and on the helipad and may require hazing to safely relocate them. Hazing would occur according to section 109(h) of the MMPA, which exempts the taking of marine mammals by government officials as part of official duties, including for the

protection or welfare of marine mammals, as in this case, from the MMPA's prohibition on unauthorized take of marine mammals. Takes of marine mammals resulting from hazing activities are not included in the incidental take proposed for authorization here, and hazing is not discussed further.

Management Activities—Habitat Restoration

Habitat restoration activities would include controlling non-native and invasive vegetation, which is detrimental to nesting seabirds and native vegetation. This invasive vegetation blocks access to existing and potential seabird burrow breeding sites and competes with native species and resources, such as *Lasthenia maritima*, used by surface-nesting seabirds for nesting materials. Other activities

include maintaining artificial habitats specifically constructed for seabirds. Two of these structures provide habitat for seabirds that nest in crevices, while another provides a barrier against disturbance. Two of these artificial habitat structures are located adjacent to the haulout locations for California sea lions and Steller sea lions (*Eumetopias jubatus*). Maintenance for these structures is minimal and only required every few years.

Other restoration activities may include the use or removal of excess materials, such as older plumbing, electrical conduits, lumber, and other infrastructure materials, located throughout Southeast Farallon Island (primarily on the east and south sides of the island). If materials were reused, they would be used to create an artificial seabird nesting habitat in the upland areas away from pinniped haulout areas and habitat. If materials are removed, they would be transported by boat or helicopter (for more bulky/larger materials), which may necessitate hovering for a short period while the cargo is loaded or unloaded.

For all these activities, marine mammals would likely be harassed behaviorally from the presence of humans when collecting and transferring the materials, performing the activities, and from the use of boats/helicopters to remove the materials. USFWS Refuge estimates that approximately 1 to 3 days would be needed to remove excess material by either boat or helicopter.

Management Activities—Facilities Maintenance, Repair, Removal, and Construction

On Southeast Farallon Island, many aging structures from the 19th and mid-20th centuries still exist and may require work to remove, maintain, repair, or construct. The USFWS Refuge has developed a plan to downsize the infrastructure footprint on the Southeast Farallon Island, which involves removing potentially hazardous structures. Specifically, this would consist of a large demolition and construction project starting in September, during which a large water storage cistern on the east side of Southeast Farallon Island would be dismantled and a new water catchment tank installed. Other major activities include replacing the roof and siding at the North Landing Boathouse and making necessary modifications to the houses—Powerhouse and North Landing Boathouse—to protect against vandalism and storms. This larger project is expected to take approximately 1 to 2 months and may

occur either continuously or intermittently in non-consecutive phases. The work needed and the schedule are highly dependent on both the contractor's ability to mobilize and the weather. Additionally, other repairs and activities would occur, including maintenance and repairs to the roofs of houses, the East and North Landing derricks, the photovoltaic system at the Powerhouse, and the septic system. All major work would be expected to occur between September 1 and March 15 to minimize any disturbances to sensitive wildlife, including breeding seabirds and pupping pinnipeds.

Crews and supplies would arrive at the island mainly by helicopter, with some boat support when safe to do so. Any cargo brought over would be delivered to the worksites via wheelbarrows and carts along pre-designated paths. Details on the helicopter and boat transport can be reviewed in the section above.

Marine mammals are expected to be behaviorally harassed by the presence of humans, boats, and helicopters, as well as by the noise of their rotors and motors. The presence of cargo and construction noise (*i.e.*, not greater than mechanical tools, hammering, *etc.*) may also cause behavioral harassment.

Management Activities—Cultural Resources

Proposed activities for the preservation and evaluation of cultural resources may be undertaken by USFWS Refuge staff or by assisting archaeologists. While the Refuge policy specifically prohibits the removal or destruction of any evaluated historical elements, some elements may need to be repaired or modified. For these activities, staff would need to continue evaluating, removing, or reusing remnants of abandoned infrastructure (most of which was removed after 1969). Generally, these elements are in the more upland areas of Southeast Farallon Island, away from the intertidal and pinniped haulout/pupping areas. However, behavioral harassment of marine mammals may still occur due to human presence around hauled out pinnipeds.

Research and Monitoring Activities—Wildlife and Plant Research

A familiar activity on Southeast Farallon Island, wildlife research and monitoring has been conducted for decades to examine and understand the life histories, populations, diet, productivity, and other ecological aspects of wildlife in the Farallon National Wildlife Refuge. To date, most of the work has been performed by Point

Blue. However, as previously mentioned, Point Blue may reduce its presence on Southeast Farallon Island during the fall and winter, and the USFWS Refuge would take over some of these responsibilities. For example, plant monitoring would be conducted in various plots across the island's uplands, with one to three personnel traveling to different plots. These activities are expected to occur primarily between mid-March and early April over 7 days.

If oiled wildlife is discovered on the islands, visits to the shoreline where marine mammals occur may be necessary to obtain proper documentation. This includes searching for oil along the shoreline, searching for and counting oiled wildlife, collecting oiled wildlife, and collecting oil samples.

Lastly, GFNMS staff would continue carrying out their rocky intertidal monitoring on Southeast Farallon Island to document the density, biodiversity, and condition of the Sanctuary's natural resources. This will continue to build upon over 30 years of long-term monitoring. The sampling at the three sites (*i.e.*, Blow Hole Peninsula, Dead Sea Lion Flat, and Mussel Flat) requires approximately 4–5 hours. Pinnipeds would be flushed into the water as the tide drops. Each rocky intertidal monitoring plot and transect would be sampled once a year, with each site accessed up to three times by GFNMS staff from November 1, 2026, through March 15, 2027.

For these research and monitoring actions, pinnipeds would likely be behaviorally harassed by the presence of field personnel.

The proposed mitigation, monitoring, and reporting measures for these aforementioned activities are described in detail later in this document (please see Proposed Mitigation and Proposed Monitoring and Reporting).

Description of Marine Mammals in the Area of Specified Activities

Sections 3 and 4 of the application summarize available information regarding the status and trends, distribution and habitat preferences, and the behavior and life history of the potentially affected species. NMFS fully considered all this information, and we refer the reader to these descriptions, instead of reprinting the information. Additional information regarding population trends and threats may be found in NMFS' 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' 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 activity 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). While no mortality or serious injury (M/SI) is anticipated or proposed to be authorized here, PBR and annual 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. All values presented in table 1 are the most recent available at the time of publication and are available online at: <https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessments>.

Table 1 -- Species^a with estimated take from the specified activities

Common Name	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 <i>Carnivora</i> - <i>Pinnipedia</i>						
Family <i>Otariidae</i> (eared seals and sea lions)						
California sea lion	<i>Zalophus californianus</i>	United States (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>	CA	-/D; Y	19,634 (n/a; 8,788; 2022)	527	≥1.2
Family <i>Phocidae</i> (earless seals)						
Harbor seal	<i>Phoca vitulina</i>	CA	-, -, N	30,968 (n/a; 27,348; 2012)	1,641	43
Northern elephant seal	<i>Mirounga angustirostris</i>	CA 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 Endangered Species Act (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 which 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 stock assessment reports online at: <https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessment-reports-region>. CV is the coefficient of variation; N_{min} is the minimum estimate of stock abundance.

^d These values, found in NMFS' SARs, represent annual levels of human-caused mortality plus serious injury from all sources combined (commercial fisheries, vessel strikes). Annual M/SI often cannot be determined precisely and is, in some cases, presented as a minimum value or range.

^e N_{est} is the best estimate of counts, which have not been corrected for animals at sea during abundance surveys.

As indicated above, all five species (with five managed stocks) in table 1 temporally and spatially co-occur with the activities to the degree that take is likely to occur. While Guadalupe fur seals (*Arctocephalus townsendi*) have been reported in the area, their occurrence is considered extremely rare, as 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. Additionally, California (southern) sea otters (*Enhydra lutris nereis*) may be found in the GFNMS (see <https://farallones.org/sanctuary-wildlife/marine-mammals/>) and possibly nearshore to the South Farallon Island. However, this species is managed by the U.S. Fish and Wildlife Service (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 the proposed activities, see the IHA application, the SARs, and NMFS' website.

California Sea Lions

California sea lion breeding areas are on islands located in southern CA, in western Baja California, Mexico, and the Gulf of California. Rookery sites in southern CA 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 from May through July, both on 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 CA 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, with numbers fluctuating from several hundred to several thousand.

Elevated numbers of strandings of California sea lion pups occurred in southern CA beginning in January 2013, and NMFS declared an Unusual Mortality Event (UME). Per the NMFS

website, "the UME was attributed to malnutrition in juvenile sea lions due to ecological factors causing prey shifts. Unusual oceanographic conditions most likely drove these prey shifts 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-sea-lion-unusual-mortality-event-california>.

Harbor Seals

Pacific harbor seals inhabit nearshore 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 CA stock of harbor seals ranges from Mexico to the Oregon-California border. In California, 400 to 600 harbor seal haulout 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 hundreds of 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).

Northern Elephant Seals

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 CA. 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 lat. (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 one-month process) (USFWS, 2013). The year's new pups remain on the island throughout both peaks, generally leaving by the end of April (USFWS, 2013). The lowest numbers of elephant seals present at rookeries occur during June, July, and August, when sub-adult and adult males molt. Another peak in the number of young seals returns to the rookery for a haulout 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), and the colony grew rapidly thereafter. 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).

Steller Sea Lions

Steller sea lions comprise two distinct population segments (DPSs): the western and eastern DPSs, separated by 144° W longitude (Cape Suckling, Alaska). The western segment of Steller sea lions inhabits the central and western Gulf of Alaska, the Aleutian Islands, and coastal waters, and breeds in Asia (e.g., Japan and Russia) (Young *et al.*, 2024). The eastern DPS includes animals born east of Cape Suckling, AK (144° W long.), 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 CA, 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 CA and the establishment of new rookeries in southeastern Alaska (Hastings *et al.*, 2017).

An estimated 50 to 150 Steller sea lions are located along the Farallon Islands (Point Blue, 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 Seals

The northern fur seal is endemic to the North Pacific Ocean and the Bering Sea. Breeding rookeries extend from the Sakhalin Island in the Sea of Okhotsk, the Commander Islands, the Pribilof Islands, and the Aleutian Islands in the Bering Sea, and the Farallon and San Miguel Islands off CA (Gelatt and Gentry, 2018). Two stocks under the MMPA are recognized in U.S. waters: the Eastern North Pacific and the CA stocks. The Eastern North Pacific stock ranges from southern CA during winter to the Pribilof Islands and Bogoslof Island in the Bering Sea during summer (Muto *et al.*, 2018). The CA 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 CA stock, although 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 haulouts. 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, 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 more than 100,000 animals at the Farallon Islands before being locally extirpated by sealers in the 1800s (Pyle *et al.*, 2001). After more than a 150-year absence, northern fur seals recolonized the Farallon Islands in the 1970s, 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 percent, 45 percent, and 59 percent, respectively, but were also all growing at rates determined to be the fastest for fur seals worldwide.

Potential Effects of the Specified Activities on Marine Mammals and Their Habitat

This section discusses how components of the specified activities 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 these activities. 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 by motorboat/helicopter operations may cause Level B harassment of pinnipeds hauled out on the South Farallon Islands. This section includes a summary and discussion of the ways that the types of stressors associated with the specified activities (*e.g.*, personnel presence and motorboats/helicopters) have been observed to impact marine mammals. This discussion also includes reactions we consider may rise to the level of take and those we do not. This section provides background information on the potential effects of these activities. For a discussion of how the mitigation measures will be implemented and how they will shape the anticipated impacts from these specific activities, 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 haulouts or rookeries). If a marine mammal briefly reacts to human presence by changing its behavior or moving a short distance, the impact is 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). For example, numerous studies have shown that human activity can flush harbor seals off haulout 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 also been shown to avoid beaches frequently disturbed 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 presence of field personnel may 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 its head, assuming a more upright posture) to flushing from the haulout site into the water. NMFS does not consider 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 and Helicopters

The proposed activities may require small waterborne vessels (*e.g.*, motorboats and sailboats) to deliver personnel and supplies to and from the South Farallon Islands. Previous studies have shown that pinnipeds generally return to their haulout sites and do not permanently abandon them after exposure to motorboats (discussed further below; 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 haulout behavior in Metis Bay, Quebec, Canada. During that study, the authors noted that the most frequent disturbances ($n = 73$) were caused by lower-speed kayaks and canoes (33.3 percent) rather than motorboats (27.8 percent) conducting high-speed passes. The seals' 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 was no significant lingering effect on the recovery of numbers to pre-disturbance levels. In conclusion, the study showed that boat traffic at current levels had only a temporary effect on harbor seal haulout behavior in the Metis Bay area.

Acevedo-Gutierrez and Johnson (2007) evaluated the efficacy of buffer zones for watercraft around harbor seal haulout sites on Yellow Island, Washington. The authors estimated the

minimum distance between vessels and haulout sites, categorized vessel types, and evaluated seal responses to disturbances. During 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 of up to 453 ft (138 m) and 1,217 ft (371 m), 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, seals recovered quickly from disturbances and returned to the haulout site within 60 minutes. In less than a quarter of cases, seal numbers did not return to pre-disturbance levels within 180 minutes of the disturbance. The study concluded that the return of seal numbers to pre-disturbance levels, coupled with the relatively regular seasonal cycle in abundance throughout the area, counters the idea that disturbances from powerboats may result in site abandonment (Johnson and Acevedo-Gutierrez, 2007).

The potential for striking marine mammals is a concern with vessel traffic. Typically, the reasons for vessel strikes are high transit speeds, limited maneuverability, or the boat's size, making it hard to see the animal. Field personnel will access areas at slow transit speeds in small, easily maneuverable boats, minimizing the risk of accidental strikes.

Regarding helicopters, Efoymson *et al.* (2001) noted that the key stressor for low-altitude overflights of military aircraft is primarily sound; however, visual and physical stimuli (*i.e.*, the aircraft itself) could also act as stressors. Animals (including pinnipeds) have previously demonstrated mixed reactions, likely driven by habitat and site use, habitation, and proximity to the helicopter/aircraft (either due to visual or acoustic stimuli) (Anderson, 2007). At Phoca Reef on San Nicolas Island, CA, harbor seals displayed no behavioral reaction to the presence of a helicopter within audible range (U.S. Navy, 2020). Richardson *et al.* (1995) documented several behavioral reactions of marine mammals to aircraft (see section 9.2). Generally, the findings indicate that aircraft overflights at low altitudes can elicit behavioral responses (*i.e.*, alert, startle, rapid movement) in hauled-out harbor seals, prompting

them to escape to the water. Similar behaviors have been noted for ringed seals (*Phoca hispida*) and bearded seals (*Erignathus barbatus*) (although with somewhat mixed responses, where not all animals went into the water), northern sea lions, and northern fur seals (Richardson *et al.*, 1995; Born *et al.*, 1998). Northern elephant seals and California sea lions on San Miguel Island, CA, were found to be less responsive than harbor seals. Highly dependent on the helicopter's hovering altitude, behaviors ranging from alert reactions to head raising to flushing to the water were elicited from northern elephant seals and California sea lions (Richardson *et al.*, 1995). These sudden movements and panicked responses have been known to lead to death/injury by trampling or separation of pups from mothers. In Richardson *et al.* (1995), helicopters are acknowledged as causing more disturbance than fixed-wing aircraft, likely due to their lower operating altitudes and the sound emitted by their rotors.

Avoidance

Avoidance is the displacement of an individual from an area or migration path due to 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 several 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 has 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 the abundance or distribution patterns of the affected species in the affected region if habituation to the sound does not occur (*e.g.*, Blackwell *et al.*, 2004; Bejder *et al.*, 2006; Teilmann *et al.*, 2006). While NMFS acknowledges that most research and literature cited here are related to

cetaceans, which are not expected to be harassed or taken by the proposed 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 field personnel and/or motorboats/helicopters, we do not expect these effects to be more than temporary. The pinnipeds on the South Farallon Islands exhibit high site fidelity; any external stimuli would be fleeting and easily avoided. This means that, if performing avoidance behaviors during activities, pinnipeds 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., the directedness of movement and the rate of travel). Relatively little information exists on the flight responses of marine mammals to anthropogenic signals, although observations of flight responses to the presence of predators have been reported (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 is 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 (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 the diversion of focus and attention (*i.e.*, when a response involves 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 by reducing fitness (e.g., body condition) and, in turn, 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, is more likely to be significant if it lasts more than one diel cycle or recurs on subsequent days (Southall *et al.*, 2007). Consequently, a behavioral response lasting less than one 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 exposed to activity-related stressors for multiple days or, further, that exposure results 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 consequences of stampeding (typically a response to startle and/or avoidance), 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 the South Farallon Islands. 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. As per previous actions with Point Blue, another organization that conducts research on the South Farallon Islands, stampedes have been extremely rare at their survey locations, and no mortality from

stampedes has been documented. Given the extreme rarity of stampedes, which can be avoided through mitigation, we do not expect any mortality to occur from the proposed activities for this current IHA. Furthermore, no research activities would occur at or near pinniped rookeries. Additionally, breeding animals are concentrated in areas where field personnel do not visit, so NMFS does not expect mother-pup separation or crushing of pups during flushing. If pups should be present at any of the research sites, field personnel would avoid visiting that site.

Habituation

Habituation can occur when an animal's response to a stimulus wanes with repeated exposure, usually in the absence of unpleasant associated events (Wartzok *et al.*, 2003). Animals are most likely to habituate to predictable, unvarying sounds. 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, in which an unpleasant experience leads to subsequent responses, often in the form of avoidance at lower levels 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; NRC, 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 comprising a combination of behavioral, autonomic nervous system, neuroendocrine, and immune responses (e.g., Selye, 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 pituitary hormone secretion have been implicated in reproductive failure, altered metabolism, reduced immune competence, and behavioral disturbances (e.g., Moberg, 1987; Blecha, 2000). Increased glucocorticoid levels are also associated 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, which 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 would last until the animal replenished its energetic reserves to a level 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 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). For example, Rolland *et al.* (2012) found that noise reduction from reduced ship traffic in the Bay of Fundy was associated with decreased stress in North Atlantic right whales (*Eubalaena glacialis*). 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 some of these responses may be classified as

"distress." However, distress is unlikely to result from these projects, based on observations of marine mammals from previous, similar research and monitoring projects.

Marine Mammal Habitat Effects

There are no habitat modifications associated with the proposed activities other than the presence of field personnel to perform the proposed activities and monitor animals. No substantial construction is anticipated for this proposed project; only activities that rise to the level of maintenance, removal, and installation are expected, with a small footprint relative to the entire available habitat on the South Farallon Islands. While field personnel may be somewhat residential in some areas during the work required for the proposed activities, they will travel to different research sites, indicating that their presence in any one specific area is most likely temporary. Thus, NMFS does not expect the proposed activities to affect marine mammal habitat, and NMFS expects there will be no long- or short-term physical impacts on pinniped habitat on the South Farallon Islands.

Proposed Activities on Potential Foraging Habitat

Marine mammal prey (e.g., fish) varies by species, season, and location. However, as all the proposed activities would occur onshore and the prey species for pinnipeds are in the ocean, NMFS does not expect the proposed activities to affect the habitat, availability, or presence of prey for pinnipeds.

Estimated Take of Marine Mammals

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 by individual marine mammals resulting from exposure to field personnel and the operation of their equipment 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 Estimation

In this section, we provide information on the occurrence of marine mammals to inform the take calculations. Then, we describe how the information provided above is synthesized to produce a quantitative estimate of the take that is reasonably likely to occur and proposed for authorization.

Occurrence data for each pinniped species is based on the unique expertise of field staff working and managing resources in the project area, as well as based on local, collaborative work with other partners (Point Blue) who work in the Farallon Islands and conduct weekly counts of species (Point Blue Conservation Science, unpubl. data; G. McChesney, USFWS, pers. obs). NMFS further reviewed other nearby and recent actions when considering the proposed take numbers (i.e., Point Blue'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). All research, monitoring, and management activities for this proposed IHA are expected to affect any ages and sexes of pinnipeds, except very young pups, because field personnel will not enter or approach breeding areas close enough to disturb young pups or their mothers.

For the activities specific to the USFWS Refuge, the USFWS Refuge has requested, and we have proposed, to authorize the same amount of Level B harassment take under this 2026–2027 proposed IHA as was authorized for their activities in the last IHA (90 FR 42750, September 4, 2025) (table 2). The previously requested take numbers were calculated based on the number of species of marine mammals generally present on the islands (particularly near haulouts, work areas, helicopter flight paths, and boat landings) and the frequency of the planned activities.

Table 2 -- Proposed takes, by Level B harassment only, specific to the USFWS Refuge activities

Species	Proposed takes by Level B harassment
California sea lion	40,000
Harbor seal	300
Northern elephant seal	30
Northern fur seal	300
Steller sea lion	100

For the activities specific to the GFNMS, we propose to authorize takes by Level B harassment only. The requested take considers the probability of encountering pinnipeds at the three sampling sites (Blow Hole Peninsula,

Dead Sea Lion Flat, and Mussel Flat), according to weekly data from Point Blue and GFNMS staff from 2018 to 2024 (Warzybok, 2024), and as shown in table 3. The calculation assumes that a maximum of two visits would occur at

Mussel Flat, and a maximum of three visits would be needed at Blow Hole Peninsula and Dead Sea Lion Flat between November 1, 2026, and March 15, 2027.

Table 3 -- Encounter probability and proposed takes, by Level B harassment only, specific to the GFNMS activities

Species	Site visit	Probability (percent) of encountering a pinniped at each sampling site			Number of individuals expected at each sampling site			Proposed takes by Level B harassment
		Blow Hole Peninsula	Dead Sea Lion Flat	Mussel Flat	Blow Hole Peninsula	Dead Sea Lion Flat	Mussel Flat*	
California sea lion	First	38	100	100	4	800	60	2,532
	Second				4	800	60	
	Third				4	800	n/a	
Harbor seal	First	83	100	100	6	16	30	126
	Second				6	16	30	
	Third				6	16	n/a	
Northern elephant seal	First	0	50	88	0	4	7	26
	Second				0	4	7	
	Third				0	4	n/a	
Northern fur seal	First	0	10	1	0	10	2	34
	Second				0	10	2	
	Third				0	10	n/a	
Steller sea lion	First	0	63	75	0	30	13	116
	Second				0	30	13	
	Third				0	30	n/a	

* A maximum of two visits is assumed and calculated for the Mussel Flat sampling site.

Table 4 presents the total Level B harassment takes that the USFWS Refuge has requested for authorization.

NMFS concurs with these estimates and proposes to authorize them.

Table 4 -- Total proposed take, by Level B harassment only, and take as a percent of stock abundance

Species	Stock	Stock Abundance	Proposed Authorized Takes by Level B Harassment			Take as a Percent of Stock Abundance
			USFWS Refuge Activities	GFNMS Activities	Total Level B harassment takes	
California sea lion	U.S.	257,606	40,000	2,532	42,532	16.51
Harbor seal	CA	30,968	300	126	426	1.38
Northern elephant seal	CA Breeding	194,907	30	26	56	0.03
Northern fur seal	CA	19,634	300	34	334	1.70
Steller sea lion	Eastern U.S.	36,308	100	116	216	0.59

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 adverse 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 the 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. 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 the USFWS Refuge in its adequate and complete application or are the result of subsequent coordination between NMFS and the USFWS Refuge. The USFWS Refuge 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 that 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, the USFWS Refuge 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 4.
- All 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, if the IHA is issued;
- The taking by Level A harassment, serious injury, or death of any of the species listed in table 4 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 take exceeding the authorized amounts listed in table 4 would be prohibited and would result in the modification, suspension, or revocation of the IHA, if issued; and

- Ensure that all relevant staff are trained prior to the start of any research, monitoring, and management activities, so that responsibilities, communication procedures, marine mammal monitoring protocols, and operational procedures are clearly understood. New personnel joining during the project must be trained prior to commencing work.

In addition to the general mitigation measures described above, the USFWS Refuge would follow these mitigation measures:

- When safety permits, field personnel must slowly approach shore for boat landings to avoid causing a stampede, to provide animals with the opportunity to enter the water, and to avoid vessel strikes;
- Field personnel must observe a site from a distance, using binoculars if necessary, to detect any marine mammals prior to approach to determine if mitigation is required (*i.e.*, activities must not be conducted if pinnipeds are present to the extent possible; if other pinnipeds are present, field personnel must approach with caution, walking slowly, quietly, and close to the ground to avoid surprising any hauled out individuals and to reduce flushing/stampeding of individuals);
- Field personnel must maintain a safe distance from marine mammals and not approach any marine mammals while conducting the specified activities, unless it is absolutely necessary to flush or cause a marine mammal to move to continue conducting activities (*i.e.*, if a site

cannot be accessed or sampled due to the presence of a pinniped);

- All persons must monitor for offshore predators and must not approach hauled out pinnipeds if great white sharks (*Carcharodon carcharias*) or killer whales (*Orcinus orca*) are observed. If pinniped predators are seen in the area, field personnel must not disturb the pinnipeds until the area is free of predators;

- Field personnel must avoid visits to sites where pups are present at a site, if the number of takes that have been granted for a species is met, or when a species for which authorization has not been granted is observed or is present;

- Field personnel must coordinate research visits to intertidal areas of the Southeast Farallon Island to reduce potential take and coordinate research activities to minimize the number of trips to the island;

- Beach landings on Southeast Farallon Island must only occur after pinnipeds that might be present on the landing beach have entered the water;

- Helicopter transits must be designed and performed in a manner that reduces disturbance to pinnipeds and avoids disturbance during breeding/pupping periods, where feasible (*i.e.*, haul outs near Mussel Flats); and

- Helicopter transits are only permitted from September through March 15.

NMFS conducted an independent evaluation of the proposed measures and 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 both to 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 activity; 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

- Mitigation and monitoring effectiveness.

The monitoring and reporting requirements described in the following were proposed by the USFWS Refuge in their adequate and complete application and/or are the result of subsequent coordination between NMFS and the Refuge. The Refuge has agreed to the requirements. NMFS describes these below as requirements and has included them in the proposed IHA.

The proposed research and monitoring activities will contribute to the knowledge of pinnipeds on the South Farallon Island 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 for the research activities will include observations by Refuge and Sanctuary staff. 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 5. 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 5 -- 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: All observations of disturbance Level 2 and Level 3 must be recorded as takes.

Furthermore, the following monitoring protocols for the USFWS Refuge 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 *Reporting* section) for NMFS, and all raw data will be provided.

Reporting

The USFWS Refuge 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 activities 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 Protected Species Observer data sheets (in electronic spreadsheet format).

Specifically, the report must include:

- Dates and times (beginning and end) of all marine mammal monitoring;
- Observer locations during marine mammal monitoring; and
- Environmental conditions during monitoring periods (at the 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 the implementation of any mitigation, a description of the specified actions that ensued, and resulting changes in the 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 the USFWS Refuge receive comments from NMFS, a final summary report addressing NMFS' comments must be submitted within 30 days after receipt of comments.

Additionally, the USFWS would be required to undertake situational reporting to the NMFS West Coast Regional Office (562-980-3230) for marked or tag-bearing pinnipeds or carcasses, or for any unusual behaviors, distributions, or numbers of pinnipeds.

Reporting Injured or Dead Marine Mammals

If, at any time, the specified activities clearly cause the take of a marine mammal in a prohibited manner such as an injury (*i.e.*, Level A harassment), serious injury, or mortality, the USFWS Refuge would immediately cease the specified activities and report the incident to the NMFS Office of Protected Resources (PR.ITP.MonitoringReports@noaa.gov and ITP.Graham@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 could review the circumstances of the prohibited take. NMFS will work with the USFWS to determine the measures necessary to minimize the likelihood of further prohibited take and to ensure MMPA compliance. The USFWS may not resume the activities until notified by the NMFS Office of Protected Resources.

In the event that field personnel discover an injured or dead marine mammal and determine 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), the USFWS Refuge would immediately report the incident to the NMFS Office of Protected Resources (*PR.ITP.MonitoringReports@noaa.gov* and *ITP.Graham@noaa.gov*) and the NMFS 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 the USFWS 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), the USFWS would report the incident to the NMFS Office of Protected Resources (*PR.ITP.MonitoringReports@noaa.gov* and *ITP.Graham@noaa.gov*) and the NMFS West Coast Regional Stranding Coordinator (562-980-3230) within 24 hours of the discovery. The USFWS 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 activities 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 upon 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 impacts or responses (*e.g.*, intensity, duration), the context of any impacts or responses (*e.g.*, critical reproductive time or location, foraging impacts affecting energetics), 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’ 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 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 the species listed in table 1, given that the anticipated effects of these activities on these different marine mammals 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 (see the Potential Effects of Specified Activities section) and based on the following factors, NMFS does not expect the proposed 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 the proposed activities may disturb marine mammals, NMFS expects impacts to occur to localized groups of animals at or near the activity sites. Regarding research activities, behavioral disturbance is expected to be limited to short-term startle responses and localized behavioral changes, given the brief duration of these activities (at most 4–5 hours from November 1 through March 15). All construction

work (specific to facilities maintenance, repair, removal, and minor construction activities) would be limited to September 1 through March 15 to avoid disturbances to wildlife. Boat landings are expected to last approximately 1 to 3 hours and would be localized to one of two specific landing areas (*i.e.*, East Landing and North Landing). During seasons when the weather is less than optimal and safe for boat landings (much of the fall and winter period, September 1 through March 15), helicopters would be used to transport equipment and personnel, with a prohibition on helicopter use the rest of the year to avoid disturbance to sensitive wildlife and breeding/pupping activities. Minor and brief responses, including short-duration startle reactions, are not likely to constitute a 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) will generally allow marine mammals to reoccupy haulouts relatively quickly; therefore, these disturbances are not expected to result in long-term disruption of important behaviors. No surveys will occur at or near rookeries, as field personnel will have limited access to the South Farallon Islands during the pupping season and will not approach sites if pups are observed. Furthermore, breeding animals tend to be concentrated in areas that field personnel are not scheduled to visit. Therefore, NMFS does not expect mother-pup separation or crushing of pups during potential stampedes into the water.

Regarding effects on animals on the South Farallon Islands, field personnel will, where possible, delay their ingress into the landing areas until after pinnipeds enter the water, and will cautiously operate vessels at slow speeds. For helicopters, while some limited effects have been documented in the literature (see the Potential Effects of the Specified Activities section), any behavioral effects are expected to be temporary and fleeting, given that helicopters would primarily be transiting, landing, or taking off. To reduce effects, helicopter operations are permitted only between September 1 and March 15; at all other times of the year, helicopter use would be prohibited, thereby avoiding the breeding season for marine mammals on the South Farallon Islands. Only limited access would be permitted to pinniped pupping areas, so mother-pup separation is not expected. Lastly, the

helicopter flight path has been developed to minimize disturbance to wildlife, as most pinniped haulouts (except Mussel Flat) are located away from the flight path.

In summary and as described above, the following factors primarily support our preliminary determination that the impacts resulting from these activities 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, nor is it proposed for authorization;
- The intensity of anticipated takes by Level B harassment is relatively low for all pinniped stocks. Level B harassment would be in the form of behavioral disturbance, resulting in temporary avoidance of the project areas where field personnel would be 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 and sailboat use). Therefore, any associated impacts on marine mammal foraging are not expected to result in significant or long-term consequences for individuals or 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, using hushed voices) should further decrease disturbance levels.

Based on the analysis contained herein of the likely effects of the specified activities 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 activities will have a negligible impact on all affected marine mammal species or stocks.

Small Numbers

As noted previously, only 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 abundance estimate for the relevant species or stock in determining 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.

Table 4 indicates the total number of animals that could be exposed to human disturbance and that could cause Level B harassment during the proposed activities. Our analysis shows that less than one-third of each affected stock could be taken by Level B harassment. The number of animals proposed for authorization that could be taken from these stocks would be considered small relative to the relevant stocks' abundance, even if each estimated take occurred to a new individual. While there is a potential for some individuals to be taken multiple times per day, field personnel would count them as separate takes if they cannot be individually identified.

Based on the analysis contained herein of the proposed activities (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 species or stocks 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 of taking for subsistence purposes.

Endangered Species Act

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

No incidental take of ESA-listed species is proposed for authorization or

expected to result from these activities. 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 the USFWS Refuge for conducting research, monitoring, and management activities in the South Farallon Islands at the Farallon Islands National Wildlife Refuge off San Francisco, CA, 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 comment on our analyses, the proposed authorization, and any other aspect of this notice of proposed IHA for the proposed research, monitoring, and management activities. We also request comments 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 one-time, 1-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 1 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.*, a reduction in the number of research

sites) 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: May 12, 2026.

Kimberly Damon-Randall,

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

[FR Doc. 2026-09694 Filed 5-13-26; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648-XF482]

Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to U.S. Marine Corps Training Activities at Cherry Point Range Complex, North Carolina

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

ACTION: Notice; receipt of application for incidental take regulations and Letter of Authorization; request for comments and information.

SUMMARY: NMFS has received a request from the U.S. Marine Corps (USMC) for authorization to take marine mammals incidental to training activities at Marine Corps Air Station (MCAS) Cherry Point, North Carolina over the course of 7 years from 2026 through 2033. Pursuant to regulations implementing the Marine Mammal Protection Act (MMPA), NMFS is announcing receipt of the USMC's request for the promulgation of regulations governing the incidental taking of marine mammals and issuance of a 7-year Letter of Authorization (LOA). NMFS invites the public to provide information, suggestions, and comments on the USMC's application and request.

DATES: Comments and information must be received no later than June 15, 2026.

ADDRESSES: Comments should be addressed to the Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service, and should be submitted via email to ITP.clevenstine@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 received electronically, including all attachments, must not exceed a 25-megabyte file size. Attachments to electronic comments will be accepted in Microsoft Word or Excel or Adobe PDF file formats only. All comments received are a part of the public record and will generally be posted online at <https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-military-readiness-activities> without change. All personal identifying information (e.g., name, address) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information.

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

SUPPLEMENTARY INFORMATION:

Background

The MMPA prohibits the "take" of marine mammals, with certain exceptions. Section 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) directs 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 authorization 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 monitoring and reporting of the takings.

NMFS has defined "negligible impact" in 50 CFR 216.103 as an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.

The MMPA states that the term "take" means to harass, hunt, capture, kill or attempt to harass, hunt, capture, or kill any marine mammal.

The National Defense Authorization Act (NDAA) for Fiscal Year 2004 (Pub. L. 108-136) amended section 101(a)(5) of the MMPA to remove the "small numbers" and "specified geographical region" provisions and amended the definition of "harassment" as applied to a "military readiness activity" to read as follows (section 3(18)(B) of the MMPA): (i) Any act that injures or has the significant potential to injure a marine mammal or marine mammal stock in the wild (Level A Harassment); or (ii) Any act that disturbs or is likely to disturb a marine mammal or marine mammal stock in the wild by causing disruption of natural behavioral patterns, including, but not limited to, migration, surfacing, nursing, breeding, feeding, or sheltering, to a point where such behavioral patterns are abandoned or significantly altered (Level B Harassment). On August 13, 2018, the NDAA for Fiscal Year 2019 (Pub. L. 115-232) amended the MMPA to allow incidental take regulations for military readiness activities to be issued for up to 7 years.

Summary of Request

On November 13, 2025, NMFS received an application from the USMC requesting authorization to take marine mammals incidental to military readiness activities, including the use of munitions (live (explosive) and inert ammunition and ordnance), at the USMC's Cherry Point Range Complex in Pamlico Sound, NC. NMFS provided initial comments on November 28, 2025, and USMC submitted a revised application on April 6, 2026. In response to our comments and following information exchange, the USMC submitted a final revised application on May 1, 2026, that we determined was adequate and complete on May 7, 2026. The USMC requested the regulations and subsequent LOA be valid for 7 years beginning in 2026.

NMFS issued previous MMPA incidental take authorizations to the USMC for similar military readiness activities at the Cherry Point Range Complex effective beginning March 13, 2015 (80 FR 21212), May 18, 2020 (85 FR 31462), and May 18, 2021 (86 FR 27389).

Description of the Specified Activities

The USMC proposes to conduct training activities, which include weapons delivery training exercises (air-to-surface and surface-to-surface) at two water-based bombing targets located within the Cherry Point Range Complex in North Carolina.

The proposed activities would occur from 2026 through 2033, year-round, day or night. The USMC proposes to use small arms, large arms, bombs, missiles, rockets, grenades, and pyrotechnics for air-to-surface and surface-to-surface training exercises, which qualify as military readiness activities. The proposed activities are likely to result in the take of one species of marine mammal: bottlenose dolphin (*Tursiops erebennus*).

The application includes proposed mitigation measures for marine mammals that would be implemented during training activities in the Cherry Point Range Complex (see section 11 of the application). Proposed mitigation generally involves: (1) establishing clearance and monitoring zones for marine mammals; (2) conducting range sweeps during the morning of each exercise day prior to range operations; (3) conducting a cold pass by an aircraft immediately prior to ordnance delivery at the bombing targets; and (4) small boat visual checks before and after live-fire activities.

The USMC also proposes to undertake monitoring and reporting efforts to better understand the impacts of their activities on marine mammals and their habitat.

Information Solicited

Interested persons may submit information, suggestions, and comments concerning the USMC's request (see **ADDRESSES** section). NMFS will consider all information, suggestions, and comments related to the request during the development of proposed regulations governing the incidental taking of marine mammals by the USMC, if appropriate.

Dated: May 12, 2026.

Kimberly Damon-Randall,

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

[FR Doc. 2026-09680 Filed 5-13-26; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Tribal Broadband Connectivity Program (TBCP) and Native Entities Grant Program (NEGP)

The Department of Commerce will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. We invite the general public and other Federal agencies to comment on proposed and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. Public comments were previously requested via the **Federal Register** on December 10, 2025, during a 60-day comment period. This notice allows for an additional 30 days for public comments.

Agency: National Telecommunications and Information Administration (NTIA), Commerce.

Title: Tribal Broadband Connectivity Program (TBCP) and Native Entities Grant Program (NEGP).

OMB Control Number: 0660-XXXX.

Form Number(s): TBD.

Type of Request: Regular submission. New information collection.

Number of Respondents: 400.

Average Hours per Response: 18 hours.

Burden Hours: 7,200 hours.

Needs and Uses: The information collected will be used to evaluate applications, assess alignment with program requirements, and support consistent and efficient review processes. Standardized data collection will improve clarity, reduce errors, and streamline administration.

Affected Public: NEGP: Indian Tribes, Alaska Native entities, and Native Hawaiian organizations TBCP: Tribal governments, Tribal Colleges or Universities, Department of Hawaiian Home Lands on behalf of the Native Hawaiian Community, including Tribal organizations, and Alaska Native Corporations.

Frequency: One-time submission.

Respondent's Obligation: Mandatory.

Legal Authority: Infrastructure Investment and Jobs Act of 2021, Division F, Title III, Section 60304 and 60305, Public Law 117-58, 135 Stat. 429, 1209 (November 15, 2021) (codified

at 47 U.S.C. 1701, 1721, *et seq.*); Consolidated Appropriations Act, 2021, Division N, Title IX, Section 905(c), Public Law 116-260, 134 Stat. 1182 (Dec. 27, 2020) (Act), as amended by the Infrastructure Investment and Jobs Act, Division F, Title II, Section 60201, Public Law 117-58, 135 Stat. 429 (Nov. 15, 2021) (IIJA)(codified at 47 U.S.C. 1705).

This information collection request may be viewed at www.reginfo.gov. Follow the instructions to view the Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website www.reginfo.gov/public/do/PRAMain. Access this information collection by selecting the following: "Currently under 30-day Review—Open for Public Comments" or by using the search function and entering the title of the collection.

Sheleen Dumas,

Departmental PRA Compliance Officer, Office of the Under Secretary for Economic Affairs, Commerce Department.

[FR Doc. 2026-09608 Filed 5-13-26; 8:45 am]

BILLING CODE 3510-60-P

COMMISSION OF FINE ARTS

Notice of Meeting

Per 45 CFR Chapter XXI § 2102.3, the next meeting of the U.S. Commission of Fine Arts is scheduled for May 21, 2026, at 9:00 a.m. and will be held in the Commission offices at the National Building Museum, Suite 312, Judiciary Square, 401 F Street NW, Washington, DC 20001-2728. Items of discussion may include buildings, infrastructure, parks, memorials, and public art.

Draft agendas and additional information regarding the Commission are available on our website: www.cfa.gov. Inquiries regarding the agenda, as well as any public testimony, and requests to submit written or oral statements should be addressed to Thomas Luebke, Secretary, U.S. Commission of Fine Arts, at the above address; by emailing cfastaff@cfa.gov; or by calling 202-504-2200. Individuals requiring sign language interpretation for the hearing impaired should contact the Secretary at least 10 days before the meeting date.

Dated: May 5, 2026 in Washington, DC.
Zakiya N. Walters,
Administrative Officer.
 [FR Doc. 2026–09570 Filed 5–13–26; 8:45 am]
BILLING CODE 6330–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Additions and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed additions to and deletions from the Procurement List.

SUMMARY: The Committee is proposing to add products to the Procurement List that will be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and delete service(s) previously furnished by such agencies.

DATES: Comments must be received on or before: June 13, 2026.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, 250 E Street SW, Suite 3100, Washington DC, 20024.

FOR FURTHER INFORMATION CONTACT: For further information or to submit comments contact: Michael R. Jurkowski, Telephone: (703) 489–1322, or email CMTEFedReg@AbilityOne.gov.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 8503 (a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the proposed actions.

Additions

In accordance with 41 CFR 51–2.4(b), Government personnel within the contracting activity have identified this as a product requirement not applicable to other Federal entities and has requested the Committee consider granting a purchase or distribution preference if the product is added to the Procurement List. See 71 FR 69536 (Dec. 1, 2006). If the Committee grants this request, the products listed below will not be available through the U.S. AbilityOne Commission's Commercial Distribution Program. The Committee will consider this request along with relevant comments received from interested parties.

The following product(s) are proposed for addition to the Procurement List for production by the nonprofit agencies listed:

Product(s)
 NSN(s)—Product Name(s):
 8950–01–E10–2928—Spice, Parsley Flakes
 8950–01–E10–2926—Spice Blend, Salt Free Garlic and Herb Seasoning
 8950–01–E10–2931—Spice Blend, Salt Free Seasoning
Authorized Source of Supply: CDS Monarch, Webster, NY
Mandatory For: DEPT OF DEFENSE
Contracting Activity: DEPT OF DEFENSE, DLA TROOP SUPPORT

Deletions

The following service(s) are proposed for deletion to the Procurement List:

Services(s)
Service Type: Grounds Maintenance
Mandatory for: US Navy, NAVFAC Southwest, Navy Operational Support Ctr., Alameda, CA, 2144 Clement Avenue, Alameda, CA
Authorized Source of Supply: Rubicon Programs, Inc., Richmond, CA
Contracting Activity: DEPT OF DEFENSE, NAVFAC SOUTHWEST
Service Type: Grounds Maintenance
Mandatory for: US Navy, NAVFAC Southwest, Navy Operational Support Center, Sacramento, CA, 8277 Elder Creek Road, Sacramento, CA
Authorized Source of Supply: Easter Seal Society of Superior California, Sacramento, CA
Contracting Activity: DEPT OF DEFENSE, NAVFAC SOUTHWEST
Service Type: Grounds Maintenance, Custodial service
Mandatory for: US Navy, NAVFAC Southwest, Navy Operational Support Center, Sacramento, CA, 8277 Elder Creek Road, Sacramento, CA, US Navy, NAVFAC Southwest, Navy Operational Support Center, San Jose, CA, 995 E Mission Street, San Jose, CA, US Navy, NAVFAC Southwest, Navy Operational Support Center, Alameda, CA, 2144 Clement Ave., Alameda, CA
Authorized Source of Supply: Job Options, Inc., San Diego, CA
Contracting Activity: DEPT OF DEFENSE, NAVFAC SOUTHWEST
Service Type: Grounds Maintenance
Mandatory for: US Navy, NAVFAC Southwest, Navy Operational Support Ctr., San Jose, CA, 995 E. Mission Street, San Jose, CA
Authorized Source of Supply: North Bay Rehabilitation Services, Inc., Rohnert Park, CA
Contracting Activity: DEPT OF DEFENSE, NAVFAC SOUTHWEST
Service Type: Custodial & Grounds Maintenance
Mandatory for: US Treasury, US Mint, 350 West Colfax Avenue, Denver, CO, 320 West Colfax Avenue, Denver, CO
Authorized Source of Supply: Bayaud Enterprises, Inc., Denver, CO
Contracting Activity: DEPARTMENT OF THE TREASURY, DENVER
Service Type: Custodial service
Mandatory for: USDA, National Finance Center, NASA Michoud Assembly Facility, New Orleans, LA, 13800

Gentilly Road, Building 101, New Orleans, LA
Authorized Source of Supply: Goodworks, Inc., New Orleans, LA
Contracting Activity: DEPARTMENT OF AGRICULTURE, USDA, OCFO–NFC–ACQ–MGMT OFFICE

Michael R. Jurkowski,
Director, Business Operations.
 [FR Doc. 2026–09610 Filed 5–13–26; 8:45 am]
BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Deletions from the Procurement List.

SUMMARY: This action deletes product(s) and service(s) from the Procurement List that were furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

DATES: Date added to and deleted from the Procurement List: June 13, 2026.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, 250 E Street SW, Suite 3100, Washington DC, 20024.

FOR FURTHER INFORMATION CONTACT: For further information or to submit comments contact: Michael R. Jurkowski, Telephone: (703) 489–1322, or email CMTEFedReg@AbilityOne.gov.

SUPPLEMENTARY INFORMATION:

Deletion

On April 9, 2026 (91 FR 17952), the Committee for Purchase From People Who Are Blind or Severely Disabled published notice of proposed deletions from the Procurement List. This notice is published pursuant to 41 U.S.C. 8503 (a)(2) and 41 CFR 51–2.3. After consideration of the relevant matter presented, the Committee has determined that the product(s) and service(s) listed below are no longer suitable for procurement by the Federal Government under 41 U.S.C. 8501–8506 and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in additional reporting, recordkeeping or other compliance requirements for small entities.

2. The action may result in authorizing small entities to furnish the product(s) and service(s) to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 8501–8506) in connection with the product(s) and service(s) deleted from the Procurement List.

End of Certification

Accordingly, the following product(s) and service(s) are deleted from the Procurement List:

Product(s)

NSN(s)—Product Name(s):

1005–01–470–3006—Case, Carrying, M240

1005–01–526–8280—Carrying strap

Authorized Source of Supply: Chautauqua County Chapter, NYSARC, Jamestown, NY

Mandatory For: DEPT OF DEFENSE

Contracting Activity: DEPT OF DEFENSE, W4GG HQ US ARMY TACOM

4210–00–542–3480—Hose, Fire, Lightweight, Lined, White, 1" x 50'

Authorized Source of Supply: NEWVIEW Oklahoma, Inc., Oklahoma City, OK

Mandatory For: DEPT OF DEFENSE GENERAL SERVICES ADMINISTRATION

Contracting Activity: GSA/FSS GREATER SOUTHWEST ACQUISITI

8415–00–105–0605—Cover, M1 Helmet, Woodland Camouflage

Authorized Source of Supply: Lions Volunteer Blind Industries, Inc., Morristown, TN

Mandatory For: DEPT OF DEFENSE

Contracting Activity: DEPT OF DEFENSE, DLA TROOP SUPPORT

8415–01–549–4944—Cover, Lightweight Helmet w/Pad System, Camouflage, XS/S

8415–01–549–4946—Cover, Lightweight Helmet w/Pad System, Camouflage, M/L

8415–01–549–4948—Cover, Lightweight Helmet w/Pad System, Camouflage, XL

Authorized Source of Supply: Lions Volunteer Blind Industries, Inc., Morristown, TN

Mandatory For: DEPT OF DEFENSE

Contracting Activity: DEFENSE LOGISTICS AGENCY, DLA TROOP SUPPORT

Contracting Activity: DEPT OF THE ARMY, W6QK ACC–APG NATICK

7920–01–487–5023—Cleaner, Griddle, Handle, 12"

7930–01–487–5022—Cleaner, Griddle, Replacement, 3.2 oz, BX/40

7930–01–488–5450—Cleaner, Griddle, Replacement, 1 Qt

Authorized Source of Supply: Beacon Lighthouse, Inc., Wichita Falls, TX

Mandatory For: Total Government Requirement

Contracting Activity: GSA/FSS GREATER SOUTHWEST ACQUISITI

7910–01–089–9084—Pad, Floor, Polishing, Polyester, White, 22"

7910–01–090–9827—Pad, Floor, Buffing, Polyester, Red, 16"

7910–01–090–9828—Pad, Floor, Buffing, Polyester, Red, 18"

7910–01–090–9829—Pad, Floor, Scrubbing, Polyester, Blue, 20"

7910–01–091–8958—Pad, Floor, Polishing, Polyester, White, 16"

7910–01–091–8959—Pad, Floor, Polishing, Polyester, White, 18"

7910–01–091–8961—Pad, Floor, Buffing, Polyester, Red, 22"

7910–01–091–8962—Pad, Floor, Scrubbing, Polyester, Blue, 22"

7910–01–092–8502—Pad, Floor, Stripping, Polyester, Brown, 18"

7910–01–092–8505—Pad, Floor, Stripping, Polyester, Brown, 16"

7910–01–094–0033—Pad, Floor, Stripping, Polyester, Brown, 22"

7910–01–095–7831—Pad, Floor, Stripping, Polyester, Brown, 20"

7910–00–NIB–0001—Pad, Floor, Burnishing, Animal Hair, Gray, 12"

7910–00–NIB–0011—Pad, Floor, Polishing, Animal Hair, Beige, 12"

7910–00–NIB–0012—Pad, Floor, Polishing, Animal Hair, Beige, 13"

7910–00–NIB–0013—Pad, Floor, Polishing, Animal Hair, Beige, 14"

7910–00–NIB–0018—Pad, Floor, Polishing, Animal Hair, Beige, 19"

7910–00–NIB–0020—Pad, Floor, Polishing, Animal Hair, Beige, 22"

7910–00–NIB–0035—Pad, Floor, Scrubbing, Polyester, Blue, 15"

7910–00–NIB–0036—Pad, Floor, Scrubbing, Polyester, Blue, 16"

7910–00–NIB–0038—Pad, Floor, Scrubbing, Polyester, Blue, 18"

7910–00–NIB–0046—Pad, Floor, Scrubbing, Nylon, Green, 21"

7910–00–NIB–0048—Handle, Applicator, Scrubber, Baseboard

7910–00–NIB–0049—Pad, Baseboard Scrubber, Polishing, White, 4–3/4" x 10"

7910–00–NIB–0054—Pad, Floor, Scrubbing, Polyester, Blue, 12"

7910–00–NIB–0056—Pad, Floor, Stripping, Polyester, Brown, 12"

7910–00–NIB–0058—Pad, Floor, Polishing, Polyester, White, 12"

7910–01–382–8049—Pad, Floor, Scrubbing, Nylon, Green, 19"

7910–01–432–9020—Pad, Floor, Burnishing, Animal Hair, Gray, 20"

7910–01–512–4962—Pad, Floor, Polishing, Polyester, White, 14"

7910–01–512–4963—Pad, Floor, Polishing, Animal Hair, Beige, 21"

7910–01–512–4966—Pad, Baseboard Scrubber, Polishing, Blue, 4–3/4" x 10"

7910–01–512–5932—Pad, Floor, Buffing, Polyester, Red, 13"

7910–01–512–5934—Pad, Floor, Buffing, Polyester, Red, 12"

7910–01–512–5935—Pad, Floor, Polishing, Polyester, White, 13"

7910–01–512–5936—Pad, Floor, Stripping, Polyester, Brown, 13"

7910–01–512–5938—Pad, Floor, Polishing, Polyester, White, 17"

7910–01–512–5939—Pad, Floor, Polishing, Polyester, White, 15"

7910–01–512–5940—Pad, Floor, Stripping, Polyester, Brown, 21"

7910–01–512–5941—Pad, Floor, Burnishing, Animal Hair, Gray, 18"

7910–01–512–5943—Pad, Floor,

Burnishing, Animal Hair, Gray, 19"

7910–01–512–5944—Pad, Floor, Polishing, Polyester, White, 21"

7910–01–512–5945—Pad, Floor, Burnishing, Animal Hair, Gray, 22"

7910–01–512–5946—Pad, Floor, Polishing, Polyester, White, 19"

7910–01–512–5947—Pad, Floor, Buffing, Polyester, Red, 21"

7910–01–512–5948—Pad, Floor, Buffing, Polyester, Red, 19"

7910–01–512–5949—Pad, Floor, Buffing, Polyester, Red, 17"

7910–01–512–5951—Pad, Floor, Scrubbing, Polyester, Blue, 19"

7910–00–820–7990—Pad, Floor, Buffing, Nylon, Tan, 16"

7910–00–820–7991—Pad, Floor, Buffing, Nylon, Tan, 14"

7910–00–820–7996—Pad, Floor, Buffing, Nylon, Tan, 22"

7910–00–820–7997—Pad, Floor, Buffing, Nylon, Tan, 21"

7910–00–820–9900—Pad, Floor, Scrubbing, Nylon, Green, 17"

7910–00–820–9901—Pad, Floor, Scrubbing, Nylon, Green, 18"

7910–00–820–9903—Pad, Floor, Scrubbing, Nylon, Green, 14"

7910–00–820–9904—Pad, Floor, Scrubbing, Nylon, Green, 15"

7910–00–820–9905—Pad, Floor, Scrubbing, Nylon, Green, 16"

7910–00–820–9910—Pad, Floor, Stripping, Nylon, Black, 22"

7910–00–820–9911—Pad, Floor, Stripping, Nylon, Black, 21"

7910–00–820–9913—Pad, Floor, Stripping, Nylon, Black, 19"

7910–00–820–9914—Pad, Floor, Stripping, Nylon, Black, 18"

7910–00–820–9916—Pad, Floor, Stripping, Nylon, Black, 16"

7910–00–820–9917—Pad, Floor, Stripping, Nylon, Black, 15"

7910–00–820–9918—Pad, Floor, Stripping, Nylon, Black, 14"

7910–00–820–9922—Pad, Floor, Scrubbing, Nylon, Green, 22"

7910–00–820–9924—Pad, Floor, Buffing, Nylon, Tan, 19"

7910–00–820–9925—Pad, Floor, Buffing, Nylon, Tan, 18"

7910–00–820–9926—Pad, Floor, Buffing, Nylon, Tan, 17"

Authorized Source of Supply: Beacon Lighthouse, Inc., Wichita Falls, TX

Mandatory For: Total Government Requirement

Contracting Activity: GSA/FSS GREATER SOUTHWEST ACQUISITI

Services(s)

Service Type: Office Supply Store

Mandatory for: VA Medical Center, 4150 Clement Street, Building 6 Room 118, San Francisco, CA

Authorized Source of Supply: Associated Industries for the Blind, Milwaukee, WI

Contracting Activity: DEPARTMENT OF VETERANS AFFAIRS, NAC

Michael R. Jurkowski,

Director, Business Operations.

[FR Doc. 2026–09611 Filed 5–13–26; 8:45 am]

BILLING CODE 6353–01–P

COMMODITY FUTURES TRADING COMMISSION

Agency Information Collection Activities Under OMB Review

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (PRA), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Information and Regulatory Affairs (OIRA), of the Office of Management and Budget (OMB), for review and comment. The ICR describes the nature of the information collection and its expected costs and burden.

DATES: Comments must be submitted on or before June 15, 2026.

ADDRESSES: Written comments and recommendations for the proposed information collection should be submitted within 30 days of this notice's publication to OIRA, at <https://www.reginfo.gov/public/do/PRAMain>. Please find this particular information collection by selecting "Currently under 30-day Review—Open for Public Comments" or by using the website's search function. Comments can be entered electronically by clicking on the "comment" button next to the information collection on the "OIRA Information Collections Under Review" page, or the "View ICR—Agency Submission" page. A copy of the supporting statement for the collection of information discussed herein may be obtained by visiting <https://www.reginfo.gov/public/do/PRAMain>.

In addition to the submission of comments to <https://Reginfo.gov> as indicated above, a copy of all comments submitted to OIRA may also be submitted to the Commodity Futures Trading Commission (the "Commission" or "CFTC") by any of the following methods:

- **Regulations.gov:** Go to <https://www.regulations.gov> and press the "Search" button, then proceed as follows:

1. Under Refine Documents Results—check the box to "Only show documents open for comment";

2. Under Agency—select "See More" and check the box for "Commodity Futures Trading Commission," then press the Apply button;

3. Identify this notice in the list of CFTC documents open for comment, press the "Comment" button to open the submission form, and follow the instructions on the form.

Alternatively, if you are viewing this notice on www.federalregister.gov, click the "Submit A Public Comment" button at the top of the page to open the comment form. Follow the instructions on the form to submit your comment to Regulations.gov.

- **Mail:** Send to—Christopher Kirkpatrick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581.

- **Hand Delivery/Courier:** Address to—CFTC Comment Submission, Attn: Christopher Kirkpatrick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581.

Please submit your comments using only one of these methods. To avoid possible delays with mail or in-person deliveries, submissions through Regulations.gov are encouraged.

All comments must be submitted in English or, if not, accompanied by an English translation. Do not include in your comment text or attachments any personal identifying information or business information that you do not want published online. Comments (regardless of submission method) will be published without review for, and without removal of, any personal identifying information or information your business may consider confidential.

If you wish to submit confidential information for the Commission's consideration, please contact the CFTC personnel listed in this Notice under **FOR FURTHER INFORMATION CONTACT** before making any submission. Please also carefully review the Commission's procedures in 17 CFR 145.9 for requesting confidential treatment under the Freedom of Information Act (FOIA) of information submitted to the Commission.

The CFTC reserves the right, but shall have no obligation, to review, pre-screen, filter, or redact all or any part of your comment submission. The CFTC also reserves the right, without further notification, to refuse to publish or to remove from public view all or any part of your submission to the extent it contains content inappropriate for publication in a comment file, such as—without limitation—obscene language, threats of violence, solicitations for commercial sales or illegal activity, or obvious spam. If a submission that is refused for or withdrawn from publication because of inappropriate content also contains comments on the merits of this notice, such submission will be retained in the record for the

matter and will be considered as required under the Administrative Procedure Act, the Paperwork Reduction Act, and other applicable laws, and may be accessible under the FOIA.

FOR FURTHER INFORMATION CONTACT:

Roger Smith, (202) 418–5344, rsmith@cftc.gov, Division of Market Oversight, Commodity Futures Trading Commission, 77 West Jackson Boulevard, Suite 800, Chicago, IL 60604, and refer to OMB Control No. 3038–0101.

SUPPLEMENTARY INFORMATION:

Title: Registration of Foreign Boards of Trade (OMB Control No. 3038–0101). This is a request for extension of a currently approved information collection.

Abstract: Section 738 of the Dodd-Frank Act amended section 4(b) of the Commodity Exchange Act to provide that the Commission may adopt rules and regulations requiring foreign boards of trade (FBOT) that wish to provide their members or other participants located in the United States with direct access to the FBOT's electronic trading and order matching system to register with the Commission. Pursuant to this authorization, the CFTC adopted a final rule requiring FBOTs that wish to permit trading by direct access to provide certain information to the Commission in applications for registration and, once registered, to provide certain information to meet quarterly and annual reporting requirements. Currently, Part 48 of the Commission's regulations sets forth reporting and/or recordkeeping requirements to ensure registered FBOTs providing for trading by direct access meet statutory and regulatory requirements on an initial and ongoing basis.

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. On February 9, 2026, the Commission published in the **Federal Register** notice of the proposed extension of this information collection and provided 60 days for public comment on the proposed extension, 91 FR 5729 ("60-Day Notice"). The Commission did not receive any relevant comments on the 60-Day Notice.

Burden Statement Collection 3038–0101—Registration of Foreign Boards of Trade (17 CFR Part 48). The Commission is revising its estimate of the burden for this collection for registered FBOTs. The Commission's estimate of the total number of

registered FBOTs that are required to make reports quarterly and annually has increased from 24 to 25. This reflects an increase in the total number of FBOTs registered with the Commission.

The Commission is also updating its estimate of the average burden hour per response associated with reporting under this collection. This update is based on the Commission's experience with reporting during the life of the collection. Based on this experience, the Commission estimates that burden per response for the submission of required reports varies from 0.5 hours to eight hours. These estimates include the time to locate, compile, validate, verify, and disclose and to ensure such information is maintained.

The respondent burden for this collection is estimated to be as follows:¹
Estimated Number of Respondents: 25.

Estimated Average Burden Hours per Respondent: 204 hours (rounded).

Estimated Total Annual Burden Hours: 5,097 hours.

Frequency of Collection: On occasion; quarterly or annually for required reports.

There are no capital costs or operating and maintenance costs associated with this collection. *Authority:* 44 U.S.C. 3501 *et seq.*

Dated: May 12, 2026.

Robert Sidman,

Deputy Secretary of the Commission.

[FR Doc. 2026-09632 Filed 5-13-26; 8:45 am]

BILLING CODE 6351-01-P

COMMODITY FUTURES TRADING COMMISSION

Agency Information Collection Activities Under OMB Review

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 ("PRA"), this notice announces that the Information Collection Request ("ICR") abstracted below has been forwarded to the Office of Information and Regulatory Affairs ("OIRA"), of the Office of Management and Budget ("OMB"), for review and comment. The ICR describes the nature of the information collection and its expected costs and burden.

¹ The Commission had estimated in the 60-Day Notice that the burden hours associated with this collection totaled 4,774. The Commission has updated its burden estimates based on its experience with this collection and its review of associated burdens.

DATES: Comments must be submitted on or before June 15, 2026.

ADDRESSES: Written comments and recommendations for the proposed information collection should be submitted within 30 days of this notice's publication to OIRA, at <https://www.reginfo.gov/public/do/PRAMain>. Please find this particular information collection by selecting "Currently under 30-day Review—Open for Public Comments" or by using the website's search function. Comments can be entered electronically by clicking on the "comment" button next to the information collection on the "OIRA Information Collections Under Review" page, or the "View ICR—Agency Submission" page. A copy of the supporting statement for the collection of information discussed herein may be obtained by visiting <https://www.reginfo.gov/public/do/PRAMain>.

In addition to the submission of comments to <https://Reginfo.gov> as indicated above, a copy of all comments submitted to OIRA may also be submitted to the Commodity Futures Trading Commission (the "Commission" or "CFTC") by any of the following methods:

- *Regulations.gov:* Go to <https://www.regulations.gov> and press the "Search" button, then proceed as follows:

1. Under Refine Documents Results—check the box to "Only show documents open for comment";

2. Under Agency—select "See More" and check the box for "Commodity Futures Trading Commission," then press the Apply button;

3. Identify this notice in the list of CFTC documents open for comment, press the "Comment" button to open the submission form, and follow the instructions on the form.

Alternatively, if you are viewing this notice on www.federalregister.gov, click the "Submit A Public Comment" button at the top of the page to open the comment form. Follow the instructions on the form to submit your comment to *Regulations.gov*.

- *Mail:* Send to—Christopher Kirkpatrick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581.

- *Hand Delivery/Courier:* Address to—CFTC Comment Submission, Attn: Christopher Kirkpatrick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581.

Please submit your comments using only one of these methods. To avoid

possible delays with mail or in-person deliveries, submissions through *Regulations.gov* are encouraged.

All comments must be submitted in English or, if not, accompanied by an English translation. Do not include in your comment text or attachments any personal identifying information or business information that you do not want published online. Comments (regardless of submission method) will be published without review for, and without removal of, any personal identifying information or information your business may consider confidential.

If you wish to submit confidential information for the Commission's consideration, please contact the CFTC personnel listed in this Notice under **FOR FURTHER INFORMATION CONTACT** before making any submission. Please also carefully review the Commission's procedures in 17 CFR 145.9 for requesting confidential treatment under the Freedom of Information Act (FOIA) of information submitted to the Commission.

The CFTC reserves the right, but shall have no obligation, to review, pre-screen, filter, or redact all or any part of your comment submission. The CFTC also reserves the right, without further notification, to refuse to publish or to remove from public view all or any part of your submission to the extent it contains content inappropriate for publication in a comment file, such as—without limitation—obscene language, threats of violence, solicitations for commercial sales or illegal activity, or obvious spam. If a submission that is refused for or withdrawn from publication because of inappropriate content also contains comments on the merits of this notice, such submission will be retained in the record for the matter and will be considered as required under the Administrative Procedure Act, the Paperwork Reduction Act, and other applicable laws, and may be accessible under the FOIA.

FOR FURTHER INFORMATION CONTACT: Eric Schmelzer, Special Counsel, (202) 836-0567, eschmelzer@cftc.gov, of the Division of Clearing and Risk; Dina Moussa, Special Counsel, (202) 418-5696, dmoussa@cftc.gov, or Catherine Brescia, Attorney Advisor, (202) 418-6236, cbrescia@cftc.gov, of the Market Participants Division; Roger Smith, (202) 418-5344, rsmith@cftc.gov, of the Division of Market Oversight, Commodity Futures Trading Commission, 77 West Jackson Blvd., Suite 800, Chicago, IL 60604.

SUPPLEMENTARY INFORMATION:

Title: Procedural Requirements for Requests for Interpretative, No-Action, and Exemptive Letters (OMB Control No. 3038–0049). This is a request for an extension of a currently approved information collection.

Abstract: This collection covers the information requirements for voluntary requests for, and the issuance of, interpretative, no-action, and exemptive letters submitted to Commission staff pursuant to the provisions of section 140.99 of the Commission's regulations,¹ and related requests for confidential treatment pursuant to section 140.98(b)² of the Commission's regulations.

The collection requirements described herein are voluntary. They apply to parties that choose to request a benefit from Commission staff in the form of the regulatory action described in section 140.99. Such benefits may include, for example, staff action related to some or all of the burdens associated with other collections of information, staff action related to regulatory obligations that do not constitute collections of information, interpretations, or extensions of time for compliance with certain Commission regulations. Any person requesting action under section 140.99 will likely have determined the staff action sought substantially outweighs any associated information collection burden.

This information collection is necessary, and is used, to assist Commission staff in understanding the type of staff action that is being requested and the basis for the request. It is also necessary, and is used, to provide staff with a sufficient basis for determining whether: (1) granting the requested action would be necessary or appropriate under the facts and circumstances presented by the requestor; (2) the requested action provided should be conditional and/or time-limited; and (3) granting the requested action would be consistent with staff responses to requests that have been presented under similar facts and circumstances. In some cases, Commission staff might grant the requested action with certain conditions it deems appropriate. Once again, those complying with these conditions will likely have determined the staff action sought outweighs any associated burden. This information collection also is necessary to provide a mechanism whereby persons requesting interpretative, no-action, and exemptive

letters may seek temporary confidential treatment of their request and the Commission staff response thereto and the grounds upon which such confidential treatment is sought.

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.³ On February 17, 2026, the Commission published in the **Federal Register** notice of the proposed extension of this information collection and provided 60 days for public comment on the proposed extension, 91 FR 7264 ("60-Day Notice"). The Commission did not receive any comments on the 60-Day Notice.

Burden Statement: The Commission is revising its existing burden estimate for this information collection to reflect the current number of respondents and estimated burden hours. The respondent burden for this collection is estimated to be as follows:

Estimated Number of Annual Respondents: 44.

Estimated Average Annual Burden Hours Per Respondent: 40.

Estimated Total Annual Burden Hours: 1,760.

Frequency of Collection: Occasional.

There are no capital costs or operating and maintenance costs associated with this collection.

(Authority: 44 U.S.C. 3501 *et seq.*)

Dated: May 12, 2026.

Robert Sidman,

Deputy Secretary of the Commission.

[FR Doc. 2026–09634 Filed 5–13–26; 8:45 am]

BILLING CODE 6351–01–P

CONSUMER PRODUCT SAFETY COMMISSION

Guidance on Referrals for Potential Criminal Enforcement

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: This notice describes the CPSC's plans to address guidance concerning criminal regulatory offenses under Executive Order 14294 on Fighting Overcriminalization in Federal Regulations.

FOR FURTHER INFORMATION CONTACT: Melissa V. Hampshire, Supervisory Attorney, Division of Federal Court Litigation, U.S. Consumer Product Safety Commission, Office of the General Counsel, 4340 East West Highway,

Bethesda, Maryland 20814; telephone (301)504–7631 email: mhampshire@cpsc.gov.

SUPPLEMENTARY INFORMATION: On May 9, 2025, the President issued Executive Order ("E.O.") 14294, Fighting Overcriminalization in Federal Regulations. 90 FR 20363 (published May 14, 2025). Section 7 of E.O. 14294 provides that within 45 days of the order, and in consultation with the Attorney General, each agency should publish guidance in the **Federal Register** describing its plan to address criminal regulatory offenses.

The CPSC advises the public that by May 11, 2026, the CPSC, in consultation with the Attorney General, will provide to the Director of the Office of Management and Budget ("OMB") a report containing: (1) a list of all of the agency's criminal regulatory offenses¹ enforceable by the CPSC or the Department of Justice ("DOJ"); and (2) for each such criminal regulatory offense, the range of potential criminal penalties for a violation and the applicable mens rea standard² for the criminal regulatory offense. CPSC regulations are enforced through statutory provisions administered by the CPSC that provide for criminal penalties. CPSC regulations in and of themselves do not provide for criminal penalties without a violation of an underlying statutory provision that provides for criminal penalties. CPSC will list statutes, if any, that provide for criminal penalties, including those statutes that include strict liability offenses for regulatory violations enforced by CPSC found in the Code of Federal Regulations in 16 CFR subchapters B, C, D, E and F.

This notice also announces a general policy, subject to appropriate exceptions and to the extent consistent with law, that when the CPSC is deciding whether to refer alleged violations of criminal regulatory offenses to DOJ, officers and employees of the CPSC should consider, among other factors:

- the harm or risk of harm, pecuniary or otherwise, caused by the alleged offense;
- whether the statutory offense is a strict liability offense with no mens rea requirement;
- the potential gain to the putative defendant that could result from the offense;
- whether the putative defendant held specialized knowledge, expertise,

¹ "Criminal regulatory offense" means a Federal regulation that is enforceable by a criminal penalty. E.O. 14294, sec. 3(b).

² "Mens rea" means the state of mind that by law must be proven to convict a particular defendant of a particular crime. E.O. 14294, sec. 3(c).

¹ 17 CFR 140.99. An archive containing CFTC staff letters may be found at <https://www.cftc.gov/LawRegulation/CFTCStaffLetters/index.htm>.

² 17 CFR 140.98(b).

³ 44 U.S.C. 3512, 5 CFR 1320.5(b)(2)(i) and 1320.8(b)(3)(vi).

or was licensed in an industry related to the rule or regulation at issue; and

- evidence, if any is available, of the putative defendant's general awareness of the unlawfulness of his conduct as well as his knowledge or lack thereof of the regulation at issue.

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

Alberta E. Mills,

Secretary, Consumer Product Safety Commission.

[FR Doc. 2026-09642 Filed 5-13-26; 8:45 am]

BILLING CODE 6355-01-P

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Agency Information Collection Activities; Comment Request; Application Package for Current Population Survey Civic Engagement and Volunteering Supplement

AGENCY: Corporation for National and Community Service.

ACTION: Notice of information collection; request for comment.

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

DATES: Written comments must be submitted to the individual and office listed in the **ADDRESSES** section by July 13, 2026.

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

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

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

(3) By hand delivery or by courier to the AmeriCorps mailroom at the mail address given in paragraph (1) above, between 9 a.m. and 4 p.m. Eastern Time, Monday through Friday, except Federal holidays.

Comments submitted in response to this notice may be made available to the public through regulations.gov. For this reason, please do not include in your comments information of a confidential nature, such as sensitive personal information or proprietary information.

If you send an email comment, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the internet. Please note that responses to this public comment request containing any routine notice about the confidentiality of the communication will be treated as public comment that may be made available to the public, notwithstanding the inclusion of the routine notice.

FOR FURTHER INFORMATION CONTACT:

Laura Schlachter, Ph.D., 202-855-2358, or by email at LSchlachter@americorps.gov.

SUPPLEMENTARY INFORMATION: *Title of Collection:* Current Population Survey Civic Engagement and Volunteering Supplement.

OMB Control Number: 3045-0139.

Type of Review: Renewal.

Respondents/Affected Public:

Individuals and Households.

Total Estimated Number of Annual Responses: 60,000.

Total Estimated Number of Annual Burden Hours: 6,670.

Abstract: AmeriCorps is mandated by the Serve America Act (2009) to facilitate the establishment of a Civic Health Assessment in partnership with the National Conference on Citizenship. AmeriCorps aggregates and presents key indicators of civic health through its Volunteering and Civic Life in America (VCLA) research. The agency makes reports, tables, and data publicly available on the AmeriCorps website. Specialized tables are made available upon request. The proposed survey will be the only source of nationally representative data on civic engagement trends across the United States and over time. Key measures include formally volunteering through an organization; informally interacting with family, friends, and neighbors; participating in associations; charitable giving; learning about and engaging with issues of public concern; and interacting with public and private institutions. AmeriCorps has partnered with the US Census Bureau to collect data and publish reports on civic engagement trends since 2002. Currently, AmeriCorps is soliciting comments concerning its proposed renewal of the Current Population Survey Volunteering and Civic Engagement Supplement. AmeriCorps is directed by Congress to collect data and produce reports on the nation's civic health (Authority: 42 U.S.C. 12639(a); 13 U.S.C. 8(b), 182; 29 U.S.C. 1). AmeriCorps also seeks to continue using the currently approved information collection until the

renewed information collection is approved by OMB. The currently approved information collection is due to expire on August 31, 2026.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information; and to transmit or otherwise disclose the information. All written comments will be available for public inspection on regulations.gov.

Mary Hyde,

Director, Office of Research and Evaluation.

[FR Doc. 2026-09626 Filed 5-13-26; 8:45 am]

BILLING CODE 6050-28-P

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Agency Information Collection Activities; Comment Request; AmeriCorps Education Award Transfer Forms

AGENCY: Corporation for National and Community Service.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Corporation for National and Community Service (operating as

AmeriCorps) is proposing to renew an information collection for recipients of Segal Education Awards who wish to transfer their awards and qualified transfer recipients.

DATES: Written comments must be submitted to the individual and office listed in the **ADDRESSES** section by July 13, 2026.

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

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

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

(3) By hand delivery or by courier to the AmeriCorps mailroom at the mail address given in paragraph (1) above, between 9 a.m. and 4 p.m. Eastern Time, Monday through Friday, except Federal holidays.

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

FOR FURTHER INFORMATION CONTACT: Nahid Jarrett, Deputy Director, National Service Trust at 202-246-2770 or by email to njarrett@americorps.gov.

SUPPLEMENTARY INFORMATION:

Title of Collection: AmeriCorps Education Award Transfer Forms.

OMB Control Number: 3045-0136.

Type of Review: Renewal.

Respondents/Affected Public:

Individuals (AmeriCorps members with eligible education awards and qualified recipients).

Total Estimated Number of Annual Responses: 900.

Total Estimated Number of Annual Burden Hours: 75.

Abstract: AmeriCorps members who have earned a Segal Education Award may offer to transfer all or part of their education awards to certain family members (qualified recipients). Those qualified recipients may accept the

transfer or not and may later rescind acceptance. Likewise, the AmeriCorps member may revoke the transfer. Each of these actions requires the individual to complete a form so that AmeriCorps members and recipients meet the legal requirements of the award transfer process: Request to Transfer a Segal Education Award Amount, Accept/Decline Award Transfer Form, Request to Revoke Transfer of Education Award Form, and Rescind Acceptance of Award Transfer Form. These processes are implemented electronically where possible, but paper forms are available if necessary. AmeriCorps seeks to renew the current information collection. The currently approved information collection is due to expire on August 31, 2026.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information; and to transmit or otherwise disclose the information. All written comments will be available for public inspection on regulations.gov.

Jerry Prentice,

Director, National Service Trust.

[FR Doc. 2026-09572 Filed 5-13-26; 8:45 am]

BILLING CODE 6050-28-P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 0L-25]

Arms Sales Notification

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

ACTION: Arms sales notice.

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

FOR FURTHER INFORMATION CONTACT:

Urooj Zahra at (703) 695-6233, urooj.zahra.civ@mail.mil, or dsca.ncr.rsrmgmt.list.cns-mbx@mail.mil.

SUPPLEMENTARY INFORMATION: This 36(b) arms sales notification is published to fulfill the requirements of section 155 of Public Law 104-164 dated July 21, 1996. The following is a copy of the attached Transmittal 0L-25.

Dated: May 12, 2026.

Stephanie J. Bost,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

Transmittal No. 0L-25

REPORT OF ENHANCEMENT OR UPGRADE OF SENSITIVITY OF TECHNOLOGY OR CAPABILITY (SEC. 36(B)(5)(A), AECA)

(i) (U) *Prospective Purchaser:* Government of Greece

(ii) (U) *Sec. 36(b)(1), AECA*

Transmittal No.: 23-85

Date: December 15, 2023

Implementing Agency: Army

Funding Source: National Funds

(iii) (U) *Description:* On December 15, 2023, Congress was notified by congressional certification transmittal number 23-85 of the possible sale, under Section 36(b)(1) of the Arms Export Control Act, of thirty-five (35) UH-60M Black Hawk helicopters; eighty (80) T700-GE 701D engines (70 installed, 10 spares); forty-four (44) AN/AAR-57 common missile warning systems (35 installed, 9 spares); eighty-five (85) H-764U embedded global positioning systems with inertial navigation and country unique selective availability anti-spoofing module (or future replacement) (70 installed, 15 spares); and eighty-five (85) AN/ARC-231A very high frequency (VHF)/ultra-high frequency (UHF)/line-of-sight (LOS) satellite communications (SATCOM) radio systems. Also included were AN/ARC-231 receivers/transmitters RT-1808A (or future replacement); VHF/UHF/LOS SATCOM radios; APR-39C(V)1/4 radar warning

receivers; AVR-2B laser detecting sets; APX-123A Identification Friend or Foe (IFF) transponders; ARC-220 high frequency radios with KY-100M; VRC-100 ground stations; AN/PYQ-10 simple key loaders; KIV-77 common IFF applique crypto computers; communications security encryption devices; AN/ARN-147(V) VHF omnidirectional range/instrument landing system receiver radios; AN/ARN-149(V) low frequency/automatic direction finder radio receivers; AN/ARN-153 tactical air navigation system receiver transmitters; AN/APN-209 radar altimeters; AN/ARC-210 radios; EBC-406HM emergency locator transmitters; encrypted aircraft wireless intercommunications systems; improved heads up displays (IHU); signal data converters for IHU; color weather radars; MX-10D electro-optical/infrared (E.O./IR) with laser designators; E.O./IR cabin monitoring systems; E.O./IR digital video recorders; AN/ARC-201D RT-1478D radios; engine inlet barrier filters; ballistic armor protection systems; internal auxiliary fuel tank systems; fast rope insertion extraction systems; external rescue hoists; rescue hoist equipment sets; dual patient litter system sets; Martin Baker palletized crew chief/gunner seats with crashworthy floor structural modifications; external stores support system; integrated tow plates production assets; universal software loading kits; 60kVA generator kits; instrument panels; DF-500 personal location systems; Trakkabeam searchlights; external gun mount systems; M-134 mini gun systems; M-240 machine guns; 7.62mm cartridges; 2.75" rockets; flare IR countermeasure M206; decoy flare CM M211; CTG Impulse BBU-35/B; CTG, 25.4mm, decoy, chaff, M839/RR170/series; M255A2 MK-66 night reliability indicator; cartridge, aircraft fire extinguisher; cartridge, impulse; thruster control unit -3/A; cartridge, aircraft; Black Hawk aircrew trainer; Black Hawk maintenance trainer; Black Hawk avionics trainer; maintenance blended reconfigurable avionics trainer; CAPT-E visual & control System; training devices; helmets; transportation; organizational equipment; spare and repair parts; support equipment; tools and test equipment; technical data and publications; personnel training and training equipment; U.S. government and contractor engineering, technical, and logistics support services; and other related elements of logistics and program support. The estimated total cost was \$1.95 billion. Major Defense

Equipment (MDE) constituted \$850 million of this total.

This transmittal corrects the designation of M-240H machine guns from non-MDE to MDE and reports a quantity of fifty-four (54) M-240H machine guns as required for MDE items. The estimated MDE value will increase by \$1.4 million to a revised \$851.4 million. The estimated total case value will not increase and remain at \$1.95 billion. MDE constitutes \$851.4 million of this total.

(iv) *Significance*: This notification is being provided because the MDE items were not enumerated in the original notification. This report corrects an error in the original notification. The proposed articles and services will support the government of Greece in maintaining its current force projection capability and enhancing interoperability with U.S. forces well into the future.

(v) (U) *Justification*: This proposed sale will support the foreign policy and national security of the United States by improving the security of a NATO Ally that continues to be a force for political and economic stability in Europe.

(vi) (U) *Sensitivity of Technology*:

The Sensitivity of Technology Statement contained in the original notification applies to items reported here.

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

(vii) (U) *Date Report Delivered to Congress*: April 20, 2026

[FR Doc. 2026-09653 Filed 5-13-26; 8:45 am]

BILLING CODE 6001-FR-P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 26-60]

Arms Sales Notification

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

ACTION: Arms sales notice.

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

FOR FURTHER INFORMATION CONTACT: Urooj Zahra at (703) 695-6233, urooj.zahra.civ@mail.mil, or dsca.ncr.rsrcmgmt.list.cns-mbx@mail.mil.

SUPPLEMENTARY INFORMATION: This 36(b) arms sales notification is published to fulfill the requirements of section 155 of Public Law 104-164 dated July 21,

1996. The following is a copy of the attached Transmittal 26-60, Policy Justification, and Sensitivity of Technology.

Dated: May 12, 2026.

Stephanie J. Bost,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

Transmittal No. 26-60

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

(i) *Prospective Purchaser*: Government of Israel

(ii) *Total Estimated Value*:

Major Defense Equipment *	\$675.2 million
Other	\$317.2 million
TOTAL	\$992.4 million

Funding Source: Foreign Military Financing

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

Major Defense Equipment (MDE):

Ten thousand (10,000) Advanced

Precision Kill Weapon System-II All Up Round

Non-MDE:

The following non-MDE items will also be included: test support equipment; other support equipment; technical data; spare and repair parts; publications and technical documentation; personnel training and training equipment; transportation; U.S. Government and contractor engineering, technical, and logistics support services; and other related elements of logistics and program support.

(iv) *Military Department*: Navy (IS-P-AVW)

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

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

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

(viii) *Date Report Delivered to Congress*: May 1, 2026

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

POLICY JUSTIFICATION

Israel—Advanced Precision Kill Weapon System-II All-Up-Round

The Government of Israel has requested to buy ten thousand (10,000) Advanced Precision Kill Weapon System-II All Up Round. The following non-major defense equipment items will also be included: test support equipment; other support equipment;

technical data; spare and repair parts; publications and technical documentation; personnel training and training equipment; transportation; U.S. Government and contractor engineering, technical, and logistics support services; and other related elements of logistics and program support. The estimated total cost is \$992.4 million.

This proposed sale will contribute to the foreign policy and national security of the United States by helping to improve the security of a strategic regional partner that has been, and continues to be, an important force for political stability and economic progress in the Middle East.

The proposed sale will improve Israel's capability to meet current and future threats, strengthen its homeland defense, and serve as a deterrent to regional threats. Israel will have no difficulty absorbing these articles and services into its armed forces.

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

The principal contractor will be BAE Systems, located in Nashua, NH. At this time, the U.S. Government is not aware of any offset agreement proposed in connection with this potential sale. Any offset agreement will be defined in negotiations between the purchaser and the contractor.

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

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

Transmittal No. 26–60

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

Annex

Item No. vii

(vii) *Sensitivity of Technology:*

1. The Advanced Precision Kill Weapon System-II (APKWS-II) All Up Round is a low cost air-to-air and air-to-ground system that consists of an APKWS-II guidance section developed by BAE Systems, legacy 2.75-inch MK66 Mod 4 rocket motor, and legacy MK152 and MK435/436 warhead/fuse. The APKWS-II is a tactical rocket system that can be launched from several platforms, offering multi-mission, multi-target capability and precision-strike lethality. These guided rockets are steered to the target by following reflected laser beam energy directed onto the target either by the launching aircraft, a second aircraft, or ground-

based troops operating a laser designator.

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

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

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

5. All defense articles and services listed in this transmittal have been authorized for release and export to the Government of Israel.

[FR Doc. 2026–09646 Filed 5–13–26; 8:45 am]

BILLING CODE 6001–FR–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 26–01]

Arms Sales Notification

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

ACTION: Arms sales notice.

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

FOR FURTHER INFORMATION CONTACT:

Urooj Zahra at (703) 695–6233, urooj.zahra.civ@mail.mil, or dsca.ncr.rsrcmgmt.list.cns-mbx@mail.mil.

SUPPLEMENTARY INFORMATION: This 36(b) arms sales notification is published to fulfill the requirements of section 155 of Public Law 104–164 dated July 21, 1996. The following is a copy of the attached Transmittal 26–01.

Dated: May 12, 2026.

Stephanie J. Bost,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

Transmittal No. 26–01

REPORT OF ENHANCEMENT OR UPGRADE OF SENSITIVITY OF TECHNOLOGY OR CAPABILITY (SEC. 36(B)(5)(C), AECA)

(i) (U) *Prospective Purchaser:*

Government of Canada

(ii) (U) *Sec. 36(b)(1), AECA*

Transmittal No.: 25–40

Date: August 8, 2025

Implementing Agency: Army

Funding Source: National Funds

(iii) (U) *Description:* On August 8, 2025, Congress was notified by congressional certification transmittal number 25–40 of the possible sale, under Section 36(b)(1) of the Arms Export Control Act of forty-two (42) M1278A2 joint light tactical vehicles (JLTVs), heavy guns carrier (HGC); eighteen (18) M1279A2 JLTVs, utility truck; and nine (9) M1289 JLTV cargo trailers. The following non-MDE items were also included: M153 common remotely operated weapon stations (CROWS); Protector RS4 remote weapon system (RWS); mounted assured position, navigation, and timing (PNT) system; TRX Dismounted PNT System (DAPS); Type 1 radio systems, including Tactical Network Rover 2e (TNR2e), AN/PRC–148F, AN/PRC–163, and AN/PRC–167; system unique integration; objective gunner protection kits; driver's vision enhancement; spare and repair parts; special tools and test equipment; technical manuals and publications; maintenance trainers; new equipment training; total package fielding support; depot level maintenance/repair and return support; U.S. Government and contractor technical, engineering, and logistics personnel services; and other related elements of logistics and program support. The estimated total program value was \$160 million. Major defense equipment (MDE) constituted \$30 million of this total.

This transmittal notifies an increase in value, due to recent cost increases. There are no additional MDE or non-MDE items being reported with this notification. The estimated total value will increase by \$35 million. The estimated non-MDE value will increase by \$35 million to a revised \$165 million. The estimated total case value will increase to a revised \$195 million. MDE remains \$30 million of this total.

(iv) (U) *Significance:* Recent cost increases have brought about the need to add value to the previous notification. The proposed sale will

improve Canada's credible defense capability to deter aggression in the region, ensure interoperability with U.S. forces, and strengthen Canada's ability to contribute to shared continental defense.

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

(vi) (U) *Sensitivity of Technology*:

The Sensitivity of Technology Statement contained in the original notification applies to items reported here.

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

(vii) (U) *Date Report Delivered to Congress*: April 20, 2026

[FR Doc. 2026-09654 Filed 5-13-26; 8:45 am]

BILLING CODE 6001-FR-P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 0A-26]

Arms Sales Notification

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

ACTION: Arms sales notice.

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

FOR FURTHER INFORMATION CONTACT: Urooj Zahra at (703) 695-6233, urooj.zahra.civ@mail.mil, or dsca.ncr.rsrcmgmt.list.cns-mbx@mail.mil.

SUPPLEMENTARY INFORMATION: This 36(b) arms sales notification is published to fulfill the requirements of section 155 of Public Law 104-164 dated July 21, 1996. The following is a copy of the attached Transmittal 0A-26.

Dated: May 12, 2026.

Stephanie J. Bost,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

Transmittal No. 0A-26

REPORT OF ENHANCEMENT OR UPGRADE OF SENSITIVITY OF TECHNOLOGY OR CAPABILITY (SEC. 36(B)(5)(A), AECA)

(i) *Prospective Purchaser*: Republic of Latvia

(ii) *Sec. 36(b)(1), AECA Transmittal No.*: 18-33

Date: August 3, 2018

Implementing Agency: Army

Funding Source: National Funds and Foreign Military Financing

(iii) *Description*: On August 3, 2018, Congress was notified by congressional certification transmittal number 18-33 of the possible sale, under Section 36(b)(1) of the Arms Export Control Act, of four (4) UH-60M Black Hawk helicopters in standard USG configuration with designated unique equipment and government furnished equipment; ten (10) T700-GE-701D engines (8 installed and 2 spares); and ten (10) embedded global positioning systems/inertial navigation systems (8 installed and 2 spares). Also included were one (1) aviation mission planning system; five (5) Talon forward looking infrared radar (4 production and 1 spare); ten (10) AN/ARC-201D/E (8 production and 2 spares); ten (10) AN/ARC-231 radios (8 production and 2 spares); five (5) AN/APX-123A Identification Friend or Foe transponders (4 production and 1 spare); five (5) AN/ARC-220 radios (4 production and 1 spare); twenty (20) AN/AVS-6 helmet mounted night vision devices; aircraft warranty; air worthiness support; spare and repair parts; support equipment; communication equipment; publications and technical documentation; personnel training and training equipment; ground support equipment; site surveys; tool and test equipment; U.S. government and contractor technical and logistics support services; and other related elements of logistics and program support. The estimated total case value was \$200 million. Major defense equipment (MDE) constituted \$85 million of this total.

This transmittal reports the inclusion of the following additional MDE items: ten (10) M240H machine guns; and a support package including pintle mounts, egress kits, ammunition cans, training, and special tools and equipment. The estimated total value of the new items is \$350 thousand. The

estimated MDE value will increase by \$200 thousand and will remain at \$85 million. The estimated total non-MDE value will increase by \$150 thousand and will remain at \$115 million. The estimated total case value will not increase and will remain at \$200 million. MDE constitutes \$85 million of this total.

(iv) *Significance*: This notification is being provided as the MDE items were not enumerated in the original notification. The inclusion of this MDE represents an increase in capability over what was previously notified. The proposed sale will contribute to Latvia's military goals of updating its capability while further enhancing interoperability with the United States and other allies. Latvia intends to use these defense articles and services to modernize its armed forces and expand its capability to strengthen its homeland defense and deter regional threats.

(v) *Justification*: This proposed sale will support the foreign policy goals and national security objectives of the United States by improving the security of a NATO ally that is an important force for political stability and economic progress in Europe.

(vi) *Sensitivity of Technology*:

The Sensitivity of Technology statement contained in the original notification applies to items reported here.

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

(vii) *Date Report Delivered to Congress*: April 22, 2026

[FR Doc. 2026-09651 Filed 5-13-26; 8:45 am]

BILLING CODE 6001-FR-P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 26-0L]

Arms Sales Notification

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

ACTION: Arms sales notice.

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

FOR FURTHER INFORMATION CONTACT: Urooj Zahra at (703) 695-6233, urooj.zahra.civ@mail.mil, or dsca.ncr.rsrcmgmt.list.cns-mbx@mail.mil.

SUPPLEMENTARY INFORMATION: This 36(b) arms sales notification is published to

fulfill the requirements of section 155 of Public Law 104–164 dated July 21, 1996. The following is a copy of the attached Transmittal 26–0L.

Dated: May 12, 2026.

Stephanie J. Bost,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

Transmittal No. 26–0L

REPORT OF ENHANCEMENT OR UPGRADE OF SENSITIVITY OF TECHNOLOGY OR CAPABILITY (SEC. 36(B)(5)(C), AECA)

(i) (U) *Prospective Purchaser:*

Government of Germany

(ii) (U) *Sec. 36(b)(1), AECA*

Transmittal No.: 22–53

Date: July 28, 2022

Implementing Agency: Air Force

(iii) (U) *Description:* On July 28, 2022,

Congress was notified by congressional certification transmittal number 22–53 of the possible sale under Section 36(b)(1) of thirty-five (35) F–35 Joint Strike Fighter Conventional Take Off and Landing (CTOL) aircraft; thirty-seven (37) Pratt & Whitney F135–PW–100 engines (35 installed, 2 spares); one hundred five (105) AIM–120C–8 Advanced Medium Range Air-to-Air Missiles (AMRAAM); four (4) AIM–120C–8 AMRAAM Guidance Sections; seventy-five (75) AGM–158B/B2 Joint Air-to-Surface Standoff Missiles–Extended Range (JASSM–ER); two (2) AGM–158 Inert JASSMs with Test Instrumentation Kits (TIK); two (2) AGM–158 JASSM Separation Test Vehicles (STV); three hundred forty-four (344) GBU–53 Small Diameter Bombs (SDB–II); three (3) GBU–53 SDB–II Guided Test Vehicles (GTV); eight (8) GBU–53 SDB–II Captive Carry Reliability Trainers (CCRT); one hundred sixty-two (162) BLU–109 2000LB Hardened Penetrator Bombs for GBU–31; two hundred sixty-four (264) MK–82 500LB General Purpose (GP) Bombs for GBU–54; six (6) MK–82 Inert Filled GP Bombs; thirty (30) BLU–109 Inert 2000LB Hardened Penetrator Bombs; one hundred eighty (180) KMU–557 Joint Direct-Attack Munition (JDAM) Tail Kits for GBU–31; two hundred forty-six (246) KMU–572 JDAM Tail Kits for GBU–54; seventy-five (75) AIM–9X Block II+ Tactical Sidewinder Missiles; thirty (30) AIM–9X Block II Sidewinder Captive Air Training Missiles (CATM); fifteen (15) Tactical AIM–9X Block II+ Sidewinder Guidance Control Units; and five (5) AIM–9X Block II Sidewinder CATM Guidance Units. Also included were AIM–120 control sections, propulsion sections, telemetry systems, warheads, and containers; AIM–120 CATMs; AIM–9

Active Optical Target Detectors and containers; FMU–139 joint programmable fuzes; DSU–38 Laser-Illuminated Target Detectors for GBU–54; AN/PYQ–10 Simple Key Loaders; Common Munitions Built-in-Test Reprogramming Equipment (CMBRE) and ADU–891/E Adapter Group Computer Test Sets; KGV–135A embedded secure communications devices; Cartridge Actuated Devices/Propellant Actuated Devices (CAD/PAD); impulse cartridges, chaff, and flares; Full Mission Simulators and system trainers; training missiles and components; electronic warfare systems and Reprogramming Lab support; logistics management and support systems; threat detection, tracking, and targeting systems; Contractor Logistics Support (CLS); classified software and software development, delivery and integration support; transportation, ferry, and refueling support; weapons containers; aircraft and munitions support and support equipment; integration and test support and equipment; aircraft engine component improvement program (CIP) support; secure communications, precision navigation, and cryptographic systems and equipment; Identification Friend or Foe (IFF) equipment; spare and repair parts, consumables, and accessories, and repair and return support; minor modifications, maintenance, and maintenance support; personnel training and training equipment; classified and unclassified publications and technical documents; warranties; and U.S. Government and engineering, technical, and logistics support services, studies and surveys, as well as other related elements of logistical and program support. The estimated total value was \$8.40 billion. Major defense equipment (MDE) accounted for \$5.38 billion of this total.

This transmittal notifies the inclusion of the following MDE items: up to three thousand (3,000) GBU–53 small diameter bombs (SDB–II). The following non-MDE items will also be included: additional elements of logistics and program support. The estimated total value of the new items is \$1.32 billion. The estimated MDE value will increase by \$1.31 billion to a revised \$6.69 billion. The estimated non-MDE value will increase by \$10 million to a revised \$3.03 billion. The estimated total case value will increase by \$1.32 billion to a revised \$9.72 billion. MDE constitutes \$6.69 billion of this total.

(iv) (U) *Significance:* This notification accounts for requested additional MDE and non-MDE items not included in the original notification. The inclusion of this MDE represents an increase in

capability over what was previously notified.

(v) (U) *Justification:* This proposed sale will support the foreign policy goals and national security objectives of the United States by improving the security of a NATO Ally that is a force for political stability and economic progress in Europe.

(vi) (U) *Sensitivity of Technology:* The Sensitivity of Technology Statement contained in the original notification

applies to items reported here.

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

(vii) (U) *Date Report Delivered to Congress:* April 20, 2026

[FR Doc. 2026–09652 Filed 5–13–26; 8:45 am]

BILLING CODE 6001–FR–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 26–0M]

Arms Sales Notification

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

ACTION: Arms sales notice.

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

FOR FURTHER INFORMATION CONTACT:

Urooj Zahra at (703) 695–6233, urooj.zahra.civ@mail.mil, or dsca.ncr.rsrcmgtm.list.cns-mbx@mail.mil.

SUPPLEMENTARY INFORMATION: This 36(b) arms sales notification is published to fulfill the requirements of section 155 of Public Law 104–164 dated July 21, 1996. The following is a copy of the attached Transmittal 26–0M.

Dated: May 12, 2026.

Stephanie J. Bost,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

Transmittal No. RSAT 26–0M

REPORT OF ENHANCEMENT OR UPGRADE OF SENSITIVITY OF TECHNOLOGY OR CAPABILITY (SEC. 36(B)(5)(C), AECA)

(i) (U) *Prospective Purchaser:*

Government of Lithuania

(ii) (U) *Sec. 36(b)(1), AECA*

Transmittal No.: 23–75

Date: October 23, 2023

Implementing Agency: Air Force

Funding Source: National Funds

(iii) (U) *Description:* On October 23, 2023, Congress was notified by

congressional certification transmittal number 23–75 of the possible sale, under Section 36(b)(1) of the Arms Export Control Act, of thirty-six (36) AIM–120C–8 Advanced Medium Range Air to Air Missiles (AMRAAM); and one (1) AIM–120C–8 AMRAAM Guidance Section. Also included were Common Munitions Built-In-Test/Reprogramming Equipment; ADU–891/E adapter group computer test sets; AIM–120 spare control sections and containers; other spare parts, consumables, accessories, and repair/return support; munitions support and support equipment; classified software delivery and support; and unclassified publications and technical documentation; contractor logistics support; personnel training and training equipment; studies and surveys; transportation support; U.S. Government and contractor engineering, technical, and logistics support services; and other related elements of logistics and program support. The estimated total value was \$100 million. Major defense equipment (MDE) constituted \$75.9 million of this total.

On October 4, 2024, Congress was notified by congressional certification transmittal number 24–0Y of the possible sale, under Section 36(b)(5)(C) of the Arms Export Control Act of the addition of the following MDE items: twenty-four (24) AIM–120C–8 AMRAAM; and eight (8) AIM–120C–8 AMRAAM-Extended Range (AMRAAM-ER) missiles. The following non-MDE items were also included: AMRAAM-ER load trainers; and weapon system support including software. The estimated MDE value was increased by \$72 million to a revised \$147.9 million. The estimated non-MDE value was increased by \$8 million to a revised \$32.1 million. The estimated total case value increased by \$80 million to a revised \$180 million. MDE constituted \$147.9 million of this total.

This transmittal notifies the inclusion of the following additional MDE items: seventy-three (73) AIM–120C–8 AMRAAM; and fifty-two (52) AMRAAM-ER. The following non-MDE items will also be included: AMRAAM captive air training missiles; weapons support equipment; and other related elements of logistics and program support. The estimated total value of the new items is \$322 million. The estimated MDE value will increase by \$262 million to a revised \$409.9 million. The estimated non-MDE value will increase by \$60 million to a revised \$92.1 million. The estimated total case value will increase by \$322 million to a revised \$502 million. MDE constitutes \$409.9 million of this total.

(iv) (U) *Significance*: This notification accounts for requested additional MDE and non-MDE not included in the original notification. The inclusion of this MDE represents an increase in capability over what was previously notified. The proposed sale will support Lithuania's commercial purchase of the National Advanced Surface-to-Air Missile System.

(v) (U) *Justification*: This proposed sale will support the foreign policy and national security of the United States by helping to improve the security of a NATO Ally that is an important force for ensuring peace and stability in Europe.

(vi) (U) *Sensitivity of Technology*:

The Sensitivity of Technology Statement contained in the original notification applies to the additional items reported here.

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

(vii) (U) *Date Report Delivered to Congress*: April 22, 2026

[FR Doc. 2026–09648 Filed 5–13–26; 8:45 am]

BILLING CODE 6001–FR–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 26–40]

Arms Sales Notification

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

ACTION: Arms sales notice.

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

FOR FURTHER INFORMATION CONTACT:

Urooj Zahra at (703) 695–6233, urooj.zahra.civ@mail.mil, or dsca.ncr.rsrcmgmt.list.cns-mbx@mail.mil.

SUPPLEMENTARY INFORMATION: This 36(b) arms sales notification is published to fulfill the requirements of section 155 of Public Law 104–164 dated July 21, 1996. The following is a copy of the attached Transmittal 26–40, Policy Justification, and Sensitivity of Technology.

Dated: May 12, 2026.

Stephanie J. Bost,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

Transmittal No. 26–40

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

(i) *Prospective Purchaser*: Government of Lithuania

Major Defense Equipment *	\$174 million
Other	\$40 million

TOTAL	\$214 million

Funding Source: National Funds

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase*: Foreign Military Sales (FMS) case LH–B–LAV was below congressional notification threshold at \$19.5 million (\$10.5 million in major defense equipment (MDE)) and included sixteen (16) AIM–9X Block II Sidewinder tactical missiles; two (2) AIM–9X Block II tactical guidance units; training; weapon system support; training aids and devices; spare parts; and other related elements of logistics and program support. The Government of Lithuania has requested that the case be amended to include one hundred fifty-two (152) AIM 9X Block II Sidewinder tactical missiles; eight (8) AIM–9X Block II tactical guidance units; and six (6) AIM–9X Block II captive air training missiles. The following non-MDE items will also be included: U.S. Government and contractor engineering, technical, and logistics support services; and other related elements of logistics and program support. This amendment will cause the case to exceed the notification threshold, and thus notification of the entire program is required. The above notification requirements are combined as follows:

Major Defense Equipment (MDE):

One hundred sixty-eight (168) AIM–9X Block II Sidewinder tactical missiles

Ten (10) AIM–9X Block II tactical guidance units

Six (6) AIM–9X Block II captive air training missiles

Non-Major Defense Equipment:

The following non-MDE items will be included: training; weapon system support; training aids and devices; spare parts; U.S. Government and contractor engineering, technical, and logistics support services; and other related elements of logistics and program support.

(iv) *Military Department*: Navy (LH–P–LAV)

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

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

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

(viii) *Date Report Delivered to Congress*: April 22, 2026

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

POLICY JUSTIFICATION

Lithuania—AIM-9X Sidewinder Block II Missiles

The Government of Lithuania has requested to buy an additional one hundred fifty-two (152) AIM 9X Block II Sidewinder tactical missiles; eight (8) AIM-9X Block II tactical guidance units; six (6) AIM-9X Block II captive air training missiles; U.S. Government and contractor engineering, technical, and logistics support services; and other related elements of logistics and program support that will be added to a previously implemented case whose value was under the congressional notification threshold. The original Foreign Military Sales case, valued at \$19.5 million (\$10.5 million in major defense equipment (MDE)), included sixteen (16) AIM-9X Block II Sidewinder tactical missiles; two (2) AIM-9X Block II tactical guidance units; training; weapon system support; training aids and devices; spare parts; and other related elements of logistics and program support. This notification is for a combined total of the following MDE items: one hundred sixty-eight (168) AIM 9X Block II Sidewinder tactical missiles; ten (10) AIM-9X Block II tactical guidance units; and six (6) AIM-9X Block II captive air training missiles. The following non-MDE items will also be included: training; weapon system support; training aids and devices; spare parts; U.S. Government and contractor engineering, technical, and logistics support services; and other related elements of logistics and program support. The estimated total cost is \$214 million.

This proposed sale will support the foreign policy and national security of the United States by helping to improve the security of a NATO Ally that is an important force for ensuring peace and stability in Europe.

The proposed sale will help improve the security of Lithuania and assist in maintaining political stability, military balance, and economic progress in the region. Lithuania will have no difficulty absorbing these articles and services into its armed forces.

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

The principal contractor will be RTX Corporation, located in Arlington, VA. At this time, the U.S. Government is not aware of any offset agreement proposed in connection with this potential sale. Any offset agreement will be defined in negotiations between the purchaser and the contractor.

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

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

Transmittal No. 26-40

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

Annex

Item No. vii

(vii) *Sensitivity of Technology*:

1. The AIM-9X Block II Sidewinder tactical missile represents a substantial increase in performance over the AIM-9M and replaces the AIM-9X Block I missile configuration. The missile includes a high off-boresight seeker, enhanced countermeasure rejection capability, low drag and high angle of attack airframe, and the ability to integrate the helmet mounted cueing system. The most current AIM-9X Block II operational flight software provides fifth-generation infrared missile capabilities such as lock-on-after-launch, weapons data link, and surface launch.

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

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

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

5. All defense articles and services listed in this transmittal have been

authorized for release and export to the Government of Lithuania.

[FR Doc. 2026-09647 Filed 5-13-26; 8:45 am]

BILLING CODE 6001-FR-P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 26-42]

Arms Sales Notification

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

ACTION: Arms sales notice.

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

FOR FURTHER INFORMATION CONTACT:

Urooj Zahra at (703) 695-6233, urooj.zahra.civ@mail.mil, or dsca.ncr.rsrcmgt.list.cns-mbx@mail.mil.

SUPPLEMENTARY INFORMATION: This 36(b) arms sales notification is published to fulfill the requirements of section 155 of Public Law 104-164 dated July 21, 1996. The following is a copy of the attached Transmittal 26-42, Policy Justification, and Sensitivity of Technology.

Dated: May 12, 2026.

Stephanie J. Bost,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

Transmittal No. 26-42

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

(i) *Prospective Purchaser*: Government of the Netherlands

(ii) *Total Estimated Value*:

Major Defense Equipment *	\$190 million
Other	\$ 10 million

TOTAL	\$200 million

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

Major Defense Equipment (MDE):

Five hundred thirty (530) AGM-114R2 Hellfire Missiles

Non-MDE:

The following non-MDE items will also be included: U.S. Army Aviation and Missile Command Security Assistance Management Directorate technical assistance; Tactical Aviation and Ground Munitions Project Office technical assistance; non-standard books, publications, and other Hellfire publications; integration support; and other related elements of

logistics and program support.

(iv) *Military Department: Army* (NE-B-YCK; NE-B-YCJ)

(v) *Prior Related Cases, if any:* NE-B-YAZ

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

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

(viii) *Date Report Delivered to Congress:* April 22, 2026

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

POLICY JUSTIFICATION

The Netherlands—Hellfire Missiles

The Government of the Netherlands has requested to buy five hundred thirty (530) AGM-114R2 Hellfire Missiles. The following non-major defense equipment items will also be included: U.S. Army Aviation and Missile Command Security Assistance Management Directorate technical assistance; Tactical Aviation and Ground Munitions Project Office technical assistance; non-standard books, publications, and other Hellfire publications; integration support; and other related elements of logistics and program support. The estimated total cost is \$200 million.

This proposed sale will support the foreign policy and national security objectives of the United States by improving the security of a NATO Ally which is an important force for political stability and economic progress in Europe.

The proposed sale will modernize the Netherlands' armed forces, expand its capability to strengthen homeland defense, and deter regional threats. This enhanced capability will contribute to the Netherlands' military goals of updating capability while further enhancing interoperability with the United States and other allies. The Netherlands will have no difficulty absorbing these articles and services into its armed forces.

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

The principal contractor will be Lockheed Martin Corporation, located in Orlando, FL. At this time, the U.S. Government is not aware of any offset agreement proposed in connection with this potential sale. Any offset agreement will be defined in negotiations between the purchaser and the contractor.

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

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

Transmittal No. 26-42

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

Annex

Item No. vii

(vii) *Sensitivity of Technology*

1. The AGM-114R2 Hellfire Missile is used against heavy and light armored targets, thin skinned vehicles, urban structures, bunkers, caves, and personnel. The missile is inertial measurement unit based, with a variable delay fuse, improved safety and reliability.

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

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

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

5. All defense articles and services listed in this transmittal have been authorized for release and export to the Government of the Netherlands.

[FR Doc. 2026-09649 Filed 5-13-26; 8:45 am]

BILLING CODE 6001-FR-P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 26-31]

Arms Sales Notification

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

ACTION: Arms sales notice.

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

FOR FURTHER INFORMATION CONTACT:

Urooj Zahra at (703) 695-6233, urooj.zahra.civ@mail.mil, or dsca.ncr.rsrcmgmt.list.cns-mbx@mail.mil.

SUPPLEMENTARY INFORMATION: This 36(b) arms sales notification is published to fulfill the requirements of section 155 of Public Law 104-164 dated July 21, 1996. The following is a copy of the attached Transmittal 26-31, Policy Justification, and Sensitivity of Technology.

Dated: May 12, 2026.

Stephanie J. Bost,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

Transmittal No. RSAT 26-031

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

(i) (U) *Prospective Purchaser:*

Government of Germany

(ii) (U) *Total Estimated Value:*

Major Defense Equipment*	\$ 4.8 billion
Other	\$ 7.1 billion

TOTAL	\$11.9 billion

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

Major Defense Equipment (MDE):

Eight (8) shipsets of AEGIS-based

Integrated Combat System MK 6

Mod X computing infrastructures

Eight (8) shipsets of AN/SPY-6(V)1

Active Electronically Scanned

Array S-Band radars

Eight (8) shipsets of MK 41 Baseline

VIII Vertical Launch Systems

Eight (8) shipsets of Cooperative

Engagement Capability

Eight (8) shipsets of Global

Positioning System-based

Positioning Navigation and Timing

Service

Nine (9) Command and Control

Processors

Ten (10) Multifunctional Information

Distribution Systems on Ship

Modernization systems

Nine (9) MK 45 gun mounts

Three (3) AN/SLQ-32(V)6 Electronic

Warfare systems

Eight (8) shipsets of AN/SPQ-9B

radar systems

Eight (8) shipsets of AN/WSN-12

Inertial Navigation Systems

Non-MDE:

The following non-MDE items will be included: Integrated Combat System computer program; Mod 5/S capable Identification Friend or Foe equipment; KIV-78 cryptographic appliques; AN/PYQ-10 Simple Key Loaders; Global Command and Control Systems for Maritime; Gigabit Ethernet Data Multiplex Systems; MK 99 MOD 14 Fire Control System radars; MK 38 MOD 4 Gun Weapon Systems (GWS); MK

34 GWS components including MK 160 gun computing system and MK 20 electro optical sight system; AN/WSN-9 digital hybrid speed log systems; AN/SPQ-15 converter/receiver and signal data converter equipment; Moriah wind systems; U.S. Government and contractor engineering, technical, and logistics support services; classified and unclassified software delivery and support; hardware to support development and testing in U.S. facilities; ancillary equipment; special purpose tools and test equipment; installation support material; classified and unclassified publications and technical documentation; initial spare and repair parts; training and training equipment; foreign liaison office and services necessary to support delivery; and other related elements of program and logistics support.

(iv) (U) *Military Department: Navy* (GY-P-LIV)

(v) (U) *Prior Related Cases, if any:* GY-P-LIY; GY-P-LJO

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

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

(viii) (U) *Date Report Delivered to Congress:* April 17, 2026

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

POLICY JUSTIFICATION

(U) Germany—Integrated Combat System, Supporting Equipment, and Support

(U) The Government of Germany has requested to buy eight (8) shipsets of AEGIS-based Integrated Combat System (ICS) MK 6 MOD X computing infrastructures; eight (8) shipsets of AN/SPY-6(V)1 Active Electronically Scanned Array S-Band radars; eight (8) shipsets of MK 41 Baseline VIII Vertical Launch Systems; eight (8) shipsets of Cooperative Engagement Capability; eight (8) shipsets of Global Positioning System-based Positioning Navigation and Timing Service; nine (9) Command and Control Processors; ten (10) Multifunctional Information Distribution Systems on Ship Modernization systems; nine (9) MK 45 gun mounts; three (3) AN/SLQ-32(V)6 Electronic Warfare systems; eight (8) shipsets of AN/SPQ-9B radar systems; and eight (8) shipsets of AN/WSN-12 Inertial Navigation Systems. The following non-MDE items will be included: Integrated Combat System

computer program; Mod 5/S capable Identification Friend or Foe equipment; KIV-78 cryptographic appliques; AN/PYQ-10 Simple Key Loaders; Global Command and Control Systems for Maritime; Gigabit Ethernet Data Multiplex Systems; MK 99 MOD 14 Fire Control System radars; MK 38 MOD 4 Gun Weapon Systems (GWS); MK 34 GWS components including MK 160 gun computing system and MK 20 electro optical sight system; AN/WSN-9 digital hybrid speed log systems; AN/SPQ-15 converter/receiver and signal data converter equipment; Moriah wind systems; U.S. Government and contractor engineering, technical, and logistics support services; classified and unclassified software delivery and support; hardware to support development and testing in U.S. facilities; ancillary equipment; special purpose tools and test equipment; installation support material; classified and unclassified publications and technical documentation; initial spare and repair parts; training and training equipment; foreign liaison office and services necessary to support delivery; and other related elements of program and logistics support. The estimated total cost is \$11.9 billion.

(U) This proposed sale will support the foreign policy goals and national security objectives of the United States by improving the security of a NATO Ally that is a force for political stability and economic progress in Europe.

(U) The proposed sale will enhance German maritime forces capability to meet current and future threats by improving national and territorial defense as well as interoperability with U.S. and NATO forces. Germany will have no difficulty absorbing this equipment into its armed forces.

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

(U) The principal contractors will be Lockheed Martin Corporation, located in Bethesda, MD, and RTX Corporation, located in Arlington, VA. At this time, the U.S. Government is not aware of any offset agreement proposed in connection with this potential sale. Any offset agreement will be defined in negotiations between the purchaser and the contractor.

(U) Implementation of this proposed sale will require the assignment of two additional U.S. Government and two contractor representatives to Germany for a duration of two weeks to support program requirements and technical oversight.

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

Transmittal No. 26-031

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

Annex

Item No. vii

(vii) *Sensitivity of Technology:*

1. (U) Integrated Combat System (ICS) is an advanced multi-mission layered defense combat system for the detecting, controlling, and engaging of threats on surface ships. The ICS provides modern technology and processes to converge existing AEGIS and Ship Self-Defense System combat system software baselines from the Common Source Library into a common and scalable baseline to deliver a flexible architecture for superior coverage, firepower, and threat engagement capability. In addition to shipboard equipment, the proposed sale will provide software, documentation, training devices and services, and other technical support to ensure the proper installation, testing and operation of the provided equipment.

2. (U) ICS is an AEGIS-based capability tailored to the Germany F127 frigate configuration, integrating data from sensors and communications, and will include integration of underwater warfare capabilities from the Germany-provided Combat Management System-330. ICS decouples the software from MK 6 Mod X computing infrastructure computing, display, and processing hardware providing a layered and redundant approach for the services it hosts enabling high availability and software resiliency of the combat system.

3. (U) The AN/SPY-6(V)1 Active Electronically Scanned Array S-Band radar provides continuous, 360-degree situational awareness and enhanced sensitivity for long range detection, tracking, and engagement of simultaneous missions against ballistic missiles, hypersonic, cruise missiles, and surface threats.

4. (U) The MK 41 Vertical Launch System (VLS) is a shipborne multi-missile launching system which provides a rapid-fire launch capability against hostile threats. MK 41 VLS has the capability to store and launch multiple missile variants depending on the warfighting mission, including the Evolved Sea Sparrow, Standard, and Tomahawk missiles. The missiles are pre-loaded into canisters, which are then loaded into the individual cells of the modular, below deck missile launcher.

5. (U) The Cooperative Engagement Capability (CEC) is a real-time sensor

netting system of Cooperating Units with the CEC capability, coordinating all ship and air sensor data into a single, real-time composite track picture for enhanced engagement coordination and improved interoperability against air defense threats.

6. (U) Global Positioning System (GPS)-based Positioning, Navigation, and Timing (PNT) Service (GPNTS) that receives and processes Precise Positioning Service signals transmitted from GPS satellites. GPNTS integrates signals from navigation-related sensors to incorporate position, velocity, and time information from an embedded military-grade GPS receiver with M-code integration for a more secure signal to counter jamming and spoofing threats.

7. (U) Command and Control Processor (C2P) Modernization is a tactical shipboard system that provides real-time control, processing, and management of Tactical Data Links (TDL) through interfaces with the host combat system and TDL terminals. C2P enables platforms to exchange tactical information on multiple TDL communications including Link-16 and Link-22.

8. (U) Multifunctional Information Distribution Systems (MIDS) on Ship Modernization system integrates with a MIDS—Joint Tactical Radio System (MIDS—JTRS) transmitter/receiver to produce a high-power Link 16 radio frequency output.

9. (U) The MK 45 gun is a fully automatic, single-barrel, 5-inch 62-caliber weapon that stows, loads, aims, and fires conventional 5-inch ammunition in response to engagements against selected Anti-Air Warfare and Anti-Surface Warfare targets.

10. (U) AN/SLQ-32(V)6 Electronic Warfare (EW) system is an EW equipment suite providing early detection, analysis, threat warning, and protection from anti-ship missiles.

11. (U) AN/SPQ-9B radar system is an advanced radar system for surface surveillance designed to scan the horizon, perform simultaneous and automatic air and surface target detection, and tracking in various environments, including littoral and high clutter conditions.

12. (U) AN/WSN-12 Inertial Navigation System is part of an overall Position-Navigation-Time solution which measures the movement of the ship, determines position and direction, and accepts GPS updates to compute precise movement, position, and direction rates.

13. (U) Global Command and Control System—Maritime (GCCS-M) provides a single, integrated Command, Control,

Communications, Computers, and Intelligence system. GCCS-M fuses, correlates, filters, maintains, and displays location and attribute information on friendly, hostile, and neutral land, sea, and air forces, and integrates this data with available intelligence and environmental information to support command decisions.

14. (U) Mode 5/S Identification Friend or Foe (IFF) is a centralized interrogator system that provides situational awareness and combat identification of friendly and neutral contacts through radio frequency signals.

15. (U) KIV-78A Cryptographic Applique is a component of the Mod 5/S IFF providing the encryption and decryption required to authenticate friendly interrogation and response signals while preventing adversary spoofing.

16. (U) AN/PYQ-10 Simple Key Loader secure delivery method used to load cryptographic keys to the KIV-78A Cryptographic Applique to enable cryptographic authentication and processing of an identified IFF target.

17. (U) The highest level of classification of defense articles, components, and services included in this potential sale is SECRET.

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

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

20. (U) All defense articles and services listed in this transmittal have been authorized for release and export to the Government of Germany.

[FR Doc. 2026-09655 Filed 5-13-26; 8:45 am]

BILLING CODE 6001-FR-P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 26-0P]

Arms Sales Notification

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

ACTION: Arms sales notice.

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

FOR FURTHER INFORMATION CONTACT:

Urooj Zahra at (703) 695-6233, urooj.zahra.civ@mail.mil, or dsca.ncr.rsrmgmt.list.cns-mbx@mail.mil.

SUPPLEMENTARY INFORMATION: This 36(b) arms sales notification is published to fulfill the requirements of section 155 of Public Law 104-164 dated July 21, 1996. The following is a copy of the attached Transmittal 26-0P.

Dated: May 12, 2026.

Stephanie J. Bost,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

Transmittal No. 26-0P

REPORT OF ENHANCEMENT OR UPGRADE OF SENSITIVITY OF TECHNOLOGY OR CAPABILITY (SEC. 36(B)(5)(C), AECA)

(i) *Prospective Purchaser:* Government of Germany

(ii) *Sec. 36(b)(1), AECA Transmittal No.:* 24-70

Date: August 15, 2024

Implementing Agency: Army

(iii) *Description:* On August 15, 2024, Congress was notified by congressional certification transmittal number 24-70, of the possible sale, under Section 36(b)(1) of the Arms Export Control Act, of six hundred (600) phased array tracking radar to intercept on target (PATRIOT) advanced capability-3 (PAC-3) missile segment enhancement (MSE) (includes ten (10) fly-to-buy missiles). Also included were tools and test equipment; range and test programs; support equipment; associated publications and technical documentation; training equipment; spare and repair parts; new equipment training; transportation; quality assurance team support; U.S. Government and contractor technical assistance, engineering, and logistics support services; systems integration and checkout (SICO) services; field office support; participation in the International Engineering Services Program and Field Surveillance Programs; launcher modification kits; MSE conversion kits; and other related elements of logistics and program support. The estimated total value was \$5 billion. Major defense equipment (MDE) constituted \$4 billion and non-MDE constituted \$1 billion of this total.

This transmittal notifies the inclusion of the following MDE items: up to sixteen (16) launching stations (LS); two (2) radar sets (RS); two (2) engagement control stations (ECS); and up to two (2)

electric power plants (EPPs). The following non-MDE items will also be included: SICO services and spares; 150 kW generators; publications and technical documentation; technical assistance; quality assurance, post deployment build 8.1 software; PATRIOT component software build (PCSB) 1.0 software; IPS-250X encryptors; KIV-77 encryptors; identification friend or foe (IFF) AN/TPX-57A(V)1; simple key loaders (SKL); maintenance support device V4; PATRIOT M903 launcher modification kits; PAC-3 MSE launcher conversion kits; PAC-3 shorting plug accumulation kits; PAC-3 MSE shorting plug accumulation kits; PATRIOT automated logistics system; very high frequency combat net-radios; Orion ultra-high frequency radios; mounted assured positioning, navigation, and timing system Gen II; other communication equipment; and other related elements of logistics and program support. The estimated total value of the new items is \$1.605 billion. The estimated MDE value will increase by \$805 million to a revised \$4.805 billion. The estimated non-MDE value will increase by \$800 million to a revised \$1.8 billion. The estimated total case value will increase by \$1.605 billion to a revised \$6.605 billion. MDE constitutes \$4.805 billion of this total.

(iv) *Significance*: This notification accounts for requested additional MDE and non-MDE items not included in the original notification. The inclusion of this MDE and non-MDE represents an increase in capability over what was previously notified. The proposed articles and/or services will improve Germany's capability to meet current and future threats and increase the defensive capabilities of its military. It will support Germany's goal of improving national and territorial defense as well as interoperability with U.S. and NATO forces. Germany will have no difficulty absorbing this equipment into its armed forces.

(v) *Justification*: This proposed sale will support the foreign policy goals and national security objectives of the United States by improving the security of a NATO Ally that is a force for political stability and economic progress in Europe.

(vi) *Sensitivity of Technology*:

The PATRIOT PAC-3 MSE missile is a small, highly agile, kinetic kill interceptor for defense against tactical ballistic missiles, cruise missiles, and air-breathing threats. The MSE variant of the PAC-3 missile represents the next generation in hit-to-kill interceptors and provides expanded battlespace against evolving threats. The PAC-3 MSE

improves upon the original PAC-3 capability with a higher performance solid rocket motor, modified lethality enhancer, more responsive control surfaces, upgraded guidance software, and insensitive munitions improvements.

The AN/MPQ-65 configuration 3+ increment 2 PATRIOT radar set (RS) consists of a multifunction phased-array radar mounted on a semitrailer. The RS is powered by the EPP and monitored and controlled by the ECS. The AN/MPQ-65 RS provides airspace surveillance, detection, target tracking, identification, missile tracking, missile guidance, and electronic counter-countermeasures. It has the capability to track a wide variety of targets under saturation raid conditions and support the simultaneous operation of multiple PATRIOT missiles to defend against a threat.

The M903 LS is a mobile tactical unit that transports, aims, and launches the PATRIOT guidance enhanced missile and PATRIOT PAC-3 missiles. The LS is controlled from the ECS via the data link terminal network (data link extensible PATRIOT fiber optic switch (DLX-PFOS)). The LS will operate with PATRIOT component software build (PCSB) 1.0. The system will be capable of operating PCSB 2.0 upon upgrade of the radar and ECS hardware.

The AN/MSQ-132 configuration 3+ increment 3 ECS provides operational control of the PATRIOT fire unit (FU). The ECS exchanges FU specific message data blocks with the information and coordination central (ICC). This data includes initialization data, defense readiness conditions, states of alert, target evaluation data, engagement-related data, and ECS status. To support these basic functions, the ECS utilizes data received over a local network with the battalion ICC. The ECS interfaces with the RS and LS. The ECS interfaces with the RS via a single data link cable, sending and receiving radar data. The ECS interfaces with the LS over a FU data link terminal network and fiber optic data link (data link extensible PATRIOT fiber optic switch (DLX-PFOS)). The ECS includes modern adjunct processor, modern man stations, peripheral control unit, enhanced weapons control computer emulator, fire solution computer—redesign, routing logic radio interface unit, radar weapons control interface unit, and control maintenance panel.

The power generation EPP III provides tactical power for the ECS and RS. The EPP consists of two 150 kW generator sets which are interconnected through the power distribution unit.

The identification friend or foe (IFF) is an identification system designed for command and control. It enables military and civilian air traffic control interrogation systems to identify aircraft, vehicles, or forces as friendly, and to determine its bearing and range from the interrogator. The AN/TPX-57(V)1 with KIV-77 encryptor is an air defense interrogator (ADI) that is used to classify and reclassify targets in IFF systems. IFF systems help friendly forces identify friendly platforms among potential targets, which can help prevent fratricide or counter an attack.

The KG-250X encryptor is a rugged, flexible, low-size, weight, and power, high-speed inline network encryptor. It is used to secure sensitive data on military and government networks by encrypting network traffic, allowing for secure communication in high-risk environments.

The KIV-77 encryptor is a highly sensitive cryptographic device certified by the National Security Agency (NSA) to secure Mode 4/5 IFF systems. It provides advanced encryption to authenticate friendly aircraft and vehicles, ensuring secure and reliable identification while preventing spoofing or unauthorized access. The KIV-77 is critical for enhancing situational awareness, reducing the risk of friendly fire, and supporting joint and allied operations. Strict export controls and access restrictions protect the KIV-77 from unauthorized use, ensuring its capabilities remain secure and vital to national defense.

The SKL is a ruggedized, portable, hand-held device, for securely receiving, storing, and transferring data between compatible cryptographic and communications equipment. The SKL employs Type 1 encryption to protect stored key data, and its software, firmware, and security architecture are subject to strict Department of War and NSA security controls. The SKL is considered a controlled cryptographic item.

The AN/TPX-57A(V)1 IFF system is a highly sensitive military technology designed to securely identify friendly aircraft and vehicles in contested environments. It uses advanced Mode 5 encryption, ensuring secure and reliable authentication to prevent spoofing or misidentification. The system is critical for reducing the risk of friendly fire and enhancing situational awareness in joint operations. Strict export controls and access restrictions safeguard the AN/TPX-57A(V)1 from unauthorized use, ensuring its capabilities remain protected to support national security and allied interoperability.

The combat net radio will replace the RT-1523 single channel ground and airborne radio system (SINCGARS). The RT-1523F receiver-transmitter is a core component of the SINCGARS family, providing secure voice and data communication for U.S. military and allied forces. It supports frequency-hopping technology to resist jamming and interception, ensuring reliable communication in contested environments. The RT-1523F is versatile, used in manpack, vehicle-mounted, and base station configurations, making it essential for tactical operations and command and control. Strict export controls and access restrictions protect the RT-1523F from unauthorized use, ensuring its capabilities remain secure and vital to national defense.

The IPS-250X encryptor is a highly sensitive device certified by the NSA to protect classified U.S. Government and military communications. It uses advanced encryption to secure data transmitted over IP networks, ensuring confidentiality and integrity for critical operations. Designed for interoperability, it integrates seamlessly with other secure systems and features anti-tamper protections and secure key management. Strict export controls and access restrictions safeguard the IPS-250X from unauthorized use or compromise, making it a vital tool for protecting national security.

Mounted Assured Positioning, Navigation and Timing System Gen II is a secure, encrypted global positioning system precise positioning service providing users with highly accurate position, navigation and timing data.

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

(vii) *Date Report Delivered to Congress*: April 22, 2026

[FR Doc. 2026-09650 Filed 5-13-26; 8:45 am]

BILLING CODE 6001-FR-P

DEPARTMENT OF EDUCATION

Tests Determined To Be Suitable for Use in the National Reporting System for Adult Education

AGENCY: Office of Career, Technical, and Adult Education, Department of Education.

ACTION: Notice.

SUMMARY: The Secretary announces new tests, test forms, and delivery formats that the Secretary determines to be suitable for use in the National Reporting System for Adult Education

(NRS) in accordance with § 462.13. The Secretary also announces an extension of the sunset period for one test with NRS approval that expires on June 20, 2027. The sunset period for this test is extended to June 30, 2028. This notice relates to the approved information collections under OMB control numbers 1830-0027 and 1830-0567. Adult education programs must use only the forms and computer-based delivery formats for the tests approved in this notice. If a particular test form or computer delivery format is not explicitly specified for a test in this notice, it is not approved to measure educational gain in the NRS.

FOR FURTHER INFORMATION CONTACT: John LeMaster, Department of Education, 400 Maryland Avenue SW, Washington, DC 20202. Telephone: (202) 987-0903. Email: John.Lemaster@ed.gov.

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

Tests Determined To Be Suitable for Use in the NRS for a Seven-Year Period From the Date of Publication of This Notice

The Secretary has determined that the following test is suitable for use in Mathematics at all ABE levels of the NRS for a period of 7 years from the publication date of this notice:

ACT WorkKeys Applied Math. Forms J14DH, J15DH, J16DH, J17DH are approved for use on paper. Forms 014, 015, 016, 017 are approved for use through a computer-based delivery format. Publisher: ACT, 500 ACT Drive, Iowa City, Iowa 52243-0168. Telephone: (319) 337-1270. Internet: www.act.org.

The Secretary has determined that the following tests are suitable for use in Literacy/English Language Arts at ABE levels 2 through 6 of the NRS for a period of 7 years from the publication date of this notice:

(1) ACT WorkKeys Workplace Documents. Forms J18DJ, J19DJ J20DJ, J21DJ are approved for use on paper. Forms 018, 019, 020, 021 are approved for use through a computer-based delivery format. Publisher: ACT, 500 ACT Drive, Iowa City, Iowa 52243-0168. Telephone: (800) 967-5539. Internet: www.act.org.

(2) Massachusetts Adult Proficiency Test—College and Career Readiness (MAPT-CCR) for Reading. This test is approved for use through a computer-adaptive delivery format. Publisher: Massachusetts Department of Elementary and Secondary Education and University of Massachusetts Amherst, College of Education, N110,

Furcolo Hall, 813 North Pleasant Street Amherst, MA 01003. Telephone: (413) 545-0564. Internet: <https://websites.umass.edu/allaboutmapt/>.

The Secretary has determined that the following test is suitable for use in Mathematics at ABE levels 2 through 6 of the NRS for a period of 7 years from the publication date of this notice:

Massachusetts Adult Proficiency Test—College and Career Readiness (MAPT-CCR) for Mathematics. This test is approved for use through a computer-adaptive delivery format. Publisher: Massachusetts Department of Elementary and Secondary Education and University of Massachusetts Amherst, College of Education, N110, Furcolo Hall, 813 North Pleasant Street, Amherst, MA 01003. Telephone: (413) 545-0564. Internet: <https://websites.umass.edu/allaboutmapt/>.

Test With NRS Approval Expiring on June 20, 2027, Allowed for Use in the NRS During a Sunset Period Ending on June 30, 2027, and Now Allowed for Use During an Extended Sunset Period Ending on June 30, 2028

The Secretary has determined that the following test is suitable for use at all English as a Second Language (ESL) levels of the NRS during a sunset period ending on June 30, 2028:

Tests of Adult Basic Education Complete Language Assessment System-English (TABE/CLAS-E). Forms C and D are approved for use on paper and through a computer-based delivery format. Publisher: Data Recognition Corporation—CTB, 13490 Bass Lake Road, Maple Grove, MN 55311. Telephone: (800) 538-9547. Internet: www.tabetest.com.

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. The Department will provide the requestor with an accessible format that may include Rich Text Format (RTF) or text format (txt), a thumb drive, an MP3 file, braille, large print, audiotape, compact disc, or other accessible format.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. You may access the official edition of the **Federal Register** and the Code of Federal Regulations at www.govinfo.gov. At this site you can view this document, as well as all other Department documents published in the **Federal Register**, in text or Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access Department documents published in the **Federal Register** by using the article search feature at www.federalregister.gov. Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Program Authority: 29 U.S.C. 3292.
OMB Control Numbers: 1830-0027, 1830-0567.

Nicholas Moore,

Deputy Assistant Secretary and Acting Assistant Secretary for Career, Technical, and Adult Education.

[FR Doc. 2026-09679 Filed 5-13-26; 8:45 am]

BILLING CODE 4000-01-P

DEPARTMENT OF EDUCATION

Notice Announcing Ready To Learn Programming Program Competition

AGENCY: Department of Education; Health and Human Services.

ACTION: Notice.

SUMMARY: The Administration for Children and Families at the U.S. Department of Health and Human Services (HHS) is soliciting applications in support of the administration of the Ready to Learn Programming program, Assistance Listing Number 84.295A, 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 July 8, 2026.

FOR FURTHER INFORMATION CONTACT: Tammy Proctor. Telephone: (202) 260-7803. Email: Tammy.Proctor@ed.gov.

SUPPLEMENTARY INFORMATION:

RTL is designed to: (1) Promote school readiness and academic achievement through the development and dissemination of accessible instructional programming for preschool and elementary school children and their families; (2) develop and disseminate programming and digital content containing Ready to Learn programming that is specially designed for nationwide distribution over public television stations’ digital broadcasting channels and the internet; and (3) Produce educational outreach materials and programs that are designed to deepen and extend the effectiveness of the educational television and interactive media. The FY 2026 competition includes two competitive preference priorities, one invitational priority, selection criteria, and requirements. The competitive preference priorities are: Meaningful

Learning Opportunities and Applications from New Potential Grantees. The invitational priority is: Promoting Evidence-Based Literacy.

Eligible Applicants: To receive funding under this competition, an entity must be a public telecommunications entity that is able to demonstrate—

(a) A capacity for the development and national distribution of educational and instructional television programming of high quality that is accessible by a large majority of disadvantaged preschool and elementary school children;

(b) A capacity to contract with the producers of children’s television programming for the purpose of developing educational television programming of high quality;

(c) A capacity, consistent with the entity’s mission and nonprofit nature, to negotiate such contracts in a manner that returns to the entity an appropriate share of any ancillary income from sales of any program-related products; and

(d) A capacity to localize programming and materials to meet specific State and local needs and to provide educational outreach at the local level.

Program Authority: 20 U.S.C. 7293.

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://www.ed.gov/grants-and-programs/grants-birth-grade-12/early-learning/ready-learn-programming> and on *Grants.gov* at <https://www.grants.gov/search-results-detail/362348>. 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: Alex J. Adams signs this notice in furtherance of HHS’ role in providing support to ED.

Kirsten Baesler,

Assistant Secretary, Office of Elementary and Secondary Education, Department of Education.

In concurrence.

Alex J. Adams,

Assistant Secretary, Administration for Children and Families, Department of Health and Human Services.

[FR Doc. 2026-09716 Filed 5-13-26; 8:45 am]

BILLING CODE 4000-01-P

DEPARTMENT OF ENERGY

Assistance to Foreign Atomic Energy Activities Secretarial Determination

AGENCY: National Nuclear Security Administration (NNSA), Department of Energy (DOE).

ACTION: Notice.

SUMMARY: On April 13, 2026, the Secretary of Energy (Secretary) issued a Determination adding Thailand to the generally authorized destinations list for exports of controlled nuclear technology and assistance under DOE’s regulation on *Assistance to Foreign Atomic Energy Activities*. Accordingly, DOE is publishing this Determination.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Goorevich, Assistant Deputy Administrator, Office of Nonproliferation and Arms Control (NPAC), National Nuclear Security Administration, Department of Energy, 1000 Independence Avenue SW, Washington, DC 20585, telephone (202) 586-6836, richard.goorevich@nnsa.doe.gov; Ms. Christina Pak, Office of the General Counsel, GC-74, Department of Energy, 1000 Independence Avenue SW, Washington, DC 20585, telephone (202) 531-7420, christina.pak@hq.doe.gov; or Mr. Zachary Stern, Office of the General Counsel, National Nuclear Security Administration, Department of Energy, 1000 Independence Avenue SW, Washington, DC 20585, telephone (202) 586-8627, zachary.stern@nnsa.doe.gov.

SUPPLEMENTARY INFORMATION: On April 13, 2026, the Secretary issued a Determination adding Thailand to the generally authorized destinations list for exports of controlled nuclear technology and assistance under DOE’s regulation on *Assistance to Foreign Atomic Energy Activities* at 10 Code of Federal Regulations (CFR) part 810 (Part 810). The text of the Determination is reprinted below. Section 57 b.(2) of the *Atomic Energy Act of 1954* (AEA), as amended (42 U.S.C. 2077(b)(2)), enables peaceful nuclear trade by helping to assure that nuclear technologies exported from the United States will not be used for non-peaceful purposes.

Part 810 implements section 57 b.(2) of the AEA, pursuant to which the Secretary has granted a general authorization for certain categories of activities, which the Secretary has found to be non-inimical to the interest of the United States—including assistance or transfers of certain controlled technology to the “generally authorized destinations” listed in Appendix A to part 810.

Signing Authority

This document of the Department of Energy was signed on April 16, 2026, by Richard Goorevich, Assistant Deputy Administrator, Office of Nonproliferation and Arms Control, National Nuclear Security Administration, 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 May 12, 2026.

Jennifer Hartzell,

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

Appendix

Set forth below is the full text of the Secretarial Determination:

Determination and Authorization Pursuant to Section 57 b.(2) of the Atomic Energy Act of 1954, as Amended, Regarding Exports of Nuclear Technology and Assistance to Thailand

Having considered the recommendation of the Department of Energy's National Nuclear Security Administration (DOE/NNSA), the U.S. Department of State's concurrence, and the consultations with the U.S. Departments of Defense and Commerce and the U.S. Nuclear Regulatory Commission, I have determined pursuant to section 57 b.(2) of the *Atomic Energy Act of 1954*, as amended, that a general authorization under DOE's regulations at 10 CFR part 810 (Part 810) for exports of Part 810-controlled nuclear technology and assistance to Thailand will not be inimical to the interest of the United States, provided that no sensitive nuclear technology or activities described in 10 CFR 810.7, *Activities Requiring Specific Authorization*, are involved.

Whether a destination is determined to be generally or specifically authorized depends on several factors, including the existence of a peaceful nuclear cooperation agreement (123 agreement) with the United States. *The Agreement for Cooperation Between the Government of the United States of America and the Government of the Kingdom of Thailand Concerning Peaceful Uses of Nuclear Energy*, was signed in Bangkok, Thailand on January 14, 2025, and entered into force on July 9, 2025. As such, and in consideration of the relevant factors, I have determined that general authorization status for Thailand to cover exports of Part 810-controlled nuclear technology and assistance

under 10 CFR 810.6(a), *Generally Authorized Activities*, meets the non-inimicality standard.

I therefore grant Thailand status as a generally authorized destination under 10 CFR 810.6(a).

Accordingly, as of the date on which this Determination is issued, all currently issued specific authorizations pursuant to 10 CFR 810.7(a) for exports of Part 810-controlled nuclear technology and assistance to Thailand are eligible for the general authorization under 10 CFR 810.6(a), subject to the reporting requirements described in 10 CFR 810.12(e), *Reports*. Initial reporting in accordance with 10 CFR 810.12(e) may also serve to satisfy reporting requirements under 10 CFR 810.12(b) if specified accordingly. Activities subject to 10 CFR 810.7(b)–(c) continue to require specific authorization and separate reporting.

[FR Doc. 2026–09643 Filed 5–13–26; 8:45 am]

BILLING CODE 6450–01–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: EG26–232–000.

Applicants: Lupinus BESS, LLC.

Description: Lupinus BESS, LLC

submits Notice of Self-Certification of Exempt Wholesale Generator Status.

Filed Date: 5/8/26.

Accession Number: 20260508–5179.

Comment Date: 5 p.m. ET 5/29/26.

Docket Numbers: EG26–233–000.

Applicants: Lupinus BESS 2, LLC.

Description: Lupinus BESS 2, LLC

submits Notice of Self-Certification of Exempt Wholesale Generator Status.

Filed Date: 5/8/26.

Accession Number: 20260508–518.

Comment Date: 5 p.m. ET 5/29/26.

Docket Numbers: EG26–234–000.

Applicants: Lupinus Solar, LLC.

Description: Lupinus Solar, LLC

submits Notice of Self-Certification of Exempt Wholesale Generator Status.

Filed Date: 5/8/26.

Accession Number: 20260508–5187.

Comment Date: 5 p.m. ET 5/29/26.

Docket Numbers: EG26–235–000.

Applicants: Lupinus Solar 2, LLC.

Description: Lupinus Solar 2, LLC

submits Notice of Self-Certification of Exempt Wholesale Generator Status.

Filed Date: 5/8/26.

Accession Number: 20260508–5195.

Comment Date: 5 p.m. ET 5/29/26.

Docket Numbers: EG26–236–000.

Applicants: Eagle Springs BESS, LLC.

Description: Eagle Springs BESS, LLC

submits Notice of Self-Certification of Exempt Wholesale Generator Status.

Filed Date: 5/8/26.

Accession Number: 20260508–5198

Comment Date: 5 p.m. ET 5/29/26

Docket Numbers: EG26–237–000.

Applicants: Eagle Springs Solar, LLC.

Description: Eagle Springs Solar, LLC

submits Notice of Self-Certification of Exempt Wholesale Generator Status.

Filed Date: 5/8/26.

Accession Number: 20260508–5202.

Comment Date: 5 p.m. ET 5/29/26.

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

Docket Numbers: ER19–158–022;

ER15–1456–014; ER11–2449–009; ER15–1599–027; ER14–1569–027; ER25–12–005; ER10–2616–034; ER11–4400–031; ER19–2807–019; ER10–2421–019; ER12–1769–021; ER15–1596–026; ER19–102–019; ER11–2457–019; ER12–2253–020; ER12–2251–020; ER12–75–022; ER10–2613–013; ER15–1457–014; ER14–2245–021; ER19–2809–018; ER19–2803–017; ER19–2810–018; ER19–2811–018; ER25–202–005.

Applicants: Vision Trading Company LLC, Viridian Energy, LLC, Viridian Energy PA, LLC, Cincinnati Bell Energy LLC, Viridian Energy NY, LLC, TriEagle Energy, LP, Syracuse, L.L.C., Sithe/Independence Power Partners, L.P., Public Power, LLC, Public Power & Utility of NY, Inc, Public Power & Utility of Maryland, LLC, Massachusetts Gas & Electric, Inc., Luminant Energy Company LLC, Luminant Commercial Asset Management LLC, Everyday Energy, LLC, LLC, Energy Services Providers, LLC, Energy Rewards, LLC, Dynegy Power Marketing, LLC, Dynegy Marketing and Trade, LLC, Dynegy Energy Services Mid-Atlantic, LLC, Dynegy Energy Services, LLC, Dynegy Energy Services (East), LLC, Connecticut Gas & Electric, Inc., Beaver Falls, L.L.C., Ambit Northeast, LLC.

Description: Notice of Non-Material Change in Status of Ambit Northeast, LLC, et al.

Filed Date: 4/30/26.

Accession Number: 20260430–5663.

Comment Date: 5 p.m. ET 5/21/26.

Docket Numbers: ER26–1803–001.

Applicants: Evergy Kansas Central, Inc.

Description: Tariff Amendment: EKC GFR FERC Order 898 Amended Filing to be effective 5/15/2026.

Filed Date: 5/8/26.

Accession Number: 20260508–5213.

Comment Date: 5 p.m. ET 5/29/26.

Docket Numbers: ER26–2245–001.

Applicants: Tucson Electric Power Company.

Description: Tariff Amendment: Amendment to OATT Revisions to Transition to Flowgate Methodology to be effective 9/1/2026.

Filed Date: 5/11/26.

Accession Number: 20260511–5095.

Comment Date: 5 p.m. ET 6/1/26.

Docket Numbers: ER26–2425–001.

Applicants: Duke Energy Carolinas, LLC.

Description: Tariff Amendment: Amendment to DEC Order 898

Revisions to be effective 1/1/2025.

Filed Date: 5/8/26.

Accession Number: 20260508–5210.

Comment Date: 5 p.m. ET 5/29/26.

Docket Numbers: ER26–2492–000.

Applicants: Silver Maple PV, LLC.

Description: Request for Prospective Tariff Waiver, et al. of Silver Maple PV, LLC.

Filed Date: 5/7/26.

Accession Number: 20260507–5139.

Comment Date: 5 p.m. ET 5/28/26.

Docket Numbers: ER26–2498–000.

Applicants: Southwest Power Pool, Inc.

Description: 205(d) Rate Filing: 4858 Public Service Company of Oklahoma Surplus GIA to be effective 7/11/2026.

Filed Date: 5/11/26.

Accession Number: 20260511–5016.

Comment Date: 5 p.m. ET 6/1/26.

Docket Numbers: ER26–2499–000.

Applicants: Southwest Power Pool, Inc.

Description: 205(d) Rate Filing: 3112R2 WAPA–UGP Marketing Meter Agent Agr to be effective 4/1/2026.

Filed Date: 5/11/26.

Accession Number: 20260511–5033.

Comment Date: 5 p.m. ET 6/1/26.

Docket Numbers: ER26–2500–000.

Applicants: Southwest Power Pool, Inc.

Description: 205(d) Rate Filing: 4859 NextEra Energy Resources Development Surplus Inter GIA to be effective 7/11/2026.

Filed Date: 5/11/26.

Accession Number: 20260511–5034.

Comment Date: 5 p.m. ET 6/1/26.

Docket Numbers: ER26–2501–000.

Applicants: PJM Interconnection, L.L.C.

Description: 205(d) Rate Filing: Notice of Cancellation of ICSA, SA No. 6875; Project Identifier AD2–086/AE1–090 to be effective 3/12/2026.

Filed Date: 5/11/26.

Accession Number: 20260511–5052.

Comment Date: 5 p.m. ET 6/1/26.

Docket Numbers: ER26–2502–000.

Applicants: Arlington Energy Storage LLC.

Description: Initial Rate Filing: Market-Based Rate Application to be effective 7/11/2026.

Filed Date: 5/11/26.

Accession Number: 20260511–5086.

Comment Date: 5 p.m. ET 6/1/26.

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

Docket Numbers: RD25–9–000.

Applicants: North American Electric Reliability Corporation.

Description: North American Electric Reliability Corporation submits Report on Reducing the Risk of Wildfire Ignition by the Bulk Power System.

Filed Date: 5/1/26.

Accession Number: 20260501–5471

Comment Date: 5 p.m. ET 6/1/26

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: May 11, 2026.

Carlos D. Clay,

Deputy Secretary.

[FR Doc. 2026–09635 Filed 5–13–26; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP26–16–000]

Texas Gas Transmission, LLC; Notice of Availability of the Environmental Assessment for the Proposed Carnation Project

The staff of the Federal Energy Regulatory Commission (FERC or Commission) has prepared an environmental assessment (EA) for the Carnation Project (Project), proposed by Texas Gas Transmission, LLC (Texas

Gas), in the above-referenced docket.¹ Texas Gas requests authorization to modify, construct, and operate natural gas facilities in Hamilton County, Ohio, including one new 14,189-horsepower compressor unit and ancillary facilities at the existing Crosby-Harrison Compressor Station, and two new single-run regulators and associated aboveground piping at the New Haven Regulators Facility.

Any person wishing to comment on the EA may do so. To ensure consideration of your comments on the proposal prior to making a decision on the Project, it is important that the Commission receive your comments on or before 5:00 p.m. Eastern Time on June 10, 2026. Instructions for filing comments are provided on pages 2 and 3.

FERC is the lead federal agency for authorizing interstate natural gas transmission facilities under the Natural Gas Act of 1938 (NGA) and the lead federal agency for preparation of the EA. The EA assesses the potential environmental effects of the Project in accordance with the requirements of the National Environmental Policy Act (NEPA)² and the Commission's implementing regulations.³ The principal purposes of the EA are to: identify and assess the potential effects on the natural and human environment; describe and evaluate reasonable alternatives; identify and recommend mitigation measures; and facilitate public involvement in the environmental review process. The EA concludes that approval of the proposed Project would not constitute a major federal action significantly affecting the quality of the human environment.

The Commission mailed a copy of the *Notice of Availability* of the EA to federal, state, and local government representatives and agencies; elected officials; Native American tribes; environmental and public interest groups; potentially affected landowners and other interested individuals and groups; and newspapers and libraries in the project area. The EA is only available in electronic format. It may be viewed and downloaded from the FERC's website (www.ferc.gov), on the natural gas environmental documents

¹ For tracking purposes under the National Environmental Policy Act, the unique identification number for documents relating to this environmental review is EAXX–019–20–000–1767610234.

² National Environmental Policy Act of 1969, as amended (Public Law [Pub. L.] 91–190, 42 U.S.C. 4321–4347, as amended by Pub. L. 94–52, July 3, 1975; Pub. L. 94–83, August 9, 1975; Pub. L. 97–258, 4(b), September 13, 1982; Pub. L. 118–5, June 3, 2023; Pub. L. 119–21, July 4, 2025).

³ 18 Code of Federal Regulations (CFR) 380.

page (<https://www.ferc.gov/industries-data/natural-gas/environment/environmental-documents>). In addition, the EA may be accessed by using the eLibrary link on the FERC's website. Click on the eLibrary link (<https://elibrary.ferc.gov/eLibrary/search>), select "General Search" and enter the docket number in the "Docket Number" field, excluding the last three digits (*i.e.* CP26-16). Be sure you have selected an appropriate date range. For assistance, please contact the FERC Online Support at FercOnlineSupport@ferc.gov or toll free at (866) 208-3676, or for TTY, contact (202) 502-8659.

The EA is not a decision document. It presents Commission staff's independent analysis of the environmental issues for the Commission to consider when addressing the merits of all issues in this proceeding. Under section 7(c) of the NGA, the Commission determines whether interstate natural gas transportation facilities are in the public convenience and necessity and, if so, grants a Certificate of Public Convenience and Necessity to construct and operate them. The Commission bases its decisions on both economic issues, including need, and environmental effects.

Your comments should focus on the EA's disclosure and discussion of potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental effects. The more specific your comments, the more useful they will be. For your convenience, there are three methods you can use to file your comments to the Commission. The Commission encourages electronic filing of comments and has staff available to assist you at (866) 208-3676 or FercOnlineSupport@ferc.gov. Please carefully follow these instructions so that your comments are properly recorded.

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

(2) You can also file your comments electronically using the eFiling feature on the Commission's website (www.ferc.gov) under the link to FERC Online. With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on "eRegister." You must select the type of filing you are making. If you are filing

a comment on a particular project, please select "Comment on a Filing"; or

(3) You can file a paper copy of your comments by mailing them to the Commission. Be sure to reference the project docket number (CP26-16-000) on your letter. Submissions sent via the U.S. Postal Service must be addressed to: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852.

Filing environmental comments will not give you intervenor status, but you do not need intervenor status to have your comments considered. Only intervenors have the right to seek rehearing or judicial review of the Commission's decision. At this point in this proceeding, the timeframe for filing timely intervention requests has expired. Any person seeking to become a party to the proceeding must file a motion to intervene out-of-time pursuant to Rule 214(b)(3) and (d) of the Commission's Rules of Practice and Procedures (18 CFR 385.214(b)(3) and (d)) and show good cause why the time limitation should be waived. Motions to intervene are more fully described at <https://www.ferc.gov/how-intervene>.

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. Additional information about the project is available from the FERC website (www.ferc.gov) using the eLibrary link. The eLibrary link also provides access to the texts of all formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. Go to <https://www.ferc.gov/ferc-online/overview> to register for eSubscription.

(Authority: 18 CFR 2.1.)

Dated: May 11, 2026.

Debbie-Anne A. Reese,
Secretary.

[FR Doc. 2026-09686 Filed 5-13-26; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP26-488-000]

Transcontinental Gas Pipe Line Company, LLC; Notice of Request Under Blanket Authorization and Establishing Intervention and Protest Deadline

Take notice that on May 1, 2026, Transcontinental Gas Pipe Line Company, LLC (Transco), Post Office Box 1396, Houston, Texas 77251, filed in the above referenced docket, a prior notice request pursuant to sections 157.203, 157.205, and 157.208 of the Commission's regulations under the Natural Gas Act (NGA), and Transco's blanket certificate issued in Docket No. CP82-426-000, for authorization to: (i) abandon in-place approximately 291 feet of existing 24-inch-diameter pipeline, and (ii) abandon by removal approximately 196 feet of existing 24-inch-diameter pipeline, and (iii) install approximately 490 feet of new 24-inch-diameter pipeline. All of the above facilities are located in Hudson County, New Jersey (Hudson West End Lateral Pipeline Replacement Project). The project will allow Transco to accommodate Consolidated Rail Corporation's Point No Point Bridge Replacement Project by mitigating overstress on the existing pipeline. The estimated cost for the project is \$14,779,979, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

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

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

Public Reference Room at
public.referenceroom@ferc.gov.

Any questions concerning this request should be directed to Antaui Byrd, Regulatory Analyst, Transcontinental Gas Pipe Line Company, LLC, Post Office Box 1396, Houston, Texas 77251-1396, by phone at (713) 215-3741 or by email at Antaui.Byrd@williams.com.

Public Participation

There are three ways to become involved in the Commission's review of this project: you can file a protest to the project, you can file a motion to intervene in the proceeding, and you can file comments on the project. There is no fee or cost for filing protests, motions to intervene, or comments. The deadline for filing protests, motions to intervene, and comments is 5:00 p.m. Eastern Time on July 10, 2026. How to file protests, motions to intervene, and comments is explained below.

For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, contact the Office of Public Participation (OPP) at (202) 502-6595 or OPP@ferc.gov.

Protests

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

Protests must comply with the requirements specified in section 157.205(e) of the Commission's regulations,³ and must be submitted by the protest deadline, which is 5:00 p.m. Eastern Time on July 10, 2026. A protest may also serve as a motion to intervene so long as the protestor states it also seeks to be an intervenor.

Interventions

Any person has the option to file a motion to intervene in this proceeding. Only intervenors have the right to request rehearing of Commission orders issued in this proceeding and to

subsequently challenge the Commission's orders in the U.S. Circuit Courts of Appeal.

To intervene, you must submit a motion to intervene to the Commission in accordance with Rule 214 of the Commission's Rules of Practice and Procedure⁴ and the regulations under the NGA⁵ by the intervention deadline for the project, which is 5:00 p.m. Eastern Time on July 10, 2026. As described further in Rule 214, your motion to intervene must state, to the extent known, your position regarding the proceeding, as well as your interest in the proceeding. For an individual, this could include your status as a landowner, ratepayer, resident of an impacted community, or recreationist. You do not need to have property directly impacted by the project in order to intervene. For more information about motions to intervene, refer to the FERC website at <https://www.ferc.gov/resources/guides/how-to/intervene.asp>.

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

Comments

Any person wishing to comment on the project may do so. The Commission considers all comments received about the project in determining the appropriate action to be taken. To ensure that your comments are timely and properly recorded, please submit your comments on or before 5:00 p.m. Eastern Time on July 10, 2026. The filing of a comment alone will not serve to make the filer a party to the proceeding. To become a party, you must intervene in the proceeding.

How To File Protests, Interventions, and Comments

There are two ways to submit protests, motions to intervene, and comments. In both instances, please reference the Project docket number CP26-488-000 in your submission.

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

(2) You can file a paper copy of your submission by mailing it to the address below. Your submission must reference the Project docket number CP26-488-000.

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

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

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

Protests and motions to intervene must be served on the applicant either by mail at: Antaui Byrd, Regulatory Analyst, Post Office Box 1396, Houston, Texas 77251-1396, or by email (with a link to the document) at Antaui.Byrd@williams.com. Any subsequent submissions by an intervenor must be served on the applicant and all other parties to the proceeding. Contact information for parties can be downloaded from the service list at the eService link on FERC Online.

Tracking the Proceeding

Throughout the proceeding, additional information about the project will be available from OPP at (202) 502-6595 or on the FERC website at www.ferc.gov using the "eLibrary" link as described above. The eLibrary link also provides access to the texts of all formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings

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

¹ 18 CFR 157.205.

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

³ 18 CFR 157.205(e).

⁴ 18 CFR 385.214.

⁵ 18 CFR 157.10.

by automatically providing you with notification of these filings, document summaries, and direct links to the documents. For more information and to register, go to www.ferc.gov/docs-filing/esubscription.asp.

(Authority: 18 CFR 2.1)

Dated: May 11, 2026.

Debbie-Anne A. Reese,
Secretary.

[FR Doc. 2026-09687 Filed 5-13-26; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP26-158-000]

WBI Energy Transmission, Inc.; Notice of Scoping Period Requesting Comments on Environmental Issues and Notice of On-Site Environmental Review for the Proposed Line Section 32 Expansion Project

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental document that will discuss the environmental effects of the Line Section 32 Expansion Project involving construction and operation of facilities by WBI Energy Transmission Inc. (WBI) in Williams and McKenzie Counties, North Dakota. The Commission will use this environmental document in its decision-making process to determine whether the project is in the public convenience and necessity.

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

By this notice, the Commission requests public comments on the scope of issues to address in the

environmental document. To ensure that your comments are timely and properly recorded, please submit your comments so that the Commission receives them in Washington, DC on or before 5:00 p.m. Eastern Time on June 10, 2026. Comments may be submitted in written form. Further details on how to submit comments are provided in the *Public Participation* section of this notice.

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

If you submitted comments on this project to the Commission before the opening of this docket on March 31, 2026, you will need to file those comments in Docket No. CP26-158-000 to ensure they are considered as part of this proceeding.

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

If you are a landowner receiving this notice, a pipeline company representative may contact you about the acquisition of an easement to construct, operate, and maintain the proposed facilities. The company would seek to negotiate a mutually acceptable easement agreement. You are not required to enter into an agreement. However, if the Commission approves the project, the Natural Gas Act conveys the right of eminent domain to the company. Therefore, if you and the company do not reach an easement agreement, the pipeline company could initiate condemnation proceedings in court. In such instances, compensation would be determined by a judge in accordance with state law. The Commission does not subsequently grant, exercise, or oversee the exercise of that eminent domain authority. The courts have exclusive authority to handle eminent domain cases; the Commission has no jurisdiction over these matters.

WBI provided landowners with a fact sheet prepared by the FERC entitled “An Interstate Natural Gas Facility On My Land? What Do I Need To Know?” which addresses typically asked questions, including the use of eminent domain and how to participate in the

Commission’s proceedings. This fact sheet along with other landowner topics of interest are available for viewing on the FERC website (www.ferc.gov) under the Natural Gas, Landowner Topics link.

Public Participation

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

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

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

(3) You can file a paper copy of your comments by mailing them to the Commission. Be sure to reference the project docket number (CP26-158-000) on your letter. Submissions sent via the U.S. Postal Service must be addressed to: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, MD 20852.

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

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*.

Onsite Environmental Review

On May 19, 2026, Office of Energy Projects staff will be in Williams County, North Dakota to review the proposed Line Section 32 Expansion Project. This review will inform the environmental analysis. Sites along the proposed pipeline route will be visited via public access points. Any interested parties may attend. Those attending must provide their own transportation and should meet at the following location:

- Pinnacle Travel Plaza of Tioga (6714 ND-40, Tioga, ND 58852) at 9:00 a.m. CDT.

Summary of the Proposed Project

WBI proposes to construct and operate a 17-mile-long, 24-inch-diameter, interstate, natural gas transmission pipeline and associated facilities in Williams County, North Dakota, and upgrade a pipeline interconnection in McKenzie County, North Dakota. According to WBI, the purpose of the Line Section 32 Enhancement Project is to provide 190,000 dekatherms per day of incremental firm transportation service to Bason Electric's new Bison Generation Station.

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

Land Requirements for Construction

Construction of the proposed facilities including the use of workspaces, additional temporary workspaces, contractor yards, laydown areas, and access roads would require the use of about 408.0 acres of land. Following construction, WBI would permanently maintain about 111.0 acres of land to operate the project. About 25 percent of the proposed pipeline route parallels existing utility easements.

NEPA Process and the Environmental Document

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

- geology and soils;

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

Commission staff have already identified several issues that deserve attention based on a preliminary review of the proposed facilities and the environmental information provided by WBI. This preliminary list of issues may change based on your comments and our analysis:

- agricultural land (row cropping, pastures);
- prairie remnants; and
- wetlands and waterbodies.

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

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

email notification when the environmental document is issued.

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

Consultation Under Section 106 of the National Historic Preservation Act

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

Environmental Mailing List

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

³ Cooperating agency responsibilities are addressed in Section 107(a)(3) of NEPA (42 U.S.C. 4336(a)(3)).

⁴ The Advisory Council on Historic Preservation's regulations are at Title 36, Code of Federal Regulations, Part 800. Those regulations define historic properties as any prehistoric or historic district, site, building, structure, or object included in or eligible for inclusion in the National Register of Historic Places.

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

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

potentially affected by the proposed project.

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

(1) Send an email to GasProjectAddressChange@ferc.gov stating your request. You must include the docket number CP26-158-000 in your request. If you are requesting a change to your address, please be sure to include your name and the correct address. If you are requesting to delete your address from the mailing list, please include your name and address as it appeared on this notice. This email address is unable to accept comments.

OR

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

Additional Information

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

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

(Authority: 18 CFR 2.1)

Dated: May 11, 2026.

Debbie-Anne A. Reese,
Secretary.

[FR Doc. 2026-09685 Filed 5-13-26; 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 rate filings:

Docket Numbers: ER17-1394-016; ER24-1271-008; ER22-1627-011; ER25-2563-004; ER24-2271-007; ER10-2895-029; ER26-1480-001; ER14-1964-027; ER16-287-021; ER12-

161-038; ER20-2028-012; ER13-2143-023; ER10-3167-023; ER13-203-022; ER23-921-006; ER12-2068-026; ER25-567-005; ER17-482-021; ER19-1819-010; ER19-1074-030; ER10-1427-023; ER20-1447-017; ER10-2917-035; ER19-1075-030; ER19-529-030; ER19-2429-013; ER13-1613-023; ER12-645-034; ER10-2460-026; ER10-2461-027; ER18-1343-020; ER10-2918-029; ER20-1806-012; ER26-1237-001; ER12-1504-013; ER21-2426-006; ER19-2584-002; ER23-2481-010; ER24-444-010; ER24-443-012; ER25-1595-004; ER24-2272-006; ER10-2920-029; ER12-682-027; ER11-2201-032; ER10-2463-024; ER22-192-020; ER24-2602-006; ER24-2603-004; ER24-1272-008; ER24-957-005; ER20-1487-009; ER17-2-011; ER25-2635-002; ER26-137-002; ER26-131-002; ER24-1449-007; ER10-2921-029; ER10-1328-009; ER10-2922-035; ER11-3377-018; ER13-1139-032; ER12-1502-013; ER22-2042-007; ER25-2565-004; ER24-2273-007; ER10-2567-010; ER12-2313-017; ER22-1883-010; ER19-2728-008; ER24-2601-007; ER22-398-010; ER25-3130-003; ER13-17-025; ER25-3131-003; ER10-1330-019; ER11-3376-017; ER19-89-008; ER19-2684-007; ER23-1939-006; ER26-1236-001; ER22-1019-008; ER14-25-027; ER21-2410-004; ER14-2630-025; ER24-2297-005; ER10-2966-029; ER11-2383-032; ER25-3506-002; ER10-1331-009; ER25-2940-002; ER11-3378-018; ER24-2467-007; ER19-1821-010; ER25-1127-004; ER12-1311-026; ER10-2466-027; ER19-1820-010; ER23-1889-005; ER25-2562-004; ER22-1010-018; ER10-1332-009; ER10-2522-010; ER24-2837-005; ER11-4029-026; ER24-2580-004; ER24-188-003; ER23-2203-009; ER22-2963-006.

Applicants: Yellowbud Solar, LLC, Wildflower Solar, LLC, Wild Springs Solar, LLC, White Pine Hydro, LLC, Vermont Wind, LLC, Unbridled Solar, LLC, Top of the World Wind Energy, LLC, Three Buttes Windpower, LLC, TerraForm IWG Acquisition Holdings II, LLC, Sycamore Creek Solar, LLC, Sweetland Wind Farm, LLC, Stony Knoll Solar, LLC, Stetson Wind II, LLC, Stetson Holdings, LLC, Spring Grove Solar II, LLC, Speedway Solar NC, LLC, Spanish Peaks Solar LLC, South Hurlburt Wind, LLC, Solar DG NM Amalia, LLC, Silver Sage Windpower, LLC, SF Aggregator, LLC, Safe Harbor Water Power Corporation, Rumford Falls Hydro LLC, Ross County Solar, LLC, Regulus Solar, LLC, Prairie Wolf Solar, LLC, Prairie Breeze Wind Energy LLC, Powell River Energy Inc., Pitt Solar, LLC, Pike Solar LLC, Palmer

Solar, LLC, North Rosamond Solar, LLC, North Hurlburt Wind, LLC, North Allegheny Wind, LLC, Nimbus Wind Farm, LLC, Niagara Wind Power, LLC, Morgnac Road Solar, LLC, Mesa Wind Power LLC, Louise Solar Project, LLC, Lily Solar LLC, Ledyard Windpower, LLC, Laurel Hill Wind Energy, LLC, Kit Carson Windpower, LLC, Jones Farm Lane Solar, LLC, Jackson County Solar, LLC, Jackpot Holdings, LLC, Ironwood Windpower, LLC, Imperial Valley Solar 1, LLC, Horseshoe Bend Wind, LLC, Hawks Nest Hydro LLC, Happy Jack Windpower, LLC, Great Lakes Hydro America, LLC, Goose Prairie Solar LLC, Gonzaga Ridge Wind Farm, LLC, Gonzaga Ridge Battery Facility, LLC, Geronimo Power Marketing, LLC, Frontier Windpower, LLC, Frontier Windpower II, LLC, Franklin Solar LLC, Foxglove Solar Project, LLC, Fayette Solar, LLC, Fillmore County Solar Project, LLC, Evolugen Trading and Marketing LP, Evergreen Wind Power, LLC, Evergreen Wind Power III, LLC, Erie Wind, LLC, Erie Boulevard Hydropower, L.P., Egypt Road Solar, LLC, Dodson Creek Solar, LLC, Deriva Energy Services, LLC, Deriva Energy Beckjord Storage LLC, Crystal Hill Solar, LLC, Crocker Wind Farm, LLC, CPRE 1 Lessee, LLC, Cimarron Windpower II, LLC, Cherry Solar, LLC, Catalyst Old River Hydroelectric Limited Partnership, Carr Street Generating Station, L.P., Carolina Solar Power, LLC, Canandaigua Power Partners II, LLC, Canandaigua Power Partners, LLC, California Ridge Wind Energy LLC, Brookfield White Pine Hydro LLC, Brookfield Smoky Mountain Hydropower LP, Brookfield Renewable Trading and Marketing LP, Brookfield Renewable Energy Marketing US LLC, Brookfield Power Piney & Deep Creek LLC, Brookfield Energy Marketing US LLC, Brookfield Energy Marketing LP, Brookfield Energy Marketing Inc., Broad River Solar, LLC, BREG Aggregator LLC, BR Pacific Hydro Power LLC, Blue Sky East, LLC, Black Mesa Energy, LLC, Black Bear SO, LLC, Black Bear Hydro Partners, LLC, Black Bear Development Holdings, LLC, Bitter Ridge Wind Farm, LLC, Bishop Hill Energy LLC, BIF III Holtwood LLC, BIF II Safe Harbor Holdings, LLC, Bee Hollow Solar, LLC, Bear Swamp Power Company LLC, Aspen Road Solar 1, LLC, Apple River Solar, LLC, AM Wind Repower LLC, Alton Post Office Solar, LLC, 83WI 8me, LLC.

Description: Notice of Non-Material Change in Status of 83WI 8me, LLC, et al.

Filed Date: 4/29/26.

Accession Number: 20260429-5385.

Comment Date: 5 p.m. ET 5/20/26.

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: May 11, 2026.

Carlos D. Clay,

Deputy Secretary.

[FR Doc. 2026-09637 Filed 5-13-26; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: PR26-55-000.

Applicants: Questar Gas Company.

Description: 284.123(g) Rate Filing: Revised Statement of Operating Conditions to be effective 1/1/2026.

Filed Date: 5/8/26.

Accession Number: 20260508-5087.

Comment Date: 5 p.m. ET 5/29/26.

284.123(g) Protest: 5 p.m. ET 7/7/26.

Docket Numbers: RP26-843-000.

Applicants: Tennessee Gas Pipeline Company, L.L.C.

Description: 4(d) Rate Filing: Negotiated Rate Agreement—Cumberland to be effective 5/26/2026.

Filed Date: 5/8/26.

Accession Number: 20260508-5191.

Comment Date: 5 p.m. ET 5/20/26.

Docket Numbers: RP26-844-000.

Applicants: Tennessee Gas Pipeline Company, L.L.C.

Description: 4(d) Rate Filing: Recourse Rate—Cumberland to be effective 5/26/2026.

Filed Date: 5/8/26.

Accession Number: 20260508-5192.

Comment Date: 5 p.m. ET 5/20/26.

Docket Numbers: RP26-845-000.

Applicants: Gillis Hub Pipeline, LLC.

Description: 4(d) Rate Filing: Filing of Negotiated Rate, Conforming IW Agreement 5.11.26 to be effective 5/12/2026.

Filed Date: 5/11/26.

Accession Number: 20260511-5028.

Comment Date: 5 p.m. ET 5/26/26.

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: May 11, 2026.

Carlos D. Clay,

Deputy Secretary.

[FR Doc. 2026-09636 Filed 5-13-26; 8:45 am]

BILLING CODE 6717-01-P

ENVIRONMENTAL PROTECTION AGENCY

[FRL-13178-02-OCFO]

Environmental Protection Agency Draft Fiscal Year 2027 Evidence Plan; Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; extension of comment period.

SUMMARY: The U.S. Environmental Protection Agency (EPA) is extending

the comment period for the document entitled "Environmental Protection Agency Draft Fiscal Year 2027 Evidence Plan." Based on feedback received, EPA is extending the comment period for the draft Fiscal Year (FY) 2027 Evidence Plan by 14 days through May 28, 2026. The draft FY 2027 Evidence Plan to support the Agency's Learning Agenda can be accessed on the EPA's website at: <https://www.epa.gov/evaluate/evidence-act>. The EPA seeks comments from individual citizens, states, Tribes, local governments, industry, the academic community, non-governmental organizations, and all other interested parties.

DATES: The comment period for the document published on April 30, 2026, at 91 FR 23266, is extended. Comments should be received on or before May 28, 2026.

ADDRESSES: Submit your comments to EvidenceAndEvaluation@epa.gov. Once submitted, comments cannot be edited or withdrawn. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information for which disclosure is restricted by statute. 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 FURTHER INFORMATION CONTACT: Jacob Simmons, Director, Evidence and Improvement Division, Office of Budget and Performance, Office of Finance and Administration, 1200 Pennsylvania Ave. NW, MC: 2831T, Washington, DC 20460, telephone number: (202) 369-5817, email address: simmons.jacob@epa.gov; and José Zambrana, Acting EPA Evaluation Officer, Office of Budget and Performance, Office of Finance and Administration, telephone number: (213) 244-1819, email address: zambrana.jose@epa.gov.

SUPPLEMENTARY INFORMATION: Based on feedback received, this document extends the comment period established in the **Federal Register** document of April 30, 2026 (91 FR 23266) for 14 days, from May 14, 2026, to May 28, 2026. More information on the action can be found in the **Federal Register** of April 30, 2026. To submit comments, please follow the instructions provided under **ADDRESSES**. If you have questions, consult the people listed under **FOR FURTHER INFORMATION CONTACT**.

Angel Robinson,

Director, Office of Budget and Performance, Office of Finance and Administration.

[FR Doc. 2026-09586 Filed 5-13-26; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[EPA-R09-OAR-2025-0454; FRL-13315-01-R9]

Clean Air Act Tribal Minor New Source Review Permit Issued to Jamul Casino Resort

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of final action.

SUMMARY: This document announces that the U.S. Environmental Protection Agency (EPA), Region IX, made a final decision to issue, in accordance with the Clean Air Act (CAA), a Tribal Minor New Source Review (NSR) permit to the Jamul Indian Village Development Corporation under the CAA's Tribal Minor NSR Program. This permit authorizes the construction and operation of equipment located at the Jamul Casino Resort in Jamul, California.

DATES: The EPA's final decision for the Jamul Casino Resort issued on March 20, 2026, was a final agency action, which became effective on that date. Pursuant to section 307(b)(1) of the Clean Air Act, 42 U.S.C. 7607(b)(1) judicial review of this final agency action may be sought by filing a petition for review in the United States Court of Appeals for the Ninth Circuit within 60 days of May 14, 2026.

ADDRESSES: The EPA established a docket for this action under Docket ID No. EPA-R09-OAR-2025-0454. All documents in the docket are listed on the <https://www.regulations.gov> website. Although listed in the docket index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information the disclosure of which is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available through <https://www.regulations.gov>. Please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional information about accessing docket materials for this action.

FOR FURTHER INFORMATION CONTACT: Laweeda Jones, EPA Region IX, (213) 844-1212, jones.laweeda@epa.gov. The EPA's final permit decision, the Technical Support Document for this action, and all other supporting information are available through <https://www.regulations.gov> under Docket ID No. EPA-R09-OAR-2025-0454.

SUPPLEMENTARY INFORMATION:**Notice of Final Action**

On March 20, 2026, the EPA made a final decision to issue a permit, Permit No. C-2026-2, to the Jamul Indian Village Development Corporation, an instrumentality of the Jamul Indian Village, authorizing the construction and operation of the Jamul Casino Resort ("Source"), pursuant to the provisions of Clean Air Act sections 110(a) and 301(d) and the EPA's Tribal Minor NSR Program at 40 CFR 49.151 through 49.164. The EPA based its decision on its determination that the Source met all applicable federal requirements and submitted all required content in the permit application under the EPA's Tribal Minor NSR Program. Notice of the final decision was provided on March 23, 2026, pursuant to 40 CFR 49.159(a).

In accordance with 40 CFR 49.159(d)(1), permit decisions may be appealed under the permit appeal procedures of 40 CFR 124.19. In accordance with 40 CFR 124.19, within 30 days after service of notice of the final permit decision, any person who filed comments on the draft permit or participated in a public hearing on the draft permit may file a petition to the EPA's Environmental Appeal Board (EAB) for review. Additionally, any person who failed to file comments or failed to participate in the public hearing on the draft permit may petition the EAB for administrative review of any permit conditions set forth in the final permit decision, but only to the extent that those final permit conditions reflect changes from the proposed draft permit. The EPA did not receive any comments on the draft permit or hold, or receive a request for, a public hearing on the draft permit. In the EPA's permit issued in its final permit decision, the EPA did not change the final permit conditions from those of the proposed draft permit. Because the EPA received no comments on the permit, pursuant to 40 CFR 49.159(a), this permit became effective immediately, on March 20, 2026.

Dated: May 6, 2026.

Anita Lee,

Acting Director, Air and Radiation Division, Region IX.

[FR Doc. 2026-09588 Filed 5-13-26; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[CERCLA-03-2026-0020-CR; FRL-13329-01-R3]

Proposed CERCLA Cost Recovery Settlement for the Desha Road Superfund Site, Tappahannock, Essex County, Virginia

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; request for comment.

SUMMARY: In accordance with section 122(h) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), notice is hereby given by the U.S. Environmental Protection Agency (EPA), Region 3, of a proposed cost recovery settlement agreement (Settlement) pursuant to CERCLA with FDP Virginia, Inc. (Settling Party) relating to the Desha Road Superfund Site located near the intersection of Carver Lane and Desha Road in Tappahannock, Essex County, Virginia.

DATES: Written comments must be received on or before June 15, 2026.

ADDRESSES: Requests for copies of the proposed Settlement and submission of comments must be via electronic mail to R3_ORC_Mailbox@epa.gov. Comments should reference the Desha Road Superfund Site, Tappahannock, Essex County, Virginia, Index No. CERCLA-03-2026-0020CR. For those unable to communicate via electronic mail, please contact the EPA employee identified below.

FOR FURTHER INFORMATION CONTACT:

Robert S. Hasson, Senior Assistant Regional Counsel, CERCLA Branch 1, U.S. Environmental Protection Agency, Region 3, 1600 John F. Kennedy Blvd., Philadelphia, PA 19103. Email: hasson.robert@epa.gov. Telephone: 215-814-2672.

SUPPLEMENTARY INFORMATION: The Settling Party will pay to the EPA a total of \$96,000.00 in three equal installments of \$32,000.00. The Settlement includes a covenant by the EPA not to sue or to take administrative action against the Settling Party pursuant to section 107(a) of CERCLA, 42 U.S.C. 9607(a), with regard to the EPA's past response costs as provided in the Settlement. For thirty (30) days following the date of publication of this notice, the EPA will receive written comments relating to the proposed Settlement. The EPA will consider all comments received and may modify or withdraw its consent to the proposed Settlement if comments received disclose facts or considerations that

indicate that the proposed Settlement is inappropriate, improper, or inadequate. The EPA's response to any comments received will be available for public inspection by request. Please see the **ADDRESSES** section of this document for instructions.

Paul Leonard,

Director, Superfund & Emergency Management Division, U.S. Environmental Protection Agency, Region 3.

[FR Doc. 2026-09587 Filed 5-13-26; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[FRL-13366-01-R1]

2026 Annual Joint Meeting of the Ozone Transport Commission and the Mid-Atlantic Northeast Visibility Union

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; public meeting.

SUMMARY: The United States Environmental Protection Agency (EPA) is announcing the 2026 Annual Joint Meeting of the Ozone Transport Commission (OTC) and the Mid-Atlantic Northeast Visibility Union (MANEVU). The meeting agenda will include topics covering OTC and MANEVU activities to reduce regional ground-level ozone precursors and visibility-impairing fine particles.

DATES: The public meeting will be held on June 3, 2026, starting at 9 a.m. and ending at 3 p.m.

Location: Omni New Haven Hotel at Yale, 155 Temple Street, New Haven, CT 06510. Further information on the details is available at <http://otcair.org>.

FOR FURTHER INFORMATION CONTACT:

For documents and press inquiries contact: Ozone Transport Commission, 89 South St., Suite 602, Boston, MA 02111; (617) 259-2005; email: ozone@otcair.org; website: <http://otcair.org>.

For registration: To register for the meeting, please use the online registration form available at <http://otcair.org>, or contact the OTC at telephone number: (617) 259-2005 or by email at ozone@otcair.org.

SUPPLEMENTARY INFORMATION: The Clean Air Act Amendments of 1990 contain Section 184 provisions for the Control of Interstate Ozone Air Pollution. Section 184(a) establishes an Ozone Transport Region (OTR) comprised of the States of Connecticut, Delaware, Maine,¹

Maryland, Massachusetts, New Hampshire,² New Jersey, New York, Pennsylvania, Rhode Island, Vermont, parts of Virginia, and the District of Columbia. The purpose of the OTC is to address ground-level ozone formation, transport, and control within the OTR.

MANEVU was formed in 2001, in response to EPA's issuance of the Regional Haze Rule. MANEVU's members include Connecticut, Delaware, the District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, the Penobscot Indian Nation, and the St. Regis Mohawk Tribe, along with EPA and Federal Land Managers.

Type of Meeting: Open.

Agenda: Copies of the final agenda are available from the OTC office at telephone number: (617) 259-2005, by email: ozone@otcair.org, or via the OTC website at <http://www.otcair.org>.

Dated: April 30, 2026.

Mark Sanborn,

Regional Administrator, EPA Region 1.

[FR Doc. 2026-09585 Filed 5-13-26; 8:45 am]

BILLING CODE 6560-50-P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060-0027, OMB 3060-0029; FR ID 345121]

Information Collections Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice; request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's

burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

DATES: Written comments should be submitted on or before July 13, 2026. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contacts below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email PRA@fcc.gov and to Cathy.Williams@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418-2918.

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

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

OMB Control Number: 3060-0027.

Type of Review: Extension of a currently approved collection.

Title: Application for Construction Permit for Commercial Broadcast Station, Form 2100, Schedule A—Application for Media Bureau Video

¹ The geographic scope of Maine within the OTR was subsequently reduced to the portion of Maine encompassing 111 towns and cities comprising the

Androscoggin Valley, Down East, and Metropolitan Portland Air Quality Control Regions, commonly referred to as the "Portland and Midcoast Ozone Areas." 87 FR 7734 (February 10, 2022).

² On December 24, 2025, EPA received a petition from New Hampshire requesting to be removed from the OTR under Section 176A of the Clean Air Act.

Service Authorization; 47 CFR 73.3700(b)(1) and (b)(2) and § 73.3800, Post Auction Licensing; Form 2100, Schedule 301–FM—Commercial FM Station Construction Permit Application; Form 2100, Schedule 301–AM—AM Station Construction Permit Application.

Form Number: FCC Form 301; Form 2100, Schedule A; and Form 2100, Schedule 301–FM.

Respondents: Business or other for-profit entities; Not-for-profit institutions; State, local or Tribal government.

Number of Respondents and Responses: 3,092 respondents and 4,199 responses.

Estimated Time per Response: 0.075 to 6.25 hours.

Frequency of Response: On occasion reporting requirement; One time reporting requirement; Third party disclosure requirement.

Total Annual Burden: 12,435 hours.

Total Annual Cost: \$61,420,108.

Needs and Uses: The Commission is requesting an extension of this information collection in order to receive approval/clearance from the Office of Management and Budget (OMB) for three years. FCC Form 2100, Schedules 301–FM and 301–AM is used to apply for authority to construct a new commercial AM or FM broadcast station and to make changes to existing facilities of such a station. It may be used to request a change of a station's community of license by AM and non-reserved band FM permittees and licensees. In addition, FM licensees or permittees may request upgrades on adjacent and co-channels, modifications to adjacent channels of the same class, and downgrades to adjacent channels. All applicants using this one-step process must demonstrate that a suitable site exists that would comply with allotment standards with respect to minimum distance separation and principal community coverage and that would be suitable for tower construction.

OMB Control Number: 3060–0029.

Title: FCC Form 2100, Schedule 340—Noncommercial Educational Station for Reserved Channel Construction Permit Application.

Form Number: FCC Form 2100, Schedule 340.

Type of Review: Extension of a currently approved collection.

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

Number of Respondents and Responses: 2,820 respondents; 2,820 responses.

Estimated Time per Response: 0.5–6 hours.

Frequency of Response: On occasion reporting requirement and third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection is contained in sections 154(i), 303 and 308 of the Communications Act of 1934, as amended.

Total Annual Burden: 6,603 hours.

Total Annual Cost: \$30,039,119.

Needs and Uses: Schedule 340 is used by licensees and permittees to apply for authority to construct a new noncommercial educational (NCE) FM and DTV broadcast station (including a DTS facility), or to make changes in the existing facilities of such a station. Schedule 340 is only used if the station will operate on a channel that is reserved exclusively for NCE use, or in the situation where applications for NCE stations on non-reserved channels are mutually exclusive only with one another. Also, Schedule 340 is used by Native American Tribes and Alaska Native Villages (Tribes), tribal consortia, or entities owned or controlled by Tribes when qualifying for the “Tribal Priority” under 47 CFR 73.7000, 73.7002. Additionally, Schedule 340 contains a third party disclosure requirement, pursuant to § 73.3580. This rule requires local public notice of the filing of all applications to construct a new full-service NCE FM or DTV broadcast station. Notice is given by an NCE applicant by posting notice of the application filing on its station's website, its licensee's website, its parent entity's website, or on a publicly accessible, locally targeted website, for 30 consecutive days beginning within five business days of acceptance of the application for filing. Furthermore, the online notice must link to a copy of the application as filed, either in the station's Online Public Inspection File or in another Commission database. This recordkeeping information collection requirement is contained in OMB Control No. 3060–0214, which covers § 73.3527.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2026–09569 Filed 5–13–26; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[FR ID 346225]

Radio Broadcasting Services; AM or FM Proposals To Change the Community of License

AGENCY: Federal Communications Commission.

ACTION: Notice.

DATES: The agency must receive comments on or before July 13, 2026.

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

FOR FURTHER INFORMATION CONTACT:

Rolanda F. Smith, 202–418–2054, Rolanda-Faye.Smith@fcc.gov.

SUPPLEMENTARY INFORMATION: The Media Bureau shall provide notice in the **Federal Register** that an application to modify an AM or FM station's community of license has been filed. See 71 FR 76208, 76211 (published December 20, 2006). The following applicants filed AM or FM proposals to change the community of license: DAVIS BROADCASTING OF ATLANTA, LLC, WJZA(AM), FAC. ID NO. 71603, FROM: HAPEVILLE, GA, TO: NORTH DECATUR, GA, FILE NO. 0000290031; THE VOICE RADIO NEW JERSEY, LLC, WNJE(AM), FAC. ID NO. 25011, FROM: TRENTON, NJ, TO: JOBSTOWN, NJ, FILE NO. 0000293386; BROADCAST COMMUNICATIONS, INC., WKTD(FM), FAC. ID NO. 49936, FROM: OAKLAND, MD, TO: CHALKHILL, PA, FILE NO. 0000290254; CANTICO NUEVO MINISTRY INC, KDFM(FM), FAC. ID NO. 86553, FROM: FALFURRIAS, TX, TO: PREMONT, TX, FILE NO. 0000295842; WILKES BROADCASTING COMPANY, INC., WKBC–FM, FAC. ID NO. 72458, FROM: NORTH WILKESBORO, NC, TO: STONY POINT, NC, FILE NO. 0000296257; AND STEVEN W. NEWBERRY, WWZG(FM), FAC. ID NO. 72293, FROM: TOMPKINSVILLE, KY, TO: PARK CITY, KY, FILE NO. 0000296307. The full text of these applications is available electronically via Licensing and Management System (LMS), <https://apps2int.fcc.gov/dataentry/public/tv/publicAppSearch.html>.

Federal Communications Commission.

Nazifa Sawez,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. 2026–09697 Filed 5–13–26; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL MARITIME COMMISSION**Solicitation for Applications To Serve as Members on the National Shipper Advisory Committee****AGENCY:** Federal Maritime Commission.**ACTION:** Request for applications.

SUMMARY: The Federal Maritime Commission (“Commission”) is requesting applications from qualified candidates to be considered for appointment as a member of the National Shipper Advisory Committee (NSAC or “Committee”). NSAC advises the Commission on policies relating to the competitiveness, reliability, integrity, and fairness of the international ocean freight delivery system.

DATES: Applications should be sent to the email address specified below and must be received on or before May 28, 2026.

ADDRESSES: Email applications to the Designated Federal Officer (DFO), Mark Bragança, Email: nsac@fmc.gov.

FOR FURTHER INFORMATION CONTACT: Mark Bragança; Phone: (202) 523–5861; Email: nsac@fmc.gov. NSAC’s charter and bylaws are available on the Committee website at <https://www.fmc.gov/about/nsac>.

SUPPLEMENTARY INFORMATION: The National Shipper Advisory Committee is a federal advisory committee. It operates under the provisions of the Federal Advisory Committee Act, 5 U.S.C. chapter 10 (sections 1001–1014), and 46 U.S.C. chapter 425 (sections 42501–42503). The Committee was established by the National Defense Authorization Act for Fiscal Year 2021, Public Law 116–283, section 8604 (Jan. 1, 2021). The Committee advises the Commission on policies relating to the competitiveness, reliability, integrity, and fairness of the international ocean freight delivery system. 46 U.S.C. 42502(b).

The Committee consists of twenty-four members, including a Chair and a Vice Chair, elected by the Committee from among the Committee’s members. 46 U.S.C. 42502(c)(1) and 42503(g). Twelve members represent entities who export cargo from the United States using ocean common carriers and twelve members represent entities who import cargo to the United States using ocean common carriers. 46 U.S.C. 42502(c)(3). Members must demonstrate that they have particular expertise, knowledge, and experience in matters relating to the Committee. 46 U.S.C. 42502(c)(2).

In accordance with the Federal Advisory Committee Act, the

Commission ensures the Committee is fairly balanced. To help ensure such balance, when making membership selections, the Commission will consider commodities shipped, ports used, geographic areas served, and origins of cargo, as well as other relevant factors. Appointments of member representatives shall be made without discrimination on the basis of age, race, color, national origin, sex, disability, or religion. The Commission shall not seek, consider, or otherwise use information concerning the political affiliation of a nominee’s proposed representative in making an appointment.

Members are appointed by and serve at the pleasure of the Commission. 46 U.S.C. 42503(e)(2) and (3). The Commission may require an appropriate security background examination before appointment to the Committee. 46 U.S.C. 42503(e)(4). Members must be of good character and current on all legal obligations. Under 46 U.S.C. 42503(e)(6)(a), membership terms expire on December 31 of the third full year after the effective date of the appointment. After a member’s term expires, the member may continue to serve for up to one year until a successor is appointed. 46 U.S.C. 42503(e)(6)(B). Members’ terms are renewable. 46 U.S.C. 42503(e)(8).

In accordance with 46 U.S.C. 42503(a), the Committee is required to hold meetings at least once a year, but it may meet more frequently at the call of the Commission or a majority of the Committee members. The Commission plans to host Committee meetings at Commission headquarters at 800 North Capitol Street NW, Washington, DC, or virtually using video meeting technology. All members serve at their own expense and receive no salary or other compensation from the Federal Government.

Process for Submitting Nominations: Qualified individuals can self-nominate or be nominated by any individual or organization. The following information must be included in the application package:

(1) Name, title, and relevant contact information (including daytime telephone number and email address) of the nominee;

(2) A current copy of the nominee’s curriculum vitae;

(3) A statement demonstrating the nominee’s qualification for membership that clearly identifies the class (importer or exporter) that the individual would represent, and a description of the individual’s first-hand experience, knowledge, or expertise in matters

relating to the international ocean freight delivery system;

(4) An affirmative statement by the nominee:

(a) That the nominee is willing to serve as a member of the Committee on a voluntary basis, without compensation or reimbursement; and

(b) As to whether or not the nominee is a federally registered lobbyist; and

(c) That the nominee has read the Committee charter and bylaws and is aware of the full requirements of membership.

All materials should be typed and in English. Letter(s) of support from a company, union, trade association, academic, or nonprofit organization on letterhead containing a brief description why the nominee should be considered for membership are highly encouraged but not required.

Members who qualify as special Government employees (SGEs) shall demonstrate that they are in compliance with applicable ethics laws and regulations and comply with any requests or measures necessary to allow the Commission’s Designated Agency Ethics Official to access and review financial disclosure reports and conduct a conflict-of-interest analysis. Except for members who qualify as SGEs, members appointed to represent the interests of a particular group or entity are not subject to Federal rules and requirements that would interfere with that representation. 46 U.S.C. 42503(d)(1). Non-SGE members may be required to comply with Federal rules and laws governing employee conduct that will not impact their ability to represent the interests they were appointed to serve.

(Authority: 46 U.S.C. 42503(e))

Dated: May 12, 2026.

By the Commission.

David Eng,
Secretary.

[FR Doc. 2026–09667 Filed 5–13–26; 8:45 am]

BILLING CODE 6730–02–P

FEDERAL TRADE COMMISSION**Granting of Requests for Early Termination of the Waiting Period Under the Premerger Notification Rules**

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before

consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register**.

The following transactions were granted early termination—on the dates indicated—of the waiting period

provided by law and the premerger notification rules. The listing for each transaction includes the transaction number and the parties to the transaction. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of

Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period.

BILLING CODE 6750-01-P

Early Terminations Granted

April 1, 2026 Through April 30, 2016

04/02/2026

20261029	G	Leila Aggregator Limited Partnership; Nima Jalali; Leila Aggregator Limited Partnership
20261058	G	Eli Lilly and Company; CSL Limited; Eli Lilly and Company
20261062	G	Tillman Towers US CV, LP; Tillman Global Holdings V LLC; Tillman Towers US CV, LP
20261068	G	Australian Retirement Trust; Tillman Global Holdings V LLC; Australian Retirement Trust
20261073	G	GB AIT Investor, L.P.; The Resolute Fund V, L.P.; GB AIT Investor, L.P.
20261080	G	Caturus HoldCo, LLC; SM Energy Company; Caturus HoldCo, LLC
20261085	G	Littlejohn Altitude Feeder Fund (A), L.P.; LJ Valcourt Holdings, Inc.; Littlejohn Altitude Feeder Fund (A), L.P.
20261087	G	GIP Infrastructure Partners V-C, L.P.; 3i Infrastructure plc; GIP Infrastructure Partners V-C, L.P.
20261101	G	Ondas Inc.; Shoshana Banai and Eyal Banai; Ondas Inc.
20261102	G	Shoshana Banai and Eyal Banai; Ondas Inc.; Shoshana Banai and Eyal Banai
20261107	G	CECO Environmental Corp.; Thermon Group Holdings, Inc.; CECO Environmental Corp.
20261121	G	Lone Star Fund XII, L.P.; RadiciFin S.a.p.A.; Lone Star Fund XII, L.P.

04/07/2026

20261049	G	Arclight Infrastructure Partners Fund VIII-B, L.P.; Sixth Street TAO Partners (C), L.P.; Arclight Infrastructure Partners Fund VIII-B, L.P.
20261093	G	Organon & Co.; Sebela Holdings LLC; Organon & Co.
20261100	G	Elk Investments, LLC; Blue Cross Blue Shield of Michigan Mutual Insurance Company; Elk Investments, LLC
20261108	G	Deutsche Telekom AG; TStar 600, LLC; Deutsche Telekom AG
20261113	G	Irrevocable Trust Agreement 5556; Edward S. Oh; Irrevocable Trust Agreement 5556
20261123	G	Bells Aggregator Limited Partnership; Atwell, LLC; Bells Aggregator Limited Partnership
20261126	G	Gray Wolf Power Aggregator, L. P.; InfraBridge Global Infrastructure Fund II B L.P.; Gray Wolf Power Aggregator, L. P.
20261127	G	Gray Wolf Power Aggregator, L. P.; Michael P. Polsky; Gray Wolf Power Aggregator, L.P.
20261128	G	Servier S.A.S.; Day One Biopharmaceuticals, Inc.; Servier S.A.S.
20261154	G	Gamut Investment Fund II, L.P.; Ardian North America Fund II LP; Gamut Investment Fund II, L.P.

04/15/2026

20261074	G	Eighth Cinven Fund Aggregator SCSp; Collagen Holdings, LP; Eighth Cinven Fund Aggregator SCSp
20261082	G	KKR DCIF Lower Entity III SCSp; DIF Infrastructure V Cooperatief U.A.; KKR DCIF Lower Entity III SCSp
20261091	G	Anchor TopCo, LP; Enhabit, Inc.; Anchor TopCo, LP
20261109	G	SK Capital Partners VI-A, L.P.; Benford Capital Partners I, L.P.; SK Capital Partners VI-A, L.P.
20261111	G	Sunstone Partners III-Main, LP; Guy F. Daniello; Sunstone Partners III-Main, LP
20261115	G	ABTB Holdings, LLC; Bessemer Securities LLC; ABTB Holdings, LLC
20261116	G	Accenture; Ziff Davis; Accenture
20261119	G	Brown Advisory Group Holdings LLC; Afsaneh Mashayekhi Beschloss; Brown Advisory Group Holdings LLC
20261129	G	Searchlight Capital IV, L.P.; KORE Group Holdings, Inc.; Searchlight Capital IV, L.P.
20261139	G	Opalite Holdings, L.P.; LY SCHM Holdings, L.P.; Opalite Holdings, L.P.
20261145	G	Qinetic Investment Holdings, L.P.; New Mountain Partners VI, L.P.; Qinetic Investment Holdings, L.P.
20261148	G	Cynosure Partners III, LP; Baker Tilly Advisory Group Parent, LP; Cynosure Partners III, LP

04/21/2026

20261105	G	Clayton, Dubilier & Rice Fund XI, L.P.; Labels Buyer, LLC; Clayton, Dubilier & Rice Fund XI, L.P.
20261110	G	Cambia Health Solutions, Inc.; Life and Specialty Ventures, LLC; Cambia Health Solutions, Inc.
20261112	G	OpenAI Foundation; Astral Software Inc.; OpenAI Foundation
20261117	G	Stichting Administratiekantoor Westend; Lexicon Pharmaceuticals, Inc.; Stichting Administratiekantoor Westend
20261122	G	Henkel AG & Co. KGaA; NYM Holdings, LLC; Henkel AG & Co. KGaA
20261130	G	RB Global, Inc.; Ronald E. Stock; RB Global, Inc.

20261131	G	RB Global, Inc.; Mark F. Stock; RB Global, Inc.
20261135	G	Elliott International Limited; North Haven Infrastructure Partners II Bayonne, LLC; Elliott International Limited
20261136	G	Altas Partners Holdings III LP; Berggruen Charities; Altas Partners Holdings III LP
20261150	G	Arlington Capital Partners VII, L.P.; Oaktree Power Opportunities Fund VI, L.P.; Arlington Capital Partners VII, L.P.
20261151	G	EagleRock Land, LLC; Double Eagle Energy Holdings IV, LLC; EagleRock Land, LLC
20261160	G	Flex Ltd.; Britt Baker; Flex Ltd.
20261164	G	Bansk Fund II-B, L.P.; Rita Katona and Eric Hall; Bansk Fund II-B, L.P.
20261165	G	Kinder Morgan, Inc.; TMG Monument Investors, LLC; Kinder Morgan, Inc.
20261166	G	Eagle Industry Co., Ltd.; NOK Corporation; Eagle Industry Co., Ltd.
20261169	G	Investment Corporation of Dubai; Macquarie Group Limited; Investment Corporation of Dubai
20261170	G	AT&T Inc.; Deutsche Telekom AG; AT&T Inc.
20261171	G	Deutsche Telekom AG; AT&T Inc.; Deutsche Telekom AG
20261173	G	Primoris Services Corporation; David Payne; Primoris Services Corporation
20261175	G	iCapital, Inc.; Thomas H. Lee Parallel Fund VIII, L.P.; iCapital, Inc.
20261181	G	Quartz Fibre pvt Ltd.; Owens Corning; Quartz Fibre pvt Ltd.
20261187	G	New Providence Holdings III, LLC; Abra Financial Holdings, Inc.; New Providence Holdings III, LLC
20261189	G	Hitachi, Ltd.; Clever Devices Holdings LLC; Hitachi, Ltd.
20261190	G	SK Inc.; SK hynix Inc.; SK Inc.
20261196	G	Loews Corporation; Spire Inc.; Loews Corporation
20261204	G	Ferguson Enterprises Inc.; Michael Denis Hunt; Ferguson Enterprises Inc.

04/24/2026

20261163	G	Devansh Jain and Avarna Jain; Ningbo Boway Alloy Material Co., Ltd.; Devansh Jain and Avarna Jain

04/28/2026

20261157	G	Greenbelt Capital Partners Seahawk L.P.; ORIX Corporation; Greenbelt Capital Partners Seahawk L.P.
20261177	G	Nazara Technologies Limited; Raymond Albaladejo Stauffer; Nazara Technologies Limited
20261179	G	Infosys Limited; Achieve Partners Workforce Fund I, LP; Infosys Limited
20261199	G	Founders Table Restaurant Group, LLC; Hopdoddy Burger Bar, Inc.; Founders Table Restaurant Group, LLC
20261200	G	Amphenol Corporation; Empire Electronics, Inc.; Amphenol Corporation
20261206	G	Cascade Holdco, L.P.; H.I.G. Advantage Buyout Fund II, L.P.; Cascade Holdco, L.P.
20261208	G	Uber Technologies, Inc.; Rivian Automotive, Inc.; Uber Technologies, Inc.
20261210	G	Denise Mahaffy; W.D. Company, Inc.; Denise Mahaffy
20261215	G	3M Company; Madison Industries Holdings LLC; 3M Company
20261224	G	Green Equity Investors Side IX, L.P.; New Mountain Partners VI, L.P.; Green Equity Investors Side IX, L.P.
20261230	G	Carlyle Partners VIII Holdings VI, L.P.; MAI Galway Holdings LP; Carlyle Partners VIII Holdings VI, L.P.
20261232	G	Pavement Preservation Investments, LP; Robert Capoferri; Pavement Preservation Investments, LP
20261236	G	Republic Services, Inc.; ERA Waste Holdings, LLC c/o ERA Partners LLC; Republic Services, Inc.
20261243	G	Viking Global Opportunities III LP; Trive Capital Fund IV LP; Viking Global Opportunities III LP

04/30/2026

20261205	G	EFR Group Holdings S.a.r.l.; Charles McIlvaine; EFR Group Holdings S.a.r.l.
20261209	G	General Atlantic Partners 100, L.P.; Farther Finance, Inc.; General Atlantic Partners 100, L.P.

20261227	G	Intel Corporation; SambaNova Systems, Inc.; Intel Corporation
20261229	G	Uber Technologies, Inc.; Blacklane GmbH; Uber Technologies, Inc.
20261247	G	Lone Star Fund XII, L.P.; Lonza Group AG; Lone Star Fund XII, L.P.
20261248	G	Stryker Corporation; Amplitude Vascular Systems, Inc.; Stryker Corporation
20261250	G	Credit Union 1; MAC Federal Credit Union; Credit Union 1
20261252	G	Nathan P. McCauley; Anchor Labs, Inc.; Nathan P. McCauley
20261253	G	Novartis AG; Red Tree Venture Fund, L.P.; Novartis AG
20261254	G	Ferguson Enterprises Inc.; The Peninsula Fund VII Limited Partnership; Ferguson Enterprises Inc.
20261260	G	Hull Street Energy Partners III, L.P.; Rockland GridFlex Partners, LP; Hull Street Energy Partners III, L.P.
20261261	G	LGS SJ Evergreen Holdings, LLC; NHRP LOGOS LP; LGS SJ Evergreen Holdings, LLC
20261277	G	Giancarlo Devasini; Gold.com, Inc.; Giancarlo Devasini
20261282	G	Containment Investment Holdings, LLC; Tower Compactor Rentals, LLC; Containment Investment Holdings, LLC

FOR FURTHER INFORMATION CONTACT:

Theresa Kingsberry (phone: 202–326–3100), Program Support Specialist, Federal Trade Commission, Bureau of Competition, Premerger Notification Office, Washington, DC 20024.

By direction of the Commission.

Joel Christie,
Acting Secretary.

[FR Doc. 2026–09704 Filed 5–13–26; 8:45 am]

BILLING CODE 6750–01–C

FEDERAL TRADE COMMISSION
**Agency Information Collection
Activities; Proposed Collection;
Comment Request; Extension**

AGENCY: Federal Trade Commission.

ACTION: Notice and request for comment.

SUMMARY: The Federal Trade Commission (FTC or Commission) requests that the Office of Management and Budget (OMB) extend for three years the current Paperwork Reduction Act (PRA) clearance for its Funeral Industry Practice Rule (“Funeral Rule” or “Rule”). The current clearance expires on May 31, 2026.

DATES: Comments must be received by June 15, 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 and its accompanying supporting statement by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function. The reginfo.gov web link is a United States Government website produced by OMB and the General Services Administration (GSA). Under PRA requirements, OMB’s Office of Information and Regulatory Affairs

(OIRA) reviews Federal information collections.

FOR FURTHER INFORMATION CONTACT:

Melissa Dickey, Attorney, Division of Marketing Practices, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580, mdickey@ftc.gov, (202) 326–2662.

SUPPLEMENTARY INFORMATION: *Title:* Funeral Industry Practice Rule, 16 CFR part 453.

OMB Control Number: 3084–0025.

Type of Review: Extension of a currently approved collection.

Abstract: The Funeral Rule ensures that consumers who are purchasing funeral goods and services have access to accurate itemized price information so they can purchase only the funeral goods and services they want or need. Among other things, the Rule requires a funeral provider to: (1) provide consumers a copy of the funeral provider’s General Price List that itemizes the goods and services it offers; (2) show consumers a Casket Price List and an Outer Burial Container Price List at the outset of any discussion of those items or their prices, and in any event before showing consumers caskets or vaults; (3) provide price information from its price lists over the telephone; and (4) give consumers a Statement of Funeral Goods and Services Selected after determining the funeral arrangements with the consumer during an “arrangements conference.” The Rule requires that funeral providers disclose this information to consumers and maintain records documenting their compliance with the Rule.

Affected Public: Private Sector: Businesses and other for-profit entities.

Estimated Annual Burden Hours: 148,161.¹

¹ Because the National Center for Health Statistics has released more current information about the number of deaths in the United States, the Commission has updated the estimates for annual burden hours (previously 152,305), annual labor

Estimated Annual Labor Costs: \$4,897,023.

Estimated Annual Non-Labor Costs: \$778,177.

Request for Comment

On January 26, 2026, the FTC sought comment on the information collection requirements associated with the Rule. 91 FR 3198. The FTC received no relevant comments during the public comment period. Pursuant to OMB regulations, 5 CFR part 1320, that implement the PRA, 44 U.S.C. 3501 *et seq.*, the FTC is providing this second opportunity for public comment while seeking OMB approval to renew the pre-existing clearance for the Rule. For more details about the Rule requirements and the basis for the calculations summarized above, see 91 FR 3198.

Your comment—including your name and your state—will be placed on the public record of this proceeding. Because your comment will be made public, you are solely responsible for making sure that your comment does not include any sensitive personal information, such as anyone’s Social Security number; date of birth; driver’s license number or other state identification number, or foreign country equivalent; passport number; financial account number; or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, your comment should not include any “trade secret or any commercial or financial information

costs (previously \$5,067,797), and annual non-labor costs (previously \$829,974) that were included in the 60-day **Federal Register** notice. U.S. Centers for Disease Control and Prevention, National Center for Health Statistics, Mortality in the United States, 2024, <https://www.cdc.gov/nchs/products/databriefs/db548.htm> (3,072,666 deaths in 2024 replaces the prior estimate of 3,279,857 deaths that was used in the 60-day **Federal Register** notice).

which . . . is privileged or confidential”—as provided by Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2)—including in particular competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

Josephine Liu,

Assistant General Counsel for Legal Counsel.

[FR Doc. 2026–09705 Filed 5–13–26; 8:45 am]

BILLING CODE 6750–01–P

OFFICE OF MANAGEMENT AND BUDGET

Office of Federal Procurement Policy

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0204; Docket No. 2026–0133; Sequence No. 1]

Information Collection; Acquisition 360 Voluntary Survey

AGENCY: Office of Federal Procurement Policy (OFPP), Office of Management and Budget (OMB); Department of Defense (DOD); General Services Administration (GSA); and National Aeronautics and Space Administration (NASA).

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 and OMB regulations, OFPP, DoD, GSA, and NASA invite the public to comment on an extension concerning the Acquisition 360 Voluntary Survey. OFPP, DoD, GSA, and NASA invite comments on: whether the proposed collection of information is necessary for the proper performance of the functions of Federal Government acquisitions, including whether the information will have practical utility; the accuracy of the estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology. OMB has approved this information collection for use through October 31, 2026. OFPP, DoD, GSA, and NASA propose that OMB extend its

approval for use for three additional years beyond the current expiration date.

DATES: OFPP, DoD, GSA, and NASA will consider all comments received by July 13, 2026.

ADDRESSES: OFPP, DoD, GSA, and NASA invite interested persons to submit comments on this collection through <https://www.regulations.gov> and follow the instructions on the site. This website provides the ability to type short comments directly into the comment field or attach a file for lengthier comments. If there are difficulties submitting comments, contact the GSA Regulatory Secretariat Division at 202–501–4755 or GSARegSec@gsa.gov.

Instructions: All items submitted must cite OMB Control No. 9000–0204, Acquisition 360 Voluntary Survey. Comments received generally will be posted without change to <https://www.regulations.gov>, including any personal and/or business confidential information provided. To confirm receipt of your comment(s), please check www.regulations.gov, approximately two to three days after submission to verify posting.

FOR FURTHER INFORMATION CONTACT: FARPolicy@gsa.gov or call 202–969–4075.

SUPPLEMENTARY INFORMATION:

A. OMB Control Number, Title, and Any Associated Form(s)

9000–0204, Acquisition 360 Voluntary Survey.

B. Need and Uses

This clearance covers the information that actual and potential offerors may submit in accordance with the following Federal Acquisition Regulation (FAR) requirement as stipulated in agency procedures:

FAR 52.201–1, Acquisition 360: Voluntary Survey. This provision encourages actual and potential offerors to provide the Government constructive feedback about the preaward and debriefing processes, as applicable, used for a specific acquisition using a Government-provided survey at <https://www.acquisition.gov/360>.

The purpose of the Acquisition 360 Survey is to standardize the gathering of feedback regarding preaward and debriefing actions so that agencies can continually consider and improve their performance in early vendor engagement efforts and internal acquisition practices.

C. Common Form

The General Services Administration is the sponsor agency of this common form. All executive agencies covered by the FAR will use this common form. Each executive agency will report their agency burden separately, and the reported information will be available at Reginfo.gov.

D. Annual Burden

General Services Administration

Respondents: 2,511.

Total Annual Responses: 2,511.

Total Burden Hours: 419.

Obtaining Copies: Requesters may obtain a copy of the information collection documents from the GSA Regulatory Secretariat Division, by calling 202–501–4755 or emailing GSARegSec@gsa.gov. Please cite OMB Control No. 9000–0204, Acquisition 360 Voluntary Survey.

Janet Fry,

Director, Federal Acquisition Policy Division, Office of Governmentwide Acquisition Policy, Office of Acquisition Policy, Office of Governmentwide Policy.

[FR Doc. 2026–09609 Filed 5–13–26; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–9161–N]

Medicare and Medicaid Programs; Quarterly Listing of Program Issuances—January through March 2026

AGENCY: Centers for Medicare & Medicaid Services (CMS), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: This quarterly notice lists Centers for Medicare & Medicaid Services (CMS) manual instructions, substantive and interpretive regulations, and other **Federal Register** notices that were published in the 3-month period, relating to the Medicare and Medicaid programs and other programs administered by CMS.

FOR FURTHER INFORMATION CONTACT: It is possible that an interested party may need specific information and not be able to determine from the listed information whether the issuance or regulation would fulfill that need. Consequently, we are providing contact persons to answer general questions concerning each of the addenda published in this notice.

Addenda	Contact	Phone No.
I. CMS Manual Instructions	Ronda Allen-Bonner	(410) 786-4657
II. Regulation Documents Published in the FEDERAL REGISTER	Gittel Treitel	(410) 786-4673
III. CMS Rulings	Tiffany Lafferty	(410)786-7548
IV. Medicare National Coverage Determinations	Wanda Belle, MPA	(410) 786-7491
V. FDA-Approved Category B IDEs	John Manlove	(410) 786-6877
VI. Collections of Information	William Parham	(410) 786-4669
VII. Medicare –Approved Carotid Stent Facilities	Sarah Fulton, MHS	(410) 786-2749
VIII. American College of Cardiology-National Cardiovascular Data Registry Sites	Sarah Fulton, MHS	(410) 786-2749
IX. Medicare's Active Coverage-Related Guidance Documents	Lori Ashby, MA	(410) 786-6322
X. One-time Notices Regarding National Coverage Provisions	JoAnna Baldwin, MS	(410) 786-7205
XI. National Oncologic Positron Emission Tomography Registry Sites	David Dolan, MBA	(410) 786-3365
XII. Medicare-Approved Ventricular Assist Device (Destination Therapy) Facilities	David Dolan, MBA	(410) 786-3365
XIII. Medicare-Approved Lung Volume Reduction Surgery Facilities	Sarah Fulton, MHS	(410) 786-2749
XIV. Medicare-Approved Bariatric Surgery Facilities	Sarah Fulton, MHS	(410) 786-2749
XV. Fluorodeoxyglucose Positron Emission Tomography for Dementia Trials	David Dolan, MBA	(410) 786-3365
All Other Information	Shawn Braxton	(410) 786-7292

SUPPLEMENTARY INFORMATION:**I. Background**

The Centers for Medicare & Medicaid Services (CMS) is responsible for administering the Medicare and Medicaid programs and coordination and oversight of private health insurance. Administration and oversight of these programs involves the following: (1) furnishing information to Medicare and Medicaid beneficiaries, health care providers, and the public; and (2) maintaining effective communications with CMS regional offices, state governments, state Medicaid agencies, state survey agencies, various providers of health care, all Medicare contractors that process claims and pay bills, National Association of Insurance Commissioners (NAIC), health insurers, and other stakeholders. To implement the various statutes on which the programs are based, we issue regulations under the authority granted to the Secretary of the Department of Health and Human Services under sections 1102, 1871, 1902, and related provisions of the Social Security Act (the Act) and Public Health Service Act. We also issue various manuals, memoranda, and statements necessary to administer and oversee the programs efficiently.

Section 1871(c) of the Act requires that we publish a list of all Medicare manual instructions, interpretive rules, statements of policy, and guidelines of general applicability not issued as regulations at least every 3 months in the **Federal Register**.

II. Format for the Quarterly Issuance Notices

This quarterly notice provides only the specific updates that have occurred in the 3-month period along with a hyperlink to the full listing that is available on the CMS website or the appropriate data registries that are used as our resources. This is the most current up-to-date information and will be available earlier than we publish our quarterly notice. We believe the website list provides more timely access for beneficiaries, providers, and suppliers. We also believe the website offers a more convenient tool for the public to find the full list of qualified providers for these specific services and offers more flexibility and “real time” accessibility. In addition, many of the websites have listservs; that is, the public can subscribe and receive immediate notification of any updates to the website. These listservs avoid the need to check the website, as notification of updates is automatic and

sent to the subscriber as they occur. If assessing a website proves to be difficult, the contact person listed can provide information.

III. How to Use the Notice

This notice is organized into 15 addenda so that a reader may access the subjects published during the quarter covered by the notice to determine whether any are of particular interest. We expect this notice to be used in concert with previously published notices. Those unfamiliar with a description of our Medicare manuals should view the manuals at <http://www.cms.gov/manuals..>

The Director of the Office of Strategic Operations and Regulatory Affairs of CMS, Kathleen Cantwell, having reviewed and approved this document, authorizes Trenesha Fultz-Mimms, who is the **Federal Register** Liaison, to electronically sign this document for purposes of publication in the **Federal Register**.

Trenesha Fultz-Mimms,
Federal Register Liaison, Department of Health and Human Services.

BILLING CODE 4120-01-P

Publication Dates for the Previous Four Quarterly Notices

We publish this notice at the end of each quarter reflecting information released by CMS during the previous quarter. The publication dates of the previous four Quarterly Listing of Program Issuances notices are: May 16, 2025 (90 FR 21043), August 5, 2025 (90 FR 37516), December 1, 2025 (90 FR 55117), and February 23, 2026 (91 FR 8482). We are providing only the specific updates that have occurred in the 3-month period along with a hyperlink to the website to access this information and a contact person for questions or additional information.

Addendum I: Medicare and Medicaid Manual Instructions (January through March 2026)

The CMS Manual System is used by CMS program components, partners, providers, contractors, Medicare Advantage organizations, and State Survey Agencies to administer CMS programs. It offers day-to-day operating instructions, policies, and procedures based on statutes and regulations, guidelines, models, and directives. In 2003, we transformed the CMS Program Manuals into a web user-friendly presentation and renamed it the CMS Online Manual System.

How to Obtain Manuals

The Internet-only Manuals (IOMs) are a replica of the Agency's official record copy. Paper-based manuals are CMS manuals that were officially released in hardcopy. The majority of these manuals were transferred into the Internet-only manual (IOM) or retired. Pub 15-1, Pub 15-2 and Pub 45 are exceptions to this rule and are still active paper-based manuals. The remaining paper-based manuals are for reference purposes only. If you notice policy contained in the paper-based manuals that was not transferred to the IOM, send a message via the CMS Feedback tool.

Those wishing to subscribe to old versions of CMS manuals should contact the National Technical Information Service, Department of Commerce, 5301 Shawnee Road, Alexandria, VA 22312 Telephone (703-605-6050). You can download copies of the listed material free of charge at: <http://cms.gov/manuals>.

How to Review Transmittals or Program Memoranda

Those wishing to review transmittals and program memoranda can access this information at a local Federal Depository Library (FDL). Under the FDL program, government publications are sent to approximately 1,400 designated libraries throughout the United States. Some FDLs may have arrangements to transfer material to a local library not designated as an FDL. Contact any library to locate the nearest FDL. This information is available at <http://www.gpo.gov/libraries/>.

In addition, individuals may contact regional depository libraries that receive and retain at least one copy of most federal government

publications, either in printed or microfilm form, for use by the general public. These libraries provide reference services and interlibrary loans; however, they are not sales outlets. Individuals may obtain information about the location of the nearest regional depository library from any library. CMS publication and transmittal numbers are shown in the listing entitled Medicare and Medicaid Manual Instructions. To help FDLs locate the materials, use the CMS publication and transmittal numbers. For example, to find the manual Update to Pub. 100-02, Chapter 11 End-Stage Renal Disease (ESRD) through Calendar Year (CY) 2026 (CMS- Pub. 100-02) Transmittal No. 13599.

Addendum I lists a unique CMS transmittal number for each instruction in our manuals or program memoranda and its subject number. A transmittal may consist of a single or multiple instruction(s). Often, it is necessary to use information in a transmittal in conjunction with information currently in the manual.

Fee-For Service Transmittal Numbers

Please Note: Beginning Friday, March 20, 2020, there will be the following change regarding the Advance Notice of Instructions due to a CMS internal process change. Fee-For Service Transmittal Numbers will no longer be determined by Publication. The Transmittal numbers will be issued by a single numerical sequence beginning with Transmittal Number 10000.

For the purposes of this quarterly notice, we list only the specific updates to the list of manual instructions that have occurred in the 3-month period. This information is available on our website at www.cms.gov/Manuals.

These Change Request (CR) are being released on a limited approved basis due to the moratorium.

Transmittal Number	Manual/Subject/Publication Number
	Medicare General Information (CMS-Pub. 100-01)
	None
	Medicare Benefit Policy (CMS-Pub. 100-02)
13572	Updates to Medicare Benefit Policy Manual and Medicare Claims Processing Manual for Opioid Treatment Programs (OTPs)
13593	Additional updates to No Legal Obligation to Pay for or Provide Services and Examples of Application of Government Entity Exclusion (Pub. 100-02, chapter 16, sections 40 and 50.3.3 and newly created section 40.7) and Claims Submitted for Items or Services Furnished to Medicare Beneficiaries in State or Local Custody Under a Penal Authority (Pub. 100-04, chapter 1, section 10.4) - This CR Rescinds and Fully Replaces CR 13903.
13599	Update to Pub. 100-02, Chapter 11 End-Stage Renal Disease (ESRD) through Calendar Year (CY) 2026

Transmittal Number	Manual/Subject/Publication Number
	Revisions to National Coverage Determinations (NCDs) - July 2025 Change Request (CR) 13939
13610	Calendar Year 2026 Update for Durable Medical Equipment, Prosthetics, Orthotics and Supplies (DMEPOS) Fee Schedule
13611	Noninvasive Positive Pressure Ventilation (NIPPV) in the Home for the Treatment of Chronic Respiratory Failure (CRF) Consequent to Chronic Obstructive Pulmonary Disease (COPD)
13612	NCD 20.40- Renal Denervation (RDN) for Uncontrolled Hypertension
13618	Update to the Payment for Historically Excepted Tribal Federally Qualified Health Centers (FQHCs) for Calendar Year (CY) 2026
13619	Healthcare Common Procedure Coding System (HCPCS) Codes Subject to and Excluded from Clinical Laboratory Improvement Amendments (CLIA) Edits
13620	Quarterly Update for the Durable Medical Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS) Competitive Bidding Program (CBP) – April 2026
13631	Indian Health Services (IHS) Hospital Payment Rates for Calendar Year 2026
13622	July 2026 Healthcare Common Procedure Coding System (HCPCS) Quarterly Update Reminder
13624	Issued to a specific audience, not posted to Internet/Intranet due to a Sensitivity of Instruction
13634	Issued to a specific audience, not posted to Internet/Intranet due to a Sensitivity of Instruction
13635	Issued to a specific audience, not posted to Internet/Intranet due to a Sensitivity of Instruction
13636	National Fee Schedule for Vaccine Administration Quarterly Update - April 2026
13639	Quarterly Update for Clinical Laboratory Fee Schedule (CLFS) and Laboratory Services Subject to Reasonable Charge Payment
13640	NCD 20.40- Renal Denervation (RDN) for Uncontrolled Hypertension
13641	Update to Claims Processing Instructions for National Coverage Determination (NCD)
13643	20.4 Implantable Cardiac Defibrillators (ICDs)
	Issued to a specific audience, not posted to Internet/Intranet due to a Sensitivity of Instruction
13646	Combined Common Edits/Enhancements Modules (CCEM) Code Set Update
13648	Quarterly Update to the Medicare Physician Fee Schedule Database (MPFSDB) - April 2026 Update
13650	Calendar Year (CY) 2026 Participation Enrollment and Medicare Participating Physicians and Suppliers Directory (MEDPARD) Procedures
13653	Issued to a specific audience, not posted to Internet/Intranet due to a Confidentiality of Instruction
13661	Annual Instructions for Downloading the Medicare ZIP Code Files for the Remainder of Calendar Year 2026
13665	Update to the Internet Only Manual (IOM) Publication 100-04, Chapter 32, Sections 40.1 and 40.2.1 for Updates in Change Request (CR) 14263 International Classification of Diseases,

Transmittal Number	Manual/Subject/Publication Number
13600	Rural Health Clinic (RHC) and Federally Qualified Health Center (FQHC) Medicare Benefit Policy Manual Chapter 13 Update for Calendar Year (CY) 2026
13629	Update to Pub. 100-02 Medicare Benefit Policy Manual, Chapter 15, Section 110.8 Durable Medical Equipment Prosthetics, Orthotics and Supplies (DMEPOS) Benefit Category Determinations
13664	Manual Updates Adding language to the Timing and Content of Certification, Revocation and Discharge Guidance, and Hospice Election
13682	Issued to a specific audience, not posted to Internet/Intranet due to a Confidentiality of Instruction
Medicare National Coverage Determination (CMS-Pub. 100-03)	
13611	Noninvasive Positive Pressure Ventilation (NIPPV) in the Home for the Treatment of Chronic Respiratory Failure (CRF) Consequent to Chronic Obstructive Pulmonary Disease (COPD)
13612	NCD 20.40- Renal Denervation (RDN) for Uncontrolled Hypertension
13640	NCD 20.40- Renal Denervation (RDN) for Uncontrolled Hypertension
13672	Cardiac Contractility Modulation (CCM) for Heart Failure (HF)
13695	NCD 20.40- Renal Denervation (RDN) for Uncontrolled Hypertension
Medicare Claims Processing (CMS-Pub. 100-04)	
13572	Updates to Medicare Benefit Policy Manual and Medicare Claims Processing Manual for Opioid Treatment Programs (OTPs)
13573	January 2026 Update of the Hospital Outpatient Prospective Payment System (OPPS)
13575	January 2026 Integrated Outpatient Code Editor (I/OCE)
13576	Clinical Laboratory Fee Schedule – Medicare Travel Allowance Fees for Collection of Specimens and New Updates for 2026
13578	January 2026 Update of the Ambulatory Surgical Center [ASC] Payment System
13587	File Conversions Related to the Spanish Translation of the Healthcare Common Procedure Coding System (HCPCS) Descriptions
13588	Completion of Changes to Remove Reliance on the AX Modifier to Accurately Pay End Stage Renal Disease (ESRD) Claims
13592	Manual Update for Emergency Department Procedure Coded for Method II Critical Access Hospital (CAH)
13593	Additional updates to No Legal Obligation to Pay for or Provide Services and Examples of Application of Government Entity Exclusion (Pub. 100-02, chapter 16, sections 40 and 50.3.3 and newly created section 40.7) and Claims Submitted for Items or Services Furnished to Medicare Beneficiaries in State or Local Custody Under a Penal Authority (Pub. 100-04, chapter 1, section 10.4) - This CR Rescinds and Fully Replaces CR 13903.
13597	Annual Instructions for Downloading the Medicare ZIP Code Files for the Remainder of Calendar Year 2026
13608	Update to the Internet Only Manual (IOM) Publication (Pub.) 100-04, Chapter 32, Sections 150.4, 150.6, 200.2, 300.2, 400.2, 400.2.2, 400.2.3, 400.2.3.1, 400.2.4, and 400.3 for Coding

Transmittal Number	Manual/Subject/Publication Number
	Responsible Reporting Entities (RRE) Overlapping Drug Records and to Update the ECRS User Guide (UG) Regarding Computer Based Training (CBT) Language
13632	Issued to a specific audience, not posted to Internet/Intranet due to a Confidentiality of Instruction
	Medicare Financial Management (CMS-Pub. 100-06)
13580	Notice of New Interest Rate for Medicare Overpayments and Underpayments - 2nd Quarter Notification for FY 2026
13586	The Fiscal Intermediary Shared System (FISS) Submission of Copybook Files to the Provider Statistical & Reimbursement (PS&R) System
	Medicare State Operations Manual (CMS-Pub. 100-07)
	None
	Medicare Program Integrity (CMS-Pub. 100-08)
13574	Issued to a specific audience, not posted to Internet/Intranet due to a Confidentiality of Instruction
13579	Issued to a specific audience, not posted to Internet/Intranet due to a Confidentiality of Instruction
13582	Issued to a specific audience, not posted to Internet/Intranet due to a Confidentiality of Instruction
13584	Issued to a specific audience, not posted to Internet/Intranet due to a Confidentiality of Instruction
13590	Issued to a specific audience, not posted to Internet/Intranet due to a Confidentiality of Instruction
13591	Issued to a specific audience, not posted to Internet/Intranet due to a Confidentiality of Instruction
13595	Updates of Chapters 3, 4, and Exhibits in Publication (Pub.) 100-08, Including Updates to the Provider Notification Process and Vetting with the CMS Process
13601	Issued to a specific audience, not posted to Internet/Intranet due to a Confidentiality of Instruction
13602	Issued to a specific audience, not posted to Internet/Intranet due to a Confidentiality of Instruction
13603	Issued to a specific audience, not posted to Internet/Intranet due to a Confidentiality of Instruction
13605	Issued to a specific audience, not posted to Internet/Intranet due to a Confidentiality of Instruction
13609	Issued to a specific audience, not posted to Internet/Intranet due to a Confidentiality of Instruction
13626	Issued to a specific audience, not posted to Internet/Intranet due to a Confidentiality of Instruction
13651	Issued to a specific audience, not posted to Internet/Intranet due to a Confidentiality of Instruction
13654	Issued to a specific audience, not posted to Internet/Intranet due to a Confidentiality of Instruction
13660	Issued to a specific audience, not posted to Internet/Intranet due to a Confidentiality of Instruction
13662	Issued to a specific audience, not posted to Internet/Intranet due to a Confidentiality of Instruction
13663	Issued to a specific audience, not posted to Internet/Intranet due to a Confidentiality of Instruction

Transmittal Number	Manual/Subject/Publication Number
13666	10th Revision (ICD-10) and Other Coding Revisions to National Coverage Determinations (NCDs)--April 2026 Claims Adjustment Reason Code (CARC), Remittance Advice Remark Code (RARC), Medicare Remit Easy Print (MREFP), and PC Print Update
13667	Quarterly Update to the National Correct Coding Initiative (NCCI) Procedure-to-Procedure (PTP) Edits, Version 32.2, Effective July 1, 2026
13668	Issued to a specific audience, not posted to Internet/Intranet due to a Confidentiality of Instruction
13670	July 2026 Quarterly Average Sales Price (ASP) Medicare Part B Drug Pricing Files and Revisions to Prior Quarterly Pricing Files
13672	Cardiac Contractility Modulation (CCM) for Heart Failure (HF)
13673	Quarterly Update to the Medicare Physician Fee Schedule Database (MPFSDB) - April 2026 Update
13677	Internet-Only Manual Update, Pub. 100-04, Chapter 18 (Preventive and Screening Services), Section 10.2.1
13680	Update to the Internet Only Manual (IOM) Publication 100-04, Chapter 18, Sections 210-210.4 in Reference to Change Request (CR) 14388 "Billing Code Clarification for National Coverage Determination (NCD) 210.13 Screening for Hepatitis C Virus (HCV) in Adults"
13684	July 2026 Quarterly Update to Healthcare Common Procedure Coding System (HCPCS) Codes Used for Skilled Nursing Facility (SNF) Consolidated Billing (CB) Enforcement
13685	April Quarterly Update for 2026 Durable Medical Equipment, Prosthetics, Orthotics and Supplies (DMEPOS) Fee Schedule
13686	April 2026 Update of the Hospital Outpatient Prospective Payment System (OPPS)
13694	Update to the Internet Only Manual (IOM) Publication (Pub.) 100-04, Chapter 18, Section 110.3.2, to Align with Medicare Preventive Services for Ultrasound Abdominal Aortic Aneurysm (AAA) Screening
13695	NCD 20.40- Renal Denervation (RDN) for Uncontrolled Hypertension
13698	Implementation CR - Send Transplant Program Hospital Type and the New Organ Types to the Fiscal Intermediary Shared System (FISS) on Provider Enrollment Chain & Ownership System (PECOS) Extract Files and for FISS to Process so PECOS is the system of Record for the Transplant Program Hospital Type and for the Organs Type Transplanted at the Hospital)
13700	Update to the Internet Only Manual (IOM) Publication (Pub.) 100-04, Chapter 32, Section 10.1 Incorporating Manual Updates from Change Request (CR) 11650 - National Coverage Determination (NCD) 20.19 Ambulatory Blood Pressure Monitoring (ABPM) and CR 12376 - Revisions to Chapters 13, 18 and 32 To Update Coding
13702	April 2026 Update of the Hospital Outpatient Prospective Payment System (OPPS)
	Medicare Secondary Payer (CMS-Pub. 100-05)
13630	Changes to the Electronic Correspondence Referral System (ECRS) Web to Replace RX19 and ECRS CM98 Rejection with a Soft Edit for

Transmittal Number	Manual/Subject/Publication Number
	(CR) Process for Possible Future Changes to Information Included in Attachments A, B, C, D, E, and F.
13613	Issued to a specific audience, not posted to Internet/Intranet due to a Confidentiality of Instruction
13628	Issued to a specific audience, not posted to Internet/Intranet due to a Confidentiality of Instruction
13637	Issued to a specific audience, not posted to Internet/Intranet due to a Confidentiality of Instruction
13638	Issued to a specific audience, not posted to Internet/Intranet due to a Sensitivity of Instruction
13647	Issued to a specific audience, not posted to Internet/Intranet due to a Sensitivity of Instruction
13652	Implementation of Wasteful and Inappropriate Service Reduction (WISer) Model Prior Authorization and Medical Review Process and Establishment of New Quarterly Change Request (CR) Process for Possible Future Changes to Information Included in Attachments A, B, C, D, E, and F.
13656	Issued to a specific audience, not posted to Internet/Intranet due to a Sensitivity of Instruction
13657	Issued to a specific audience, not posted to Internet/Intranet due to a Confidentiality of Instruction
13658	Issued to a specific audience, not posted to Internet/Intranet due to a Confidentiality of Instruction
13669	Issued to a specific audience, not posted to Internet/Intranet due to a Sensitivity of Instruction
13671	Issued to a specific audience, not posted to Internet/Intranet due to a Confidentiality of Instruction
One Time Notification (CMS-Pub. 100-20)	
13571	January 2026 Update for the Core Based Statistical Areas (CBSAs) for Ambulatory Surgical Centers (ASCs)
13577	Issued to a specific audience, not posted to Internet/Intranet due to a Confidentiality of Instruction
13583	Medicare Secondary Payer (MSP) Special Project Savings 9000 – Central Office Savings to be Reported and Appear on the Fiscal Intermediary Shared System (FISS) MSP Savings Summary Report (09A)
13585	Issued to a specific audience, not posted to Internet/Intranet due to a Confidentiality of Instruction
13589	Issued to a specific audience, not posted to Internet/Intranet due to a Confidentiality of Instruction
13594	Issued to a specific audience, not posted to Internet/Intranet due to a Confidentiality of Instruction
13598	Fiscal Intermediary Shared System (FISS) – Delete Obsolete Reason Codes – Part 7
13604	Issued to a specific audience, not posted to Internet/Intranet due to a Confidentiality of Instruction
13606	Issued to a specific audience, not posted to Internet/Intranet due to a Confidentiality of Instruction
13607	Issued to a specific audience, not posted to Internet/Intranet due to a Confidentiality of Instruction
13614	Issued to a specific audience, not posted to Internet/Intranet due to a Confidentiality of Instruction
13615	Durable Medical Equipment, Prosthetics, Orthotics and Supplies

Transmittal Number	Manual/Subject/Publication Number
13668	Issued to a specific audience, not posted to Internet/Intranet due to a Confidentiality of Instruction
13675	Issued to a specific audience, not posted to Internet/Intranet due to a Confidentiality of Instruction
13678	Revisions to Chapter 12 (The Comprehensive Error Rate Testing (CERT) Program) of Publication (Pub.) 100-08 (Medicare Program Integrity Manual)
13679	Issued to a specific audience, not posted to Internet/Intranet due to a Confidentiality of Instruction
13681	Issued to a specific audience, not posted to Internet/Intranet due to a Confidentiality of Instruction
13688	Issued to a specific audience, not posted to Internet/Intranet due to a Confidentiality of Instruction
13689	Face-to-Face Encounter Requirements for Replacements Occurring After the Reasonable Use Lifetime (RUL)
13690	Issued to a specific audience, not posted to Internet/Intranet due to a Confidentiality of Instruction
13691	Issued to a specific audience, not posted to Internet/Intranet due to a Confidentiality of Instruction
13692	Issued to a specific audience, not posted to Internet/Intranet due to a Confidentiality of Instruction
13693	Issued to a specific audience, not posted to Internet/Intranet due to a Confidentiality of Instruction
Medicare Contractor Beneficiary and Provider Communications (CMS-Pub. 100-09)	
13676	The Supplemental Security Income (SSI)/Medicare Beneficiary Data for Fiscal Year (FY) 2024 for Inpatient Prospective Payment System (IPPS) Hospitals, Inpatient Rehabilitation Facilities (IRFs), and Long Term Care Hospitals (LTCHs)
Medicare Quality Improvement Organization (CMS-Pub. 100-10)	
	None
Medicare Program of All-Inclusive Care for the Elderly (CMS-Pub. 100-11)	
	None
Medicare End Stage Renal Disease Network Organizations (CMS Pub 100-14)	
	None
Medicaid Program Integrity Disease Network Organizations (CMS Pub 100-15)	
13642	Issued to a specific audience, not posted to Internet/Intranet due to a Confidentiality of Instruction
13699	Issued to a specific audience, not posted to Internet/Intranet due to a Confidentiality of Instruction
Medicare Managed Care (CMS-Pub. 100-16)	
	None
Medicare Business Partners Systems Security (CMS-Pub. 100-17)	
	None
Medicare Prescription Drug Benefit (CMS-Pub. 100-18)	
	None
Demonstrations (CMS-Pub. 100-19)	
13581	Implementation of Wasteful and Inappropriate Service Reduction (WISer) Model Prior Authorization and Medical Review Process and Establishment of New Quarterly Change Request

Transmittal Number	Manual/Subject/Publication Number
	(DMEPOS) Stay of Enrollment
13616	Issued to a specific audience, not posted to Internet/Intranet due to a Confidentiality of Instruction
13617	Availability of One-Click Provider Statistical and Reimbursement Report (PS&R) Summary Report Downloads in the Medicare Cost Report E-Filing (MCReF) System
13618	Update to the Payment for Historically Excepted Tribal Federally Qualified Health Centers (FQHCs) for Calendar Year (CY) 2026
13621	Medicare Administrative Contractors (MACs) Part B, the Multi-Carrier System (MCS) and Durable Medicare Equipment (DME) MACs Updates on Processing Medicare Secondary Payer (MSP) Claims Containing Certain Claim Adjustment Reason Codes (CARCs)
13623	International Classification of Diseases, 10th Revision (ICD-10) and Other Coding Revisions to National Coverage Determinations (NCDs)— July 2026
13625	Reporting of All Recovery Auditor-Initiated Claim Adjustments and their Subsequent Adjustments for Periodic Interim Payment (PIP) Facilities
13627	Issued to a specific audience, not posted to Internet/Intranet due to a Sensitivity of Instruction
13633	Billing Code Clarification for National Coverage Determination (NCD) 210.13 Screening for Hepatitis C Virus (HCV) in Adults
13644	Updating Consistency Editing Logic for Provider-Based Department (PBD) Claims Processing
13645	Prior Authorization Data - Add Medicare Beneficiary Identifier (MBI)
13649	Issued to a specific audience, not posted to Internet/Intranet due to a Confidentiality of Instruction
13655	Issued to a specific audience, not posted to Internet/Intranet due to a Sensitivity of Instruction
13659	Issued to a specific audience, not posted to Internet/Intranet due to a Confidentiality of Instruction
13674	Provider Education for the Review Choice Demonstration (RCD) for Inpatient Rehabilitation Facility Services (IRFs)
13687	Upload of Hospice Aggregate Cap Determination Letters and Hospice Filed Self-Determined Hospice Cap Documentation into the System for Tracking Audit and Reimbursement (STAR)
13696	Issued to a specific audience, not posted to Internet/Intranet due to a Sensitivity of Instruction
13697	Issued to a specific audience, not posted to Internet/Intranet due to a Confidentiality of Instruction
13703	Extensions of Certain Temporary Changes to the Low-Volume Hospital Payment Adjustment and the Medicare-Dependent Hospital (MDH) Program under the Inpatient Prospective Payment System (IPPS) Provided by the Consolidated Appropriations Act, 2026
13705	National Correct Coding Initiative (NCCI) New/Updated Add-On Code (AOC) Edit File Format and Creation of an AOC File Retrieval Process in the Multi-Carrier System (MCS) – Implementation
13706	Medicare Administrative Contractors (MACs) Part B, the Multi-

Transmittal Number	Manual/Subject/Publication Number
	Carrier System (MCS) and Durable Medicare Equipment (DME) MACs Updates on Processing Medicare Secondary Payer (MSP) Claims Containing Certain Claim Adjustment Reason Codes (CARCs)
	Medicare Quality Reporting Incentive Programs (CMS-Pub. 100-22)
	None
	State Payment of Medicare Premiums (CMS-Pub. 100-24)
	None
	Information Security Acceptable Risk Safeguards (CMS-Pub. 100-25)
	None

For questions or additional information, contact Ronda Allen-Bonner (410-786-4657).

Addendum II: Regulation Documents Published in the Federal Register (January through March 2026)

Regulations and Notices

Regulations and notices are published in the daily **Federal Register**. To purchase individual copies or subscribe to the **Federal Register**, contact GPO at www.gpo.gov/fdsys. When ordering individual copies, it is necessary to cite either the date of publication or the volume number and page number.

The **Federal Register** is available as an online database through *GPO Access*. The online database is updated by 6 a.m. each day the **Federal Register** is published. The database includes both text and graphics from Volume 59, Number 1 (January 2, 1994) through the present date and can be accessed at <http://www.gpoaccess.gov/fr/index.html>. The following website <http://www.archives.gov/federal-register/> provides information on how to access electronic editions, printed editions, and reference copies.

For questions or additional information, contact Gittel Treitel (410-786-4673).

Addendum III: CMS Rulings (January through March 2026)

CMS Rulings are decisions of the Administrator that serve as precedent final opinions and orders and statements of policy and interpretation. They provide clarification and interpretation of complex or ambiguous provisions of the law or regulations relating to Medicare, Medicaid, Utilization and Quality Control Peer Review, private health insurance, and related matters.

The rulings can be accessed at <https://www.cms.gov/medicare/regulations-guidance/cms-rulemaking/rulings>.

For questions or additional information, contact Tiffany Lafferty (410-786-7548).

Addendum IV: Medicare National Coverage Determinations (January through March 2026)

Addendum IV includes completed national coverage determinations (NCDs), or reconsiderations of completed NCDs, from the quarter covered by this notice. Completed decisions are identified by the section of the NCD Manual (NCDM) in which the decision appears, the title, the date the publication was issued, and the effective date of the decision. An NCD is a determination by the Secretary for whether or not a particular item or service is covered nationally under the Medicare Program (title XVIII of the Act), but does not include a determination of the code, if any, that is assigned to a particular covered item or service, or payment determination for a particular covered item or service. The entries below include information concerning completed decisions, as well as sections on program and decision memoranda, which also announce decisions or, in some cases, explain why it was not appropriate to issue an NCD. Additional information on NCDs, including open NCDs and pending NCDs, can be found on the NCD Dashboard, which is posted on the CMS website at <https://www.cms.gov/medicare/coverage/determination-process>.

For the purposes of this quarterly notice, we are providing only the specific updates to national coverage determinations (NCDs), or reconsiderations of completed NCDs published in the 3-month period. For questions or additional information, contact Wanda Belle, MPA (410-786-7491).

Title	NCDM Section	Transmittal Number	Issue Date	Effective Date
Renal Denervation (RDN) for Uncontrolled Hypertension	NCD 20.40	13522	12/11/2025	10/28/2025
Cardiac Contractility Modulation (CCM) for Heart Failure (HF)	NCD 20.39	13538	12/19/2025	10/28/2025

Addendum V: FDA-Approved Category B Investigational Device Exemptions (IDEs) (January through March 2026)
(Inclusion of this addenda is under discussion internally.)

Addendum VI: Approval Numbers for Collections of Information (January through March 2026)

All approval numbers are available to the public at [Reginfo.gov](https://www.reginfo.gov). Under the review process, approved information collection requests are assigned OMB control numbers. A single control number may apply to

several related information collections. This information is available at www.reginfo.gov/public/do/PRAMain.

For questions or additional information, contact William Parham (410-786-4669).

Addendum VII: Medicare-Approved Carotid Stent Facilities (January through March 2026)

Addendum VII includes listings of Medicare-approved carotid stent facilities. All facilities listed meet CMS standards for performing carotid artery stenting for high-risk patients. On March 17, 2005, we issued our decision memorandum on carotid artery stenting. We determined that carotid artery stenting with embolic protection is reasonable and necessary only if performed in facilities that have been determined to be competent in performing the evaluation, procedure, and follow-up necessary to ensure optimal patient outcomes. We have created a list of minimum standards for facilities modeled in part on professional society statements on competency. All facilities must at least meet our standards to receive coverage for carotid artery stenting for high-risk patients. For the purposes of this quarterly notice, we are providing only the specific updates that have occurred in the 3-month period. There were no additions, deletions, or editorial changes to the listing for Medicare-approved carotid stent facilities for this 3-month period. This information is available at: <http://www.cms.gov/MedicareApprovedFacilities/CASF/list.asp#TopOfPage>.

For questions or additional information, contact Sarah Fulton, MHS (410-786-2749).

Addendum VIII: American College of Cardiology's National Cardiovascular Data Registry Sites (January through March 2026)

The initial data collection requirement through the American College of Cardiology's National Cardiovascular Data Registry (ACC-NCDR) has served to develop and improve the evidence base for the use of ICDs in certain Medicare beneficiaries. The data collection requirement ended with the posting of the final decision memo for Implantable Cardioverter Defibrillators on February 15, 2018.

For questions or additional information, contact Sarah Fulton, MHS (410-786-2749).

Addendum IX: Active CMS Coverage-Related Guidance Documents (January through March 2026)

CMS published three final guidance documents on August 7, 2024, to provide a framework for more predictable and transparent evidence development and encourage innovation and accelerate beneficiary access to new items and services. The documents are available at:

Coverage with Evidence Development: <https://www.cms.gov/medicare-coverage-database/view/medicare-coverage-document.aspx?mcdid=38>.

CMS National Coverage Analysis Evidence Review:

<https://www.cms.gov/medicare-coverage-database/view/medicare-coverage-document.aspx?mcdid=37>.

Clinical Endpoints Guidance: Knee Osteoarthritis:

<https://www.cms.gov/medicare-coverage-database/view/medicare-coverage-document.aspx?mcdid=36>.

For questions or additional information, contact Lori Ashby, MA (410 786 6322).

Addendum X:

List of Special One-Time Notices Regarding National Coverage Provisions (January through March 2026)

There were no special one-time notices regarding national coverage provisions published in the 3-month period. This information is available at <http://www.cms.gov>.

For questions or additional information, contact JoAnna Baldwin, MS (410-786 7205).

Addendum XI: National Oncologic PET Registry (NOPR) (January through March 2026)

Addendum XI includes a listing of National Oncologic Positron Emission Tomography Registry (NOPR) sites. We cover positron emission tomography (PET) scans for particular oncologic indications when they are performed in a facility that participates in the NOPR.

In January 2005, we issued our decision memorandum on **positron emission tomography (PET)** scans, which stated that CMS would cover PET scans for particular oncologic indications, as long as they were performed in the context of a clinical study. We have since recognized the National Oncologic PET Registry as one of these clinical studies. Therefore, in order for a beneficiary to receive a Medicare-covered PET scan, the beneficiary must receive the scan in a facility that participates in the registry. There were no additions, deletions, or editorial changes to the listing of National Oncologic Positron Emission Tomography Registry (NOPR) in the 3-month period. This information is available at <http://www.cms.gov/MedicareApprovedFacilities/NOPR/list.asp#TopOfPage>. For questions or additional information, contact David Dolan, MBA (410-786-3365).

Addendum XII: Medicare-Approved Ventricular Assist Device (Destination Therapy) Facilities (January through March 2026)

Addendum XII includes a listing of Medicare-approved facilities that receive coverage for ventricular assist devices (VADs) used as

destination therapy. All facilities were required to meet our standards in order to receive coverage for VADs implanted as destination therapy. On October 1, 2003, we issued our decision memorandum on VADs for the clinical indication of destination therapy. We determined that VADs used as destination therapy are reasonable and necessary only if performed in facilities that have been determined to have the experience and infrastructure to ensure optimal patient outcomes. We established facility standards and an application process. All facilities were required to meet our standards in order to receive coverage for VADs implanted as destination therapy.

For the purposes of this quarterly notice, we are providing only the specific updates to the list of Medicare-approved facilities that meet our standards that have occurred in the 3-month period. This information is available at

<http://www.cms.gov/MedicareApprovedFacilities/VAD/list.asp#TopOfPage>. For questions or additional information, contact David Dolan, MBA, (410-786-3365).

Facility	Provider Number	Date of Initial Certification	Date of Re-certification	State
The following are new facilities.				
MUSC Health – Columbia Medical Center Downtown 2435 Forest Drive Columbia, SC 29204	42-0026	2025-12-18	n/a	SC
Other information: DNV ID # C829840				
Previous Re-certification Dates: n/a				
Hong Memorial Hospital Presbyterian One Hoag Drive Newport Beach, CA 92658	050224	2026-03-03	n/a	CA
Other information: DNV ID # C556012				
Previous Re-certification Dates: n/a				
The following facilities have editorial changes (in bold).				
Hackensack University Medical Center 30 Prospect Avenue Hackensack, NJ 07601	310001	2015-10-20	2025-12-11	NJ
Other information: Joint Commission ID #5934				
Previous Re-certification Dates: 10/20/2015.				

FROM: UMass Memorial Medical Center, Inc.; TO: UMass Memorial Health Care, Inc One Biotech Park 365 Plantation Street Worcester, MA 01605 Other Information: Joint Commission ID #5640 Previous Re-certification Dates: 2/6/2019; 11/06/2021; 10/27/2023	220163	2019-02-06	2025-10-08	MA
Intermountain Healthcare Health Services Inc. 5121 South Cottonwood Street Murray, UT 84107 Other Information: Joint Commission ID #9540 Previous Re-certification Dates: 10/31/2008; 12/07/2010; 12/11/2012; 12/16/2014; 01/24/2017; 3/13/2019; 11/11/2021; 11/15/2023	460010	2008-10-31	2025-10-22	UT
Memorial Hermann – Texas Medical Center 6411 Fannin Street Houston, TX 77030-1501 Other Information: Joint Commission ID #9081 Previous Re-certification Dates: 2013-03-19; 2015-04-14; 2017-05-24; 2019-06-26; 12/23/2021; 12/22/2023	450068	2013-03-19	2025-11-19	TX
Prisma Health Richland 5 Richland Medical Park Drive Columbia, SC 29203 Other Information: Joint Commission ID #6588 Previous Re-certification Dates: 03/06/2013; 04/21/2015; 06/06/2017; 6/28/2019; 10/08/2021; 09/13/2023	420018	2013-03-06	2025-10-18	SC
Stanford Health Care 300 Pasteur Drive Stanford, CA 94305 Other Information:	050441	2003-12-22	2025-12-20	CA

09/19/2017; 10/4/2019; 12/15/2021; 01/18/2024 Montefiore Health System 111 East 210th Street Bronx, NY 10467 Other information: Joint Commission ID #2514 Previous Re-certification Dates: 09/23/2008; 10/08/2010; 10/23/2012; 09/23/2014; 10/08/2016; 11/07/2018; 10/29/2021; 10/04/2023	330059	2008-09-23	2025-10-23	NY
University of Washington Medical Center 1959 Northeast Pacific Street, Box 356151 Seattle, WA 98195-6151 Other Information: Joint Commission ID #9626; Previous Re-certification Dates: 02/10/2009; 10/18/2011; 11/22/2013; 12/08/2015; 12/05/2017; 11/20/2019; 01/26/2022; 01/24/2024	500008	2009-02-10	2025-12-17	WA
Loyola University Medical Center 2160 South First Avenue Maywood, IL 60153 Other information: Joint Commission ID #7288; Previous Re-certification Dates: 05/10/2011; 04/16/2013; 03/17/2015; 05/09/2017; 6/26/2019; 11/17/2021; 12/01/2023	140276	2011-05-10	2025-10-22	IL
FROM: Inova Fairfax Hospital TO: Inova Health Care Services 3300 Gallows Road Falls Church, VA 22042 Other Information: Joint Commission ID #6351; Previous Re-certification Dates: 12/09/2008; 03/22/2011; 05/01/2013; 06/09/2015; 07/25/2017; 9/25/2019; 11/17/2021; 10/28/2023	490063	2008-12-09	2025-10-15	VA

Mayo Clinic Arizona 5777 East Mayo Boulevard Phoenix, AZ 85054 Other Information: Joint Commission ID #261796 Previous Re-certification Dates: 01/27/2009; 04/29/2011; 03/20/2013; 03/24/2015; 05/19/2017; 8/14/2019; 10/30/2021; 11/29/2023	030103	2009-01-27	2025-12-20	AZ
Yale - New Haven Hospital 20 York Street New Haven, CT 06510-3203 Other Information: Joint Commission ID #5677 Previous Re-certification Dates: 01/25/2011; 01/15/2013; 12/16/2014; 02/28/2017; 5/22/2019; 11/24/2021; 12/13/2023	070022	2011-01-25	2025-11-12	CT
Hartford Hospital 80 Seymour Street Hartford, CT 06102-5037 Other Information: Joint Commission ID #2649 Previous Re-certification Dates: 03/31/2009; 11/16/2011; 10/22/2013; 10/20/2015; 11/14/2017; 12/10/2019; 12/15/2021; 01/05/2024	070025	2009-03-31	2025-12-03	CT
Pitt County Memorial Hospital, Inc. DBA Vidant Medical Center 2100 Stantonsburg Road Greenville, NC 27835-6028 Other Information: Joint Commission ID #6506 Previous Re-certification Dates: 09/26/2017; 12/17/2019; 02/09/2022; 02/24/2024	340040	2017-09-26	2026-02-18	NC
OSF Saint Francis Medical Center 530 N Glen Oak Avenue Peoria, IL 61637 Other Information:	14-0067	2009-08-31	2025-09-17	IL

Joint Commission ID #10010 Previous Re-certification Dates: 2010-11-24; 2012-12-12; 2014-12-09; 2017-03-14; 2019-08-28; 2021-12-15; 2024-01-31	220077	2017-07-18	2025-11-22	MA
Baystate Medical Center 759 Chestnut Street Springfield, MA 01199 Other Information: Joint Commission ID #2768 Previous Re-certification Dates: 07/18/2017; 9/11/2019; 12/04/2021; 12/20/2023	050454	2012-10-16	2025-11-12	CA
UCSF Medical Center 505 Parnassus Avenue San Francisco, CA 94143 Other Information: Joint Commission ID #10095 Previous Re-certification Dates: 09/19/2012; 11/04/2014; 12/06/2016; 1/30/2019; 11/18/2021; 12/13/2023	150084	2008-12-16	2025-12-03	IN
FROM: St. Vincent Hospital and Health Care Services, Inc. TO: Ascension St. Vincent 2001 West 86th Street Indianapolis, IN 46260 Other Information: Joint Commission ID #7178 Previous Re-certification Dates: 12/16/2008; 05/17/2011; 06/25/2013; 05/19/2015; 06/13/2017; 7/31/2019; 11/06/2021; 11/08/2023	050348	2019-12-16	2025-11-25	CA
UCI Medical Center 101 The City Dr. South Bldg 53, Suite 304A Orange, CA 92868 Other Information: DNV ID # C569686; Previous Re-certification Dates: 2019-12-16; 2022-12-17				

(January through March 2026)

Addendum XIII includes a listing of Medicare-approved facilities that are eligible to receive coverage for lung volume reduction surgery.

Until May 17, 2007, facilities that participated in the National Emphysema Treatment Trial were also eligible to receive coverage. The following three types of facilities are eligible for reimbursement for Lung Volume Reduction Surgery (LVRS):

- National Emphysema Treatment Trial (NETT) approved (Beginning 05/07/2007, these will no longer automatically qualify and can qualify only with the other programs);
- Credentialed by the Joint Commission (formerly, the Joint Commission on Accreditation of Healthcare Organizations (JCAHO)) under their Disease Specific Certification Program for LVRS; and
- Medicare approved for lung transplants.

Only the first two types are in the list. For the purposes of this quarterly notice, there are no additions and deletions to a listing of Medicare-approved facilities that are eligible to receive coverage for lung volume reduction surgery. This information is available at

www.cms.gov/MedicareApprovedFacilities/LVRS/list.asp#TopOfPage.

For questions or additional information, contact Sarah Fulton, MHS (410-786-2749).

Addendum XIV: Medicare-Approved Bariatric Surgery Facilities
(January through March 2026)

Addendum XIV includes a listing of Medicare-approved facilities that meet minimum standards for facilities modeled in part on professional society statements on competency. All facilities must meet our standards in order to receive coverage for bariatric surgery procedures. On February 21, 2006, we issued our decision memorandum on bariatric surgery procedures. We determined that bariatric surgical procedures are reasonable and necessary for Medicare beneficiaries who have a body-mass index (BMI) greater than or equal to 35, have at least one co-morbidity related to obesity and have been previously unsuccessful with medical treatment for obesity.

This decision also stipulated that covered bariatric surgery procedures are reasonable and necessary only when performed at facilities that are: (1) certified by the American College of Surgeons (ACS) as a Level 1 Bariatric Surgery Center (program standards and requirements in effect on February 15, 2006); or (2) certified by the American Society for Bariatric Surgery (ASBS) as a Bariatric Surgery Center of Excellence (BSCOE) (program standards and requirements in effect on February 15, 2006).

There were no additions, deletions, or editorial changes to

Medicare-approved facilities that meet CMS' minimum facility standards for bariatric surgery that have been certified by ACS and/or ASBBS in the 3-month period. This information is available at

www.cms.gov/MedicareApprovedFacilities/BSF/list.asp#TopOfPage.

DNV ID # C569934	450044	2008-12-17	2026-03-12	TX
Previous Re-certification Dates: 2009-08-31; 2011-11-22; 2019-10-10; 2022-10-10 UT Southwestern Medical Center/William P. Clements Jr. University Hospital 6201 Harry Hines Boulevard Dallas, TX 75390-9262 Other Information: Joint Commission ID #9013 Previous Re-certification Dates: 12/17/2008; 06/07/2011; 06/04/2013; 06/23/2015; 08/08/2017; 10/11/2019; 02/12/2022; 03/13/2024	390223	2011-10-11	Joint Commission De-certified: 02/25/2026	PA
The following facilities were removed this quarter.				
Presbyterian Medical Center of the UPHS, DBA Penn Presbyterian Medical Center 51 North 39th Street Philadelphia, PA 19104 Other Information: Joint Commission De-certified: 02/25/2026 Joint Commission ID #6145; Previous Re-certification Dates: 10/05/2010; 11/07/2012; 12/09/2014; 03/21/2017; 4/17/2019; 07/29/2021; 06/28/2023	110082	2010-07-14	Joint Commission De-certified: 03/01/2026	GA
Emory Saint Joseph's Hospital of Atlanta, Inc. 5665 Peachtree Dunwoody Road Atlanta, GA 30342 Other Information: Joint Commission De-certified: 03/01/2026 Joint Commission ID # 6652; Previous Re-certification Dates: 07/13/2010; 07/11/2012; 06/03/2014; 07/12/2016; 06/05/2018; 05/08/2021; 02/22/2023				

Addendum XIII: Lung Volume Reduction Surgery (LVRS)

For questions or additional information, contact Sarah Fulton, MHS (410-786-2749).

Addendum XV: FDG-PET for Dementia and Neurodegenerative Diseases Clinical Trials (January through March 2026)

There were no FDG-PET for Dementia and Neurodegenerative Diseases Clinical Trials published in the 3-month period.

This information is available on our website at

www.cms.gov/Medicare/ApprovedFacilities/PETDT/list.asp#TopOfPage.

For questions or additional information, contact David Dolan, MBA (410-786-3365).

[FR Doc. 2026-09630 Filed 5-13-26; 8:45 am]

BILLING CODE 4120-01-C

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[Office of Management and Budget #: 0970-0157]

Proposed Information Collection Activity; Guidance for Tribal Temporary Assistance for Needy Families (TANF) Program, ACF-123

AGENCY: Office of Family Assistance, Administration for Children and Families, U.S. Department of Health and Human Services.

ACTION: Request for public comments.

SUMMARY: The Administration for Children and Families (ACF) is requesting a 3-year extension of the Guidance for the Tribal Temporary Assistance for Needy Families (TANF) Program, Form 123 (Office of Management and Budget 0970-0157, expiration date: August 31, 2026). While the statutory requirements remain unchanged, ACF is proposing revisions to the instructions for clarification and to ensure they are as clear and streamlined as possible. ACF estimates a 33 percent reduction in response time

with the proposed revisions to the instructions.

DATES: *Comments due* July 13, 2026.

ADDRESSES: In compliance with the requirements of the Paperwork Reduction Act of 1995, ACF is soliciting public comment on the specific aspects of the information collection described above. You can obtain copies of the proposed collection of information and submit comments by emailing infocollection@acf.hhs.gov. Identify all requests by the title of the information collection.

SUPPLEMENTARY INFORMATION:

Description: 42 U.S.C. 612 (Section 412 of the Social Security Act) requires each Indian tribe that elect to administer and operate a TANF program to submit a TANF Tribal Plan. This request includes the renewal of the guidance for completing the initial Tribal TANF Plan. The TANF Tribal Plan is a mandatory statement submitted to the Secretary of HHS by the Indian tribe, which consists of an outline of how the Indian tribes TANF program will be administered and operated. It is used by the Secretary to determine whether the plan is approvable and to determine that the Indian tribe is eligible to receive a TANF assistance grant. It is also made available to the public. The instructions have been edited for clarification and general improvements for respondents,

including the following types of updates:

- Eliminated redundant explanations and revised text to use shorter, clearer sentences.
- Streamlined content and focused on the elements tribes need to develop and submit an approvable TANF plan.
- Removed or condensed material that does not directly support plan preparation.
- Organized plan requirements in a clearer, checklist-like format aligned with how federal staff review plans, making it easier for tribes to identify and address required elements without cross-referencing multiple sections.

Respondents: Indian tribes applying to operate a TANF program and to renew their Tribal Family Assistance Plan.

Annual Burden Estimates

The proposed edits are expected to result in reduced reading time, improved usability, reduced cognitive load and enhanced accessibility. Overall, the edits are expected to reduce the estimated time per response. ACF has reduced the estimated response time from 68 hours to 45.6 hours. The number of agencies has been increased to reflect current grant recipients. Overall, annual burden estimates have decreased from 1,700 hours to 1,170 hours.

Instrument	Total number of respondents	Annual number of responses per respondent	Average burden hours per response	Annual burden hours
Guidance For the Tribal TANF Program	77	* 1/3	45.6	1,170

* **Note:** Over the 3-year approval period, ACF estimates one-third of tribes will submit a plan each year. To estimate total annual burden, we use one-third as the annual number of responses per respondent.

Comments: The Department specifically requests comments on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Authority: 42 U.S.C. 612

Mary C. Jones,

ACF/OPRE Certifying Officer.

[FR Doc. 2026-09623 Filed 5-13-26; 8:45 am]

BILLING CODE 4184-36-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Community Services Block Grant Disaster Supplemental Annual Report (New Collection)

AGENCY: Office of Community Services, Administration for Children and Families, U.S. Department of Health and Human Services.

ACTION: Request for public comments.

SUMMARY: The Office of Community Services (OCS), Administration for Children and Families (ACF) requests approval of the Community Services Block Grant (CSBG) Disaster Supplemental Annual Report. This is a new information collection request, based on a previously approved version of this report under Office of Management and Budget (OMB) #: 0970-0492. This covers CSBG Disaster Supplemental Funds as appropriated by the Robert T. Stafford Disaster Relief and Emergency Assistance Act and potential future disaster supplemental funding.

DATES: *Comments due* July 13, 2026.

ADDRESSES: In compliance with the requirements of the Paperwork Reduction Act of 1995, ACF is soliciting public comment on the specific aspects of the information collection described above. You can also obtain copies of the proposed collection of information by visiting www.acf.gov/ocs/programs/csbg.

SUPPLEMENTARY INFORMATION:

Description: Hurricanes Fiona and Ian occurred in September 2022, and were declared by the President as major disasters under section 401 or 501 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170 and 5191). Hurricane Fiona impacted the Commonwealth of Puerto Rico. Hurricane Ian impacted the states of Florida and South Carolina.

Through the Consolidated Appropriations Act, 2023 (Pub. L. 117-328), signed into law by Congress on December 29, 2022, OCS received an additional \$25 million to support the necessary expenses directly related to the consequences of Hurricanes Fiona and Ian. OCS allocated the funds to grant recipients based on assessment of need. Grant recipients then issued grants to CSBG eligible entities to support disaster recovery activities for individuals and families with low incomes. Consistent with the general purposes of CSBG and the specific appropriation guidance, this funding supported a range of locally identified services and strategies focused on the needs of people with low-income and disaster-related needs. These funds supported ongoing community recovery after the conclusion of emergency response efforts.

Section 678E of the CSBG Act requires states, including the District of Columbia and the Commonwealth of Puerto Rico, and U.S. territories, to annually prepare and submit a report on the measured performance of the state and the eligible entities in the state. Prior to the participation of the state in the performance measurement system, the state shall include in the report any information collected by the state relating to such performance. Each state shall also include in the report an accounting of the expenditure of funds received by the state through the CSBG

program, including an accounting of funds spent on administrative costs by the state and the eligible entities, and funds spent by the eligible entities on the direct delivery of local services, and shall include information on the number of and characteristics of clients served under the subtitle in the state, based on data collected from the eligible entities. The state shall also include in the report a summary describing the training and technical assistance offered by the state.

Section 3(b) of the Government Performance and Results Modernization Act of 2010 requires OCS, as an office under HHS, to collect performance information for CSBG. The CSBG Disaster Supplemental Annual Report was previously approved under OMB #: 0970-0492, along with the CSBG Annual Report. Due to a unique funding stream, OCS is requesting approval of the CSBG Disaster Supplemental Annual Report under a unique OMB number. The proposed CSBG Disaster Supplemental Annual Report is directly modeled on the CSBG Annual Report and includes 3 modules, tailored to disaster funding:

- **State Administration (Module 1)** completed by state CSBG Administrators: Focuses on state administration of CSBG funding, including distribution of funds to eligible entities, use of state administrative funds and discretionary funds for training and technical assistance, eligible entity organizational standards progress, and the state's progress meeting accountability measures related to state monitoring, training and technical assistance, and other critical areas.
- **Eligible Entity Administration (Module 2)** completed by eligible entities; reviewed, evaluated, and analyzed by state CSBG Lead Agencies: includes information on funds spent by eligible entities on the direct delivery of local services and strategies and capacity development as well as information on funding devoted to administrative costs by the eligible entities.
- **Individual and Family Level (Module 3)** completed by eligible entities; reviewed, evaluated; analyzed by state CSBG Lead Agencies: Includes

information on services provided to individuals and families, demographic characteristics of people served by eligible entities, and the results of these services.

Respondents: State governments, including the Commonwealth of Puerto Rico, and CSBG eligible entities.

Annual Burden Estimates

Grant recipients (2) and sub-grant recipients (31) will complete the CSBG Disaster Supplemental Annual Report annually. OCS estimates the average time to complete this request to be approximately 110 hours per state each

year and 235 hours per eligible entity each year. Grant recipients only complete Module 1 while sub-grant recipients only complete Modules 2 and 3.

Instrument	Total number of respondents	Annual number of responses per respondent	Average burden hours per response	Annual burden hours
CSBG Disaster Supplemental Annual Report (States)	2	1	110	220
CSBG Disaster Supplemental Annual Report (Eligible Entities)	31	1	235	7,285
Annual Burden Estimate:				7,505

Comments: The Department specifically requests comments on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Authority: 112 Stat. 2729; 42 U.S.C. 9908, 42 U.S.C. 5121 *et seq.*

Mary C. Jones,

ACF/OPRE Certifying Officer.

[FR Doc. 2026-09620 Filed 5-13-26; 8:45 am]

BILLING CODE 4184-27-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: Population Sciences and Epidemiology Integrated Review Group; Cancer and Hematologic Disorders Study Section.

Date: June 11–12, 2026.

Time: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Steven M. Frenk, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3141, Bethesda, MD 20892, (301) 480-8665 frenksm@mail.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Nucleic acid therapeutic delivery.

Date: June 17, 2026.

Time: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Jingwu Xie, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 594-8625 jingwu.xie@nih.gov.

Name of Committee: Oncology 1—Basic Translational Integrated Review Group; Basic Mechanisms of Cancer Health Disparities Study Section.

Date: June 17, 2026.

Time: 9:30 a.m. to 6:30 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: Wing-hang Tong, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (302) 402-0360 tongw@mail.nih.gov.

Name of Committee: Genes, Genomes, and Genetics Integrated Review Group;

Maximizing Investigators' Research Award—F Study Section.

Date: June 17–18, 2026.

Time: 10:00 a.m. to 6:30 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: Brian Paul Chadwick, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 594-3586 chadwickbp@csr.nih.gov.

Name of Committee: Oncology 2—Translational Clinical Integrated Review Group; Cellular Immunotherapy of Cancer Study Section.

Date: June 18, 2026.

Time: 8:00 a.m. to 6:30 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: Shahana Majid, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 867-5309 shahana.majid@nih.gov.

Name of Committee: Oncology 1—Basic Translational Integrated Review Group; Tumor Evolution, Heterogeneity and Metastasis Study Section.

Date: June 18, 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: Adriana Stoica, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 443-9734 Stoicaa2@mail.nih.gov.

Name of Committee: Musculoskeletal, Oral and Skin Sciences Integrated Review Group; Musculoskeletal Rehabilitation Sciences Study Section.

Date: June 18, 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: Richard Michael Lovering, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1000J, Bethesda, MD 20892, (301) 867-5309 loveringrm@mail.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR-23-183: NLM Grants for Scholarly Works in Biomedicine and Health.

Date: June 18, 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: David E. Pollio, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1006F, Bethesda, MD 20892. (301) 594-4002 polliode@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Program Projects: National Centers for Biomedical Imaging and Bioengineering.

Date: June 18, 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: Marie-Jose Belanger, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Rm 6188 MSC 7804, Bethesda, MD 20892, 301-435-1267 belangerm@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Training and Career Development: Social and Community Influences Across the Lifecourse A.

Date: June 18, 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: Deborah Ismond, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 594-5633 ismond@dr@mail.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Training Research Career Development.

Date: June 18, 2026.

Time: 10:00 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Ombretta Salvucci, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (240) 276-7286 salvucco@mail.nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393-93.396, 93.837-93.844, 93.846-93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: May 15, 2026,

Rosalind M. Niamke,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2026-09698 Filed 5-13-26; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the Sleep Disorders Research Advisory Board (SDRAB).

This will be a hybrid meeting held in-person and virtually and will be open to the public as indicated below. Individuals who plan to attend in-person or view the virtual meeting and need special assistance or other reasonable accommodation should notify the Contact Person listed below in advance of the meeting. The meeting can be accessed from a link that will be provided once registration is confirmed. To register for attending this meeting and it is required to attend, please use the following link: <https://events.gcc.teams.microsoft.com/event/bacd412c-8a8e-4a32-8db5-1d0dd0e181d7@14b77578-9773-42d5-8507-251ca2dc2b06>.

Name of Committee: Sleep Disorders Research Advisory Board.

Date: August 6, 2026.

Time: 1:00 p.m. to 5:00 p.m.

Agenda: The purpose of this meeting is to seek guidance and gather input from the Sleep Disorders Research Advisory Board on research priorities conducted or supported by the NIH. The Board will also review and refine language for the draft NIH Sleep Research Plan refresh.

Address: National Heart, Lung, and Blood Institute, National Institutes of Health, 6705 Rockledge Drive, Suite 407B, Bethesda, MD 20814.

Meeting Format: Virtual Meeting.

Contact Person: Marishka Brown, Ph.D., SDRAB Executive Secretary, Director, National Center on Sleep Disorders Research, National Institutes of Health, National Heart, Lung, and Blood Institute, 6705 Rockledge Drive, Suite 407B, Bethesda, Maryland 20814, 301-435-0199, ncsdr@nih.gov.

Any member of the public interested in presenting oral comments to the committee may notify the Contact Person listed on this notice at least 10 days in advance of the meeting. Interested individuals and representatives of organizations may submit a letter of intent, a brief description of the organization represented, and a short description of the oral presentation. Only one representative of an organization may be allowed to present oral comments and if accepted by the committee, presentations may be limited to five minutes. Both printed and electronic copies are requested for the record. In addition, any interested person may file written comments with the committee by forwarding their statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

Information is also available on <https://www.nhlbi.nih.gov/about/advisory-and-peer-review-committees/sleep-disorders-research> where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: May 12, 2026.

Denise M. Santeufemio,

Supervisory Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2026-09700 Filed 5-13-26; 8:45 am]

BILLING CODE 4167-05-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: Infectious Diseases and Immunology A Integrated Review Group; Pathogenic Eukaryotes Study Section.

Date: June 16, 2026.

Time: 9:30 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Jennifer Chien Villa, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 496–5436 jennifer.villa@nih.gov.

Name of Committee: Biological Chemistry and Macromolecular Biophysics Integrated Review Group; Macromolecular Structure and Function A Study Section.

Date: June 16–17, 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: Ian Frederick Thorpe, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 903K, Bethesda, MD 20892, (301) 480–8662 ian.thorpe@nih.gov.

Name of Committee: Integrative, Functional and Cognitive Neuroscience Integrated Review Group; Auditory System Study Section.

Date: June 16, 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: Brian H. Scott, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, 301–827–7490 brianscott@mail.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Neurodevelopmental and Neuropsychiatric Disorders.

Date: June 16, 2026.

Time: 11:00 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: Pat Manos, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5200, MSC 7846, Bethesda, MD 20892, (301) 408–9866 manospa@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Clinical and Translational Cancer Research.

Date: June 17, 2026.

Time: 9:00 a.m. to 8:00 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: Viktoriya Sidorenko, Ph.D., Health Science Administrator, Center for Scientific Review, National Institute of Health, 6701 Rockledge Drive, National Cancer Institute, NIH Bethesda, MD 20892, (240) 276–5073 viktoriya.sidorenko@nih.gov.

Name of Committee: Healthcare Delivery and Methodologies Integrated Review Group; Health Services: Quality and Effectiveness Study Section.

Date: June 17, 2026.

Time: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Angela D. Thrasher, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1000J, Bethesda, MD 20892, (301) 480–6894 thrasherad@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Program Projects: Translational Cancer Research SPORE P50.

Date: June 17–18, 2026.

Time: 9:00 a.m. to 6:30 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: Amr M. Ghaleb, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 812, Bethesda, MD 20892, (301) 443–5851 amr.ghaleb@nih.gov.

Name of Committee: Surgical Sciences, Biomedical Imaging and Bioengineering Integrated Review Group; Clinical Translational Imaging Science Study Section.

Date: June 17, 2026.

Time: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Eleni Apostolos Liapi, MD Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20817 (301) 867–5309 eleni.liapi@nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Alzheimer's and Neurodegeneration.

Date: June 17–18, 2026.

Time: 9:30 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: Rahat Rani Khan, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20817, (301) 594–7319, Khanr2@mail.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Special Emphasis Panel for Translational Auditory Neuroscience and Hearing Loss Mechanisms & Technologies NSS (80).

Date: June 17, 2026.

Time: 9:30 a.m. to 5:30 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: Kausik Ray, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Rockville, MD 20852, (301) 402–3587, rayk@mail.nih.gov.

Name of Committee: Interdisciplinary Molecular Sciences and Training Integrated Review Group; Enabling Bioanalytical and Imaging Technologies Study Section.

Date: June 17–18, 2026.

Time: 9:30 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: Kenneth Ryan, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3218, MSC 7717, Bethesda, MD 20892, 301–435–0229, kenneth.ryan@nih.hhs.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Social Determinants of Behavioral, Cognitive, and Psychological Health.

Date: June 17, 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: Kate Fothergill, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3142, Bethesda, MD 20892, 301–435–1782, fothergillke@mail.nih.gov.

Name of Committee: Surgical Sciences, Biomedical Imaging and Bioengineering Integrated Review Group; Surgery, Anesthesiology and Trauma Study Section.

Date: June 17, 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: Stephen Anthony Gallo, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (240) 669-2858, steve.gallo@nih.gov.

Name of Committee: Biobehavioral and Behavioral Processes Integrated Review Group; Child Psychopathology and Developmental Disabilities Study Section.

Date: June 17–18, 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: Robin Lori Thompson, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 480-4933, robin.thompson@nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Special Topics in Neuroscience.

Date: June 17, 2026.

Time: 10:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Soyoun Cho, Ph.D., Scientific Review Officer, Center for Scientific Review, 6701 Rockledge Drive, RM 1011-G, National Institutes of Health, Bethesda, MD 20892, (301) 594-6593, Soyoun.cho@nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393-93.396, 93.837-93.844, 93.846-93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: May 12, 2026.

Rosalind M Niamke,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2026-09696 Filed 5-13-26; 8:45 am]

BILLING CODE 4167-05-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG-2026-0045]

Information Collection Request to Office of Management and Budget; OMB Control Number: 1625-0009

AGENCY: Coast Guard, DHS.

ACTION: Sixty-day notice requesting comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the U.S. Coast Guard intends to submit an

Information Collection Request (ICR) to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs (OIRA), requesting an extension of its approval for the following collection of information: 1625-0009, Oil Record Book for Ships; without change. Our ICR describes the information we seek to collect from the public. Before submitting this ICR to OIRA, the Coast Guard is inviting comments as described below.

DATES: Comments must reach the Coast Guard on or before July 13, 2026.

ADDRESSES: You may submit comments identified by Coast Guard docket number [USCG-2026-0045] to the Coast Guard using the Federal eRulemaking Portal at <https://www.regulations.gov>. See the “Public participation and request for comments” portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

A copy of the ICR is available through the docket on the internet at <https://www.regulations.gov>. Additionally, copies are available from: COMMANDANT (CG-C51-P), ATTN: PAPERWORK REDUCTION ACT MANAGER, U.S. COAST GUARD, 2703 MARTIN LUTHER KING JR. AVE SE, STOP 7710, WASHINGTON, DC 20593-7710.

FOR FURTHER INFORMATION CONTACT: A.L. Craig, Office of Privacy Management, telephone (571) 607-4058, or email hqs-dg-m-cg-61-pii@uscg.mil.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

This notice relies on the authority of the Paperwork Reduction Act of 1995; 44 U.S.C., chapter 35, as amended. An ICR is an application to OIRA seeking the approval, extension, or renewal of a Coast Guard collection of information (Collection). The ICR contains information describing the Collection's purpose, the Collection's likely burden on the affected public, an explanation of the necessity of the Collection, and other important information describing the Collection. There is one ICR for each Collection.

The Coast Guard invites comments on whether this ICR should be granted based on the Collection being necessary for the proper performance of Departmental functions. In particular, the Coast Guard would appreciate comments addressing: (1) the practical utility of the Collection; (2) the accuracy of the estimated burden of the Collection; (3) ways to enhance the quality, utility, and clarity of information subject to the Collection;

and (4) ways to minimize the burden of the Collection on respondents, including the use of automated collection techniques or other forms of information technology.

In response to your comments, we may revise this ICR or decide not to seek an extension of approval for the Collection without change. We will consider all comments and material received during the comment period.

We encourage you to respond to this request by submitting comments and related materials. Comments must contain the OMB Control Number of the ICR and the docket number of this request, USCG-2026-0045, and must be received by July 13, 2026.

Submitting Comments

We encourage you to submit comments through the Federal eRulemaking Portal at <https://www.regulations.gov>. If your material cannot be submitted using <https://www.regulations.gov>, contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions. Documents mentioned in this notice as being available in the docket, and all public comments, are in our online docket at <https://www.regulations.gov> and can be viewed by following that website's instructions. If you go to the online docket and sign up for email alerts, you will be notified when comments are posted.

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

Information Collection Request

Title: Oil Record Book for Ships.

OMB Control Number: 1625-0009.

Summary: The Act to Prevent Pollution from Ships (APPS) and the International Convention for Prevention of Pollution from Ships, 1973, as modified by the 1978 Protocol relating thereto (MARPOL 73/78), requires that information about oil cargo or fuel operations be entered into an Oil Record Book (CG-4602A). The requirement is contained in 33 CFR 151.25.

Need: This information is used to verify sightings of actual violations of the APPS to determine the level of compliance with MARPOL 73/78 and as a means of reinforcing the discharge provisions.

Forms: CG-4602A, Oil Record Books for Ships.

Respondents: Operators of vessels.

Frequency: On occasion.

Hour Burden Estimate: The estimated burden has increased from 15,741 hours to 19,858 hours a year, due to an increase in the estimated annual number of respondents.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. chapter 35, as amended.

Dated: May 11, 2026.

Bradley E. White,

Chief, Office of Privacy Management, U.S. Coast Guard.

[FR Doc. 2026–09672 Filed 5–13–26; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2025–0100]

Collection of Information Under Review by Office of Management and Budget; OMB Control Number: 1625–0119

AGENCY: Coast Guard, DHS.

ACTION: Thirty-day notice requesting comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 the U.S. Coast Guard is forwarding an Information Collection Request (ICR), abstracted below, to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs (OIRA), requesting an extension of its approval for the following collection of information: 1625–0119, Coast Guard Exchange System Scholarship Application; without change. Our ICR describes the information we seek to collect from the public. Review and comments by OIRA ensure we only impose paperwork burdens commensurate with our performance of duties.

DATES: You may submit comments to the Coast Guard and OIRA on or before June 15, 2026.

ADDRESSES: Comments to the Coast Guard should be submitted using the Federal eRulemaking Portal at <https://www.regulations.gov>. Search for docket number [USCG–2025–0100]. Written comments and recommendations to OIRA for the proposed information collection should be sent within 30 days of publication of this notice to <https://www.reginfo.gov/public/do/PRAMain>.

Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function.

A copy of the ICR is available through the docket on the internet at <https://www.regulations.gov>. Additionally, copies are available from:

COMMANDANT (CG–C5I–P), ATTN: PAPERWORK REDUCTION ACT MANAGER, U.S. COAST GUARD, 2703 MARTIN LUTHER KING JR. AVE SE, STOP 7710, WASHINGTON, DC 20593–7710.

FOR FURTHER INFORMATION CONTACT: A.L. Craig, Office of Privacy Management, telephone (571) 607–4058, or email hqs-dg-m-cg-61-pii@uscg.mil.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

This notice relies on the authority of the Paperwork Reduction Act of 1995; 44 U.S.C., chapter 35, as amended. An ICR is an application to OIRA seeking the approval, extension, or renewal of a Coast Guard collection of information (Collection). The ICR contains information describing the Collection’s purpose, the Collection’s likely burden on the affected public, an explanation of the necessity of the Collection, and other important information describing the Collection. There is one ICR for each Collection. The Coast Guard invites comments on whether this ICR should be granted based on the Collection being necessary for the proper performance of Departmental functions. In particular, the Coast Guard would appreciate comments addressing: (1) the practical utility of the Collection; (2) the accuracy of the estimated burden of the Collection; (3) ways to enhance the quality, utility, and clarity of information subject to the Collection; and (4) ways to minimize the burden of the Collection on respondents, including the use of automated collection techniques or other forms of information technology. These comments will help OIRA determine whether to approve the ICR referred to in this Notice.

We encourage you to respond to this request by submitting comments and related materials. Comments to Coast Guard or OIRA must contain the OMB Control Number of the ICR. They must also contain the docket number of this request, USCG–2025–0100, and must be received by June 15, 2026.

Submitting Comments

We encourage you to submit comments through the Federal eRulemaking Portal at <https://www.regulations.gov>. If your material cannot be submitted using <https://www.regulations.gov>, contact the person in the **FOR FURTHER INFORMATION**

CONTACT section of this document for alternate instructions. Documents mentioned in this notice, and all public comments, are in our online docket at <https://www.regulations.gov> and can be viewed by following that website’s instructions. If you go to the online docket and sign up for email alerts, you will be notified when comments are posted.

We accept anonymous comments. Comments we post to <https://www.regulations.gov> will include any personal information you have provided. For more about privacy and submissions to the Coast Guard in response to this document, see DHS’s eRulemaking System of Records notice (85 FR 14226, March 11, 2020). For more about privacy and submissions to OIRA in response to this document, see the <https://www.reginfo.gov>, comment-submission web page. OIRA posts its decisions on ICRs online at <https://www.reginfo.gov/public/do/PRAMain> after the comment period for each ICR. An OMB Notice of Action on each ICR will become available via a hyperlink in the OMB Control Number: 1625–0119.

Previous Request for Comments

This request provides a 30-day comment period required by OIRA. The Coast Guard published the 60-day notice (90 FR 21056 May 16, 2025) required by 44 U.S.C. 3506(c)(2). That notice elicited no comments. Accordingly, no changes have been made to the Collection.

Information Collection Request

Title: Coast Guard Exchange System Scholarship Application.

OMB Control Number: 1625–0119.

Summary: The information collected on this form allows the Coast Guard Exchange System Scholarship Program Committee to evaluate and rank scholarship applications in order to award the annual scholarships.

Need: Commandant Instruction, COMDTINS 1780.1 (series), provides policy and procedure for the award of annual scholarships from the Coast Guard Exchange System to dependents of Coast Guard members and its employees. The information collected by this form allows for the awarding of scholarships based upon the criteria and procedures outlined in the Instruction under the auspices of 5 U.S.C. 301.

Forms: CG–5687.

Respondents: Coast Guard dependents.

Frequency: Annually.

Hour Burden Estimate: The annual burden remains 120 hours per year.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. chapter 35, as amended.

Dated: May 11, 2026.

Bradley E. White,

Chief, Office of Privacy Management, U.S. Coast Guard.

[FR Doc. 2026–09668 Filed 5–13–26; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2025–0295]

Collection of Information Under Review by Office of Management and Budget; OMB Control Number: 1625–0023

AGENCY: Coast Guard, DHS.

ACTION: Thirty-day notice requesting comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 the U.S. Coast Guard is forwarding an Information Collection Request (ICR), abstracted below, to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs (OIRA), requesting an extension of its approval for the following collection of information: 1625–0023, Barge Fleeting Facility Records; without change. Our ICR describes the information we seek to collect from the public. Review and comments by OIRA ensure we only impose paperwork burdens commensurate with our performance of duties.

DATES: You may submit comments to the Coast Guard and OIRA on or before June 15, 2026.

ADDRESSES: Comments to the Coast Guard should be submitted using the Federal eRulemaking Portal at <https://www.regulations.gov>. Search for docket number [USCG–2025–0295]. Written comments and recommendations to OIRA for the proposed information collection should be sent within 30 days of publication of this notice to <https://www.reginfo.gov/public/do/PRAMain>.

Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function.

A copy of the ICR is available through the docket on the internet at <https://www.regulations.gov>. Additionally, copies are available from: COMMANDANT (CG–C5I–P), ATTN: PAPERWORK REDUCTION ACT MANAGER, U.S. COAST GUARD, 2703

MARTIN LUTHER KING JR. AVE SE, STOP 7710, WASHINGTON, DC 20593–7710.

FOR FURTHER INFORMATION CONTACT: A.L. Craig, Office of Privacy Management, telephone (571) 607–4058, or email hqs-dg-m-cg-61-pii@uscg.mil for questions on these documents.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

This notice relies on the authority of the Paperwork Reduction Act of 1995; 44 U.S.C., chapter 35, as amended. An ICR is an application to OIRA seeking the approval, extension, or renewal of a Coast Guard collection of information (Collection). The ICR contains information describing the Collection’s purpose, the Collection’s likely burden on the affected public, an explanation of the necessity of the Collection, and other important information describing the Collection. There is one ICR for each Collection.

The Coast Guard invites comments on whether this ICR should be granted based on the Collection being necessary for the proper performance of Departmental functions. In particular, the Coast Guard would appreciate comments addressing: (1) the practical utility of the Collection; (2) the accuracy of the estimated burden of the Collection; (3) ways to enhance the quality, utility, and clarity of information subject to the Collection; and (4) ways to minimize the burden of the Collection on respondents, including the use of automated collection techniques or other forms of information technology. These comments will help OIRA determine whether to approve the ICR referred to in this Notice.

We encourage you to respond to this request by submitting comments and related materials. Comments to Coast Guard or OIRA must contain the OMB Control Number of the ICR. They must also contain the docket number of this request, USCG–2025–0295, and must be received by June 15, 2026.

Submitting Comments

We encourage you to submit comments through the Federal eRulemaking Portal at <https://www.regulations.gov>. If your material cannot be submitted using <https://www.regulations.gov>, contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions. Documents mentioned in this notice, and all public comments, are in our online docket at <https://www.regulations.gov> and can be

viewed by following that website’s instructions. If you go to the online docket and sign up for email alerts, you will be notified when comments are posted.

We accept anonymous comments. Comments we post to <https://www.regulations.gov> will include any personal information you have provided. For more about privacy and submissions to the Coast Guard in response to this document, see DHS’s eRulemaking System of Records notice (85 FR 14226, March 11, 2020). For more about privacy and submissions to OIRA in response to this document, see the <https://www.reginfo.gov>, comment-submission web page. OIRA posts its decisions on ICRs online at <https://www.reginfo.gov/public/do/PRAMain> after the comment period for each ICR. An OMB Notice of Action on each ICR will become available via a hyperlink in the OMB Control Number: 1625–0023.

Previous Request for Comments

This request provides a 30-day comment period required by OIRA. The Coast Guard published the 60-day notice (90 FR 55149, December 1, 2025) required by 44 U.S.C. 3506(c)(2). That notice elicited no comments. Accordingly, no changes have been made to the Collection.

Information Collection Request

Title: Barge Fleeting Facility Records.

OMB Control Number: 1625–0023.

Summary: The regulations require the person in charge of certain barge fleeting facilities to keep records of twice daily inspections of barge moorings and movements of barges and hazardous cargo in and out of a facility.

Need: Title 33 CFR 165.803 requirements are intended to prevent barges from breaking away from a fleeting facility and drifting downstream out of control in the congested Lower Mississippi River waterway system.

Forms: None.

Respondents: Operators of barge fleeting facilities.

Frequency: Daily.

Hour Burden Estimate: The estimated burden remains 7,777 hours a year.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. chapter 35, as amended.

Dated: May 11, 2026.

Bradley E. White,

(Acting) Chief, Office of Privacy Management, U.S. Coast Guard.

[FR Doc. 2026–09674 Filed 5–13–26; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY**Coast Guard****[Docket No. USCG–2025–0297]****Collection of Information Under Review by Office of Management and Budget; OMB Control Number: 1625–0038****AGENCY:** Coast Guard, DHS.**ACTION:** Thirty-day notice requesting comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 the U.S. Coast Guard is forwarding an Information Collection Request (ICR), abstracted below, to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs (OIRA), requesting an extension of its approval for the following collection of information: 1625–0038, Plan Approval and Records for Tank Vessels, Passenger Vessels, Cargo and Miscellaneous Vessels, Mobile Offshore Drilling Units, Nautical School Vessels and Oceanographic Research Vessels; without change. Our ICR describes the information we seek to collect from the public. Review and comments by OIRA ensure we only impose paperwork burdens commensurate with our performance of duties.

DATES: You may submit comments to the Coast Guard and OIRA on or before June 15, 2026.

ADDRESSES: Comments to the Coast Guard should be submitted using the Federal eRulemaking Portal at <https://www.regulations.gov>. Search for docket number [USCG–2025–0297]. Written comments and recommendations to OIRA for the proposed information collection should be sent within 30 days of publication of this notice to <https://www.reginfo.gov/public/do/PRAMain>.

Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function.

A copy of the ICR is available through the docket on the internet at <https://www.regulations.gov>. Additionally, copies are available from: COMMANDANT (CG–C51–P), ATTN: PAPERWORK REDUCTION ACT MANAGER, U.S. COAST GUARD, 2703 MARTIN LUTHER KING JR. AVE SE, STOP 7710, WASHINGTON, DC 20593–7710.

FOR FURTHER INFORMATION CONTACT: A.L. Craig, Office of Privacy Management, telephone (571) 607–4058, or email hqs-dg-m-cg-61-pii@uscg.mil for questions on these documents.

SUPPLEMENTARY INFORMATION:**Public Participation and Request for Comments**

This notice relies on the authority of the Paperwork Reduction Act of 1995; 44 U.S.C., chapter 35, as amended. An ICR is an application to OIRA seeking the approval, extension, or renewal of a Coast Guard collection of information (Collection). The ICR contains information describing the Collection’s purpose, the Collection’s likely burden on the affected public, an explanation of the necessity of the Collection, and other important information describing the Collection. There is one ICR for each Collection.

The Coast Guard invites comments on whether this ICR should be granted based on the Collection being necessary for the proper performance of Departmental functions. In particular, the Coast Guard would appreciate comments addressing: (1) the practical utility of the Collection; (2) the accuracy of the estimated burden of the Collection; (3) ways to enhance the quality, utility, and clarity of information subject to the Collection; and (4) ways to minimize the burden of the Collection on respondents, including the use of automated collection techniques or other forms of information technology. These comments will help OIRA determine whether to approve the ICR referred to in this Notice.

We encourage you to respond to this request by submitting comments and related materials. Comments to Coast Guard or OIRA must contain the OMB Control Number of the ICR. They must also contain the docket number of this request, USCG–2025–0297, and must be received by June 15, 2026.

Submitting Comments

We encourage you to submit comments through the Federal eRulemaking Portal at <https://www.regulations.gov>. If your material cannot be submitted using <https://www.regulations.gov>, contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions. Documents mentioned in this notice, and all public comments, are in our online docket at <https://www.regulations.gov> and can be viewed by following that website’s instructions. If you go to the online docket and sign up for email alerts, you will be notified when comments are posted.

We accept anonymous comments. Comments we post to <https://www.regulations.gov> will include any personal information you have

provided. For more about privacy and submissions to the Coast Guard in response to this document, see DHS’s eRulemaking System of Records notice (85 FR 14226, March 11, 2020). For more about privacy and submissions to OIRA in response to this document, see the <https://www.reginfo.gov>, comment-submission web page. OIRA posts its decisions on ICRs online at <https://www.reginfo.gov/public/do/PRAMain> after the comment period for each ICR. An OMB Notice of Action on each ICR will become available via a hyperlink in the OMB Control Number: 1625–0038.

Previous Request for Comments

This request provides a 30-day comment period required by OIRA. The Coast Guard published the 60-day notice (90 FR 44381, September 15, 2025) required by 44 U.S.C. 3506(c)(2). That notice elicited no comments. Accordingly, no changes have been made to the Collection.

Information Collection Request

Title: Plan Approval and Records for Tank Vessels, Passenger Vessels, Cargo and Miscellaneous Vessels, Mobile Offshore Drilling Units, Nautical School Vessels and Oceanographic Research Vessels.

OMB Control Number: 1625–0038.

Summary: This collection requires the shipyard, designer or manufacturer for the construction of a vessel to submit plans, technical information and operating manuals to the Coast Guard.

Need: Under 46 U.S.C. 3301 and 3306, the Coast Guard is responsible for enforcing regulations promoting the safety of life and property in marine transportation. The Coast Guard uses this information to ensure that a vessel meets the applicable standards for construction, arrangement and equipment under 46 CFR Subchapters D, H, I, I–A, R and U.

Forms: None.

Respondents: Shipyards, designers, and manufacturers of certain vessels.

Frequency: On occasion.

Hour Burden Estimate: The estimated burden has decreased from 3,801 hours to 2,322 hours a year, due to a decrease in the estimated annual number of responses.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. chapter 35, as amended.

Dated: May 11, 2026.

Bradley E. White,
Chief, Office of Privacy Management, U.S. Coast Guard.

[FR Doc. 2026–09670 Filed 5–13–26; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY**Coast Guard****[Docket No. USCG–2025–0342]****Collection of Information Under Review by Office of Management and Budget; OMB Control Number: 1625–0129****AGENCY:** Coast Guard, DHS.**ACTION:** Thirty-day notice requesting comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 the U.S. Coast Guard is forwarding an Information Collection Request (ICR), abstracted below, to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs (OIRA), requesting an extension of its approval for the following collection of information: 1625–0129, Intermodal Container Inspection Program; without change. Our ICR describes the information we seek to collect from the public. Review and comments by OIRA ensure we only impose paperwork burdens commensurate with our performance of duties.

DATES: You may submit comments to the Coast Guard and OIRA on or before June 15, 2026.

ADDRESSES: Comments to the Coast Guard should be submitted using the Federal eRulemaking Portal at <https://www.regulations.gov>. Search for docket number [USCG–2025–0342]. Written comments and recommendations to OIRA for the proposed information collection should be sent within 30 days of publication of this notice to <https://www.reginfo.gov/public/do/PRAMain>.

Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function.

A copy of the ICR is available through the docket on the internet at <https://www.regulations.gov>. Additionally, copies are available from: COMMANDANT (CG–C5I–P), ATTN: PAPERWORK REDUCTION ACT MANAGER, U.S. COAST GUARD, 2703 MARTIN LUTHER KING JR. AVE SE, STOP 7710, WASHINGTON, DC 20593–7710.

FOR FURTHER INFORMATION CONTACT: A.L. Craig, Office of Privacy Management, telephone (571) 607–4058, or email hqs-dg-m-cg-61-pii@uscg.mil for questions on these documents.

SUPPLEMENTARY INFORMATION:**Public Participation and Request for Comments**

This notice relies on the authority of the Paperwork Reduction Act of 1995; 44 U.S.C., chapter 35, as amended. An ICR is an application to OIRA seeking the approval, extension, or renewal of a Coast Guard collection of information (Collection). The ICR contains information describing the Collection’s purpose, the Collection’s likely burden on the affected public, an explanation of the necessity of the Collection, and other important information describing the Collection. There is one ICR for each Collection.

The Coast Guard invites comments on whether this ICR should be granted based on the Collection being necessary for the proper performance of Departmental functions. In particular, the Coast Guard would appreciate comments addressing: (1) the practical utility of the Collection; (2) the accuracy of the estimated burden of the Collection; (3) ways to enhance the quality, utility, and clarity of information subject to the Collection; and (4) ways to minimize the burden of the Collection on respondents, including the use of automated collection techniques or other forms of information technology. These comments will help OIRA determine whether to approve the ICR referred to in this Notice.

We encourage you to respond to this request by submitting comments and related materials. Comments to Coast Guard or OIRA must contain the OMB Control Number of the ICR. They must also contain the docket number of this request, USCG–2025–0342, and must be received by June 15, 2026.

Submitting Comments

We encourage you to submit comments through the Federal eRulemaking Portal at <https://www.regulations.gov>. If your material cannot be submitted using <https://www.regulations.gov>, contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions. Documents mentioned in this notice, and all public comments, are in our online docket at <https://www.regulations.gov> and can be viewed by following that website’s instructions. If you go to the online docket and sign up for email alerts, you will be notified when comments are posted.

We accept anonymous comments. Comments we post to <https://www.regulations.gov> will include any personal information you have provided. For more about privacy and

submissions to the Coast Guard in response to this document, see DHS’s eRulemaking System of Records notice (85 FR 14226, March 11, 2020). For more about privacy and submissions to OIRA in response to this document, see the <https://www.reginfo.gov>, comment-submission web page. OIRA posts its decisions on ICRs online at <https://www.reginfo.gov/public/do/PRAMain> after the comment period for each ICR. An OMB Notice of Action on each ICR will become available via a hyperlink in the OMB Control Number: 1625–0129.

Previous Request for Comments

This request provides a 30-day comment period required by OIRA. The Coast Guard published the 60-day notice (90 FR 55146, December 1, 2025) required by 44 U.S.C. 3506(c)(2). That notice elicited no comments. Accordingly, no changes have been made to the Collection.

Information Collection Request

Title: Intermodal Container Inspection Program.

OMB Control Number: 1625–0129.

Summary: The Coast Guard inspects containers and cargo within containers to ensure compliance with domestic and international standards. Coast Guard-issued forms provide stakeholders with the results of container inspections.

Need: Under the National Container Inspection Program, Coast Guard personnel inspect intermodal containers and cargo within containers to ensure compliance with applicable regulations and to promote maritime safety, security, and stewardship for U.S. ports and waterways. Specifically, the Coast Guard inspects containers for compliance with the—

- Federal Hazardous Materials Transportation Law,
- International Safe Container Act, and
- International Maritime Dangerous Goods Code.

Forms:

- CG–5577, Intermodal Container Inspection Report.
- CG–5577A, Intermodal Container Non-Deficiency Inspection Report.
- CG–5577B, Intermodal Container Targeted Inspection Report.

Respondents: Owners of container facilities

Frequency: On occasion.

Hour Burden Estimate: The estimated burden has increased from 625 hours to 770 hours a year, due to an increase in the estimated annual number of responses.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. chapter 35, as amended.

Dated: May 11, 2026.

Bradley E. White,

Chief, Office of Privacy Management, U.S. Coast Guard.

[FR Doc. 2026–09673 Filed 5–13–26; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2026–0046]

Information Collection Request to Office of Management and Budget; OMB Control Number: 1625–0117

AGENCY: Coast Guard, DHS.

ACTION: Sixty-day notice requesting comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the U.S. Coast Guard intends to submit an Information Collection Request (ICR) to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs (OIRA), requesting an extension of its approval for the following collection of information: 1625–0117, Towing Vessels; without change. Our ICR describes the information we seek to collect from the public. Before submitting this ICR to OIRA, the Coast Guard is inviting comments as described below.

DATES: Comments must reach the Coast Guard on or before July 13, 2026.

ADDRESSES: You may submit comments identified by Coast Guard docket number [USCG–2026–0046] to the Coast Guard using the Federal eRulemaking Portal at <https://www.regulations.gov>. See the “Public participation and request for comments” portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

A copy of the ICR is available through the docket on the internet at <https://www.regulations.gov>. Additionally, copies are available from: COMMANDANT (CG–C5I–P), ATTN: PAPERWORK REDUCTION ACT MANAGER, U.S. COAST GUARD, 2703 MARTIN LUTHER KING JR. AVE SE, STOP 7710, WASHINGTON, DC 20593–7710.

FOR FURTHER INFORMATION CONTACT: A.L. Craig, Office of Privacy Management, telephone (571) 607–4058, or email hqs-dg-m-cg-61-pii@uscg.mil.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

This notice relies on the authority of the Paperwork Reduction Act of 1995;

44 U.S.C., chapter 35, as amended. An ICR is an application to OIRA seeking the approval, extension, or renewal of a Coast Guard collection of information (Collection). The ICR contains information describing the Collection’s purpose, the Collection’s likely burden on the affected public, an explanation of the necessity of the Collection, and other important information describing the Collection. There is one ICR for each Collection.

The Coast Guard invites comments on whether this ICR should be granted based on the Collection being necessary for the proper performance of Departmental functions. In particular, the Coast Guard would appreciate comments addressing: (1) the practical utility of the Collection; (2) the accuracy of the estimated burden of the Collection; (3) ways to enhance the quality, utility, and clarity of information subject to the Collection; and (4) ways to minimize the burden of the Collection on respondents, including the use of automated collection techniques or other forms of information technology.

In response to your comments, we may revise this ICR or decide not to seek an extension of approval for the Collection without change. We will consider all comments and material received during the comment period.

We encourage you to respond to this request by submitting comments and related materials. Comments must contain the OMB Control Number of the ICR and the docket number of this request, USCG–2026–0046, and must be received by July 13, 2026.

Submitting Comments

We encourage you to submit comments through the Federal eRulemaking Portal at <https://www.regulations.gov>. If your material cannot be submitted using <https://www.regulations.gov>, contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions. Documents mentioned in this notice as being available in the docket, and all public comments, are in our online docket at <https://www.regulations.gov> and can be viewed by following that website’s instructions. If you go to the online docket and sign up for email alerts, you will be notified when comments are posted.

We accept anonymous comments. Comments we post to <https://www.regulations.gov> will include any personal information you have provided. For more about privacy and submissions in response to this document, see DHS’s eRulemaking

System of Records notice (85 FR 14226, March 11, 2020).

Information Collection Request

Title: Towing Vessels—Title 46 CFR Subchapter M.

OMB Control Number: 1625–0117.

Summary: The Coast Guard uses the information to document that towing vessels meet inspection requirements of 46 CFR Subchapter M. The information aids in the administration and enforcement of the towing vessel inspection program.

Need: Under the authority of 46 U.S.C. 3306, the Coast Guard prescribed regulations for the design, construction, alteration, repair and operation of towing vessels. The Coast Guard uses the information in this collection to ensure compliance with the requirements.

Forms: None.

Respondents: Owners and operators of towing vessels, and third-party organizations.

Frequency: On occasion.

Hour Burden Estimate: The estimated burden has decreased from 127,729 hours to 112,368 hours a year, due to a decrease in the estimated annual number of responses.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. chapter 35, as amended.

Dated: May 11, 2026.

Bradley E. White,

Chief, Office of Privacy Management, U.S. Coast Guard.

[FR Doc. 2026–09666 Filed 5–13–26; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF THE INTERIOR

Geological Survey

[Docket No. USGS–ECO–2026–0003; OMB Control Number 1028–0138; GX26MR00G6ZW800]

Agency Information Collection Activities; Turtle Distribution Database

AGENCY: U.S. Geological Survey, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act (PRA) of 1995, the U.S. Geological Survey (USGS) is proposing to renew an information collection.

DATES: Interested persons are invited to submit comments on or before July 13, 2026.

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

■ *Internet:* <https://www.regulations.gov>. Search for and submit comments on Docket No. USGS–ECO–2026–0003.

■ **U.S. MAIL:** USGS, Information Collections Clearance Officer, 12201 Sunrise Valley Drive, MS 159, Reston, VA 20192.

FOR FURTHER INFORMATION CONTACT: To request additional information about this information collection request (ICR), contact Margaret Lamont by email at mlamont@usgs.gov, or by telephone at 352–209–4306. 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: In accordance with the PRA (44 U.S.C. 3501 *et seq.*) and 5 CFR 1320.8(d)(1), all information collections require approval under the PRA. We may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid OMB control number.

As part of our continuing effort to reduce paperwork and respondent burdens, we invite the public and other Federal agencies to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

We are especially interested in public comments addressing the following:

- (1) Whether or not 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 our estimate of the burden for this 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) How might the agency minimize the burden of the collection of information on those who are to respond, including using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of response.

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 personally identifiable information (PII) in your comment, you should be aware that your entire comment—including your PII—may be made publicly available at any time. While you can ask us in your comment to withhold your PII from public review, we cannot guarantee that we will be able to do so.

Abstract: The order Testudines, which encompasses tortoises and freshwater and marine turtles, is among the most threatened group of vertebrates in the world. However, turtles are frequently observed during everyday activities, such as while walking through a park, driving along a roadway, or kayaking in a river or pond. Local citizen-science projects focused on single species (such as box turtles) have provided valuable demographic information for turtle populations, but these projects are isolated both spatially and specifically (*i.e.*, focused on one species). This project would use sighting information supplied by citizens to fill gaps in our knowledge of turtle distributions throughout Northern Florida. When a citizen observes a turtle, they document the species (if possible), location (latitude/longitude collected via cell phone), date, and time, and they would photograph the animal. We would also ask each contributor to provide their initials (not full name) and a way to contact them if questions about the entry arise (*e.g.*, phone number or email address). The sighting information will be mapped and used to develop species-distribution maps.

Title of Collection: Turtle Distribution Database.

OMB Control Number: 1028–0138.

Form Number: None.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: Individuals.

Total Estimated Number of Annual Respondents: 100.

Total Estimated Number of Annual Responses: 100.

Estimated Completion Time per Response: 5 minutes on average.

Total Estimated Number of Annual Burden Hours: 8.

Respondent's Obligation: Voluntary.

Frequency of Collection: On occasion.

Total Estimated Annual Non-hour Burden Cost: None.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Brian D. Kimbrell,

Federal Register Liaison, U.S. Department of the Interior | Office of the Chief Information Officer.

[FR Doc. 2026–09629 Filed 5–13–26; 8:45 am]

BILLING CODE 4388–11–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[A2407–014–004–065516, #O2509–014–004–125222; COCO106084509;COC–0124534]

Application for Withdrawal Extension for Fort Carson and Pinon Canyon Maneuver Site and Opportunity for Public Meeting; Colorado

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of withdrawal application.

SUMMARY: The Department of the Army (Army) has filed an application requesting that the Secretary of the Interior extend the Fort Carson-Pinon Canyon Military Lands Withdrawal established by Congress in the National Defense Authorization Act for Fiscal Year 1997 as extended by Public Land Order No. 7783 for an additional 15-year period. The withdrawal, established by Congress, as extended, expires on September 22, 2026. This notice advises the public of a 90-day opportunity to comment on the withdrawal extension application and gives notice of a public meeting.

DATES: Comments must be received by August 12, 2026.

A public meeting will be held on July 13, 2026, from 5:30 p.m.–7:00 p.m.

ADDRESSES: The meeting will be held at: Pueblo Community College, Fortino Ballroom 900 W Orman Ave., Pueblo, CO 81304.

All comments should be sent to the Bureau of Land Management (BLM) Colorado State Office, Denver Federal Center, PO Box 151029, Building 40, Lakewood, CO 80215.

FOR FURTHER INFORMATION CONTACT: Jennifer Jardine, Realty Specialist, Colorado State Office, at (970) 385–1224, email: jjardine@blm.gov. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or Tele Braille) 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: The withdrawal, established by Public Law 104–201, as extended, withdrew 3,133 acres of public lands and 11,415 acres of federally owned minerals at the Fort Carson Military Reservation, and 2,517 acres of public lands and approximately 130,139 acres of federally owned minerals at the Army's Pinon Canyon Maneuver Site from all forms of appropriation under the public land laws, including location and entry under the U.S. mining laws, leasing under the mineral and geothermal leasing laws, and disposal of minerals under the mineral materials disposal laws, and reserved the lands for use by the Army for military maneuvering, training and weapons firing, and other defense-related purposes consistent with those specified in Subtitle A of Title XXIX of the National Defense Authorization Act for Fiscal Year 1997 (Pub. L. 104–201, Sept. 23, 1996).

The Army informed the Secretary of the Interior that the extension of the withdrawal is necessary to continue protecting the lands for military readiness purposes as described in the law.

The legal land description and acreage figure described in the Notice of Application for Withdrawal Extension and Opportunity for Public Meeting; Colorado published in the **Federal Register** on June 8, 2011, (76 FR 33353) is revised herein to reflect the BLM Cadastral Survey's Specification for Descriptions of Land. The revised land description does not change the footprint of the lands originally withdrawn by Public Law 104–201, Title XXIX, subtitle A.

Surface and Minerals in Fort Carson Base

Sixth Principal Meridian, Colorado

- T. 15 S., R. 66 W.,
Sec. 22, NW $\frac{1}{4}$ NE $\frac{1}{4}$.
- T. 17 S., R. 66 W.,
Sec. 5, lot 1;
Sec. 18, lot 3.
- T. 18 S., R. 66 W.,
Sec. 9, SE $\frac{1}{4}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$,
and S $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 14, NE $\frac{1}{4}$ NE $\frac{1}{4}$;
Sec. 20, S $\frac{1}{2}$ NE $\frac{1}{4}$ and S $\frac{1}{2}$ NW $\frac{1}{4}$.
- T. 16 S., R. 67 W.,
Sec. 11, E $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 14, E $\frac{1}{2}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$;
Sec. 26, NW $\frac{1}{4}$ NW $\frac{1}{4}$.
- T. 17 S., R. 67 W.,
Sec. 35, NW $\frac{1}{4}$.
- T. 18 S., R. 67 W.,
Sec. 12, SE $\frac{1}{4}$ SW $\frac{1}{4}$;
Sec. 17, NW $\frac{1}{4}$;
Sec. 19, lots 3 and 4, SE $\frac{1}{4}$ NW $\frac{1}{4}$, and
NE $\frac{1}{4}$ SW $\frac{1}{4}$;
Sec. 23, NW $\frac{1}{4}$ NW $\frac{1}{4}$;

- Sec. 28, SE $\frac{1}{4}$ NW $\frac{1}{4}$ and NE $\frac{1}{4}$ SW $\frac{1}{4}$;
Sec. 29, SW $\frac{1}{4}$;
Sec. 30, lots 1, 3, and 4, E $\frac{1}{2}$, and E $\frac{1}{2}$ SW $\frac{1}{4}$;
Sec. 31, lots 1 thru 4, W $\frac{1}{2}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$,
E $\frac{1}{2}$ SW $\frac{1}{4}$, and W $\frac{1}{2}$ SE $\frac{1}{4}$.
- T. 18 S., R. 68 W.,
Sec. 13, W $\frac{1}{2}$ SW $\frac{1}{4}$ and NE $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 24, NW $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$, W $\frac{1}{2}$ SW $\frac{1}{4}$,
and SE $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 25, N $\frac{1}{2}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ NW $\frac{1}{4}$, and E $\frac{1}{2}$
2SE $\frac{1}{4}$.
- The areas described aggregate 3,131 acres.

Minerals Only in Fort Carson Base

Sixth Principal Meridian, Colorado

- T. 17 S., R. 66 W.,
Sec. 31, E $\frac{1}{2}$ NE $\frac{1}{4}$;
Sec. 32, NW $\frac{1}{4}$;
Sec. 33, W $\frac{1}{2}$ NW $\frac{1}{4}$;
Sec. 34, SW $\frac{1}{4}$ NE $\frac{1}{4}$ and SW $\frac{1}{4}$ SW $\frac{1}{4}$.
- T. 18 S., R. 66 W.,
Sec. 2, SE $\frac{1}{4}$;
Sec. 6, lot 5;
Sec. 11, NE $\frac{1}{4}$;
Sec. 19, S $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 20, SW $\frac{1}{4}$ SW $\frac{1}{4}$;
Sec. 22, S $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 23, E $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 27, N $\frac{1}{2}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$, and SW $\frac{1}{4}$;
Sec. 29, NW $\frac{1}{4}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$,
and W $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 30, lot 4, SE $\frac{1}{4}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, and
SE $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 31, lots 1 and 2, NE $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$,
and SE $\frac{1}{4}$ NW $\frac{1}{4}$;
Sec. 32, N $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ NW $\frac{1}{4}$,
and E $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 34, E $\frac{1}{2}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, and
NE $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 35, NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$, and
SE $\frac{1}{4}$.
- T. 19 S., R. 66 W.,
Sec. 5, lot 3 and SE $\frac{1}{4}$ NW $\frac{1}{4}$.
- T. 17 S., R. 67 W.,
Sec. 14, W $\frac{1}{2}$ NW $\frac{1}{4}$ and S $\frac{1}{2}$;
Sec. 15, E $\frac{1}{2}$ and SW $\frac{1}{4}$;
Sec. 17, N $\frac{1}{2}$ SE $\frac{1}{4}$.
- T. 18 S., R. 67 W.,
Sec. 2, lots 1 and 2, SE $\frac{1}{4}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$, and
NE $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 7, lots 3 and 4, E $\frac{1}{2}$ SW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$,
and SW $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 8, NW $\frac{1}{4}$ SW $\frac{1}{4}$ and SE $\frac{1}{4}$ SW $\frac{1}{4}$;
Sec. 10, S $\frac{1}{2}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$, W $\frac{1}{2}$ SW $\frac{1}{4}$,
SE $\frac{1}{4}$ SW $\frac{1}{4}$, and SE $\frac{1}{4}$;
Sec. 11, E $\frac{1}{2}$ and NW $\frac{1}{4}$;
Sec. 12, NE $\frac{1}{4}$ NE $\frac{1}{4}$, W $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$,
N $\frac{1}{2}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$, and W $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 13, W $\frac{1}{2}$ NW $\frac{1}{4}$ and W $\frac{1}{2}$ SW $\frac{1}{4}$;
Sec. 14, E $\frac{1}{2}$;
Sec. 15, W $\frac{1}{2}$ and SE $\frac{1}{4}$;
Sec. 19, S $\frac{1}{2}$ NE $\frac{1}{4}$ and SE $\frac{1}{4}$;
Sec. 20, NE $\frac{1}{4}$ NW $\frac{1}{4}$, W $\frac{1}{2}$ NW $\frac{1}{4}$, and
W $\frac{1}{2}$ SW $\frac{1}{4}$;
Sec. 22;
Sec. 23, NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$,
E $\frac{1}{2}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$, and N $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 24, W $\frac{1}{2}$ NE $\frac{1}{4}$, W $\frac{1}{2}$, and W $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 25, W $\frac{1}{2}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, and
SE $\frac{1}{4}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 26, E $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$, and
W $\frac{1}{2}$ SW $\frac{1}{4}$;
Sec. 27;
Sec. 29, NW $\frac{1}{4}$ NE $\frac{1}{4}$ and NW $\frac{1}{4}$;
Sec. 31, E $\frac{1}{2}$ NE $\frac{1}{4}$ and E $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 32, W $\frac{1}{2}$ NW $\frac{1}{4}$ and W $\frac{1}{2}$ SW $\frac{1}{4}$;

- Sec. 34, NE $\frac{1}{4}$;
Sec. 35, SW $\frac{1}{4}$ and SW $\frac{1}{4}$ SE $\frac{1}{4}$.

T. 18 S., R. 68 W.,

- Sec. 11, SE $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$, that portion lying
easterly of the easterly right-of-way line
of State Highway 115;
Sec. 12, NE $\frac{1}{4}$ SW $\frac{1}{4}$, W $\frac{1}{2}$ SW $\frac{1}{4}$, E $\frac{1}{2}$ SE $\frac{1}{4}$,
and NW $\frac{1}{4}$ SE $\frac{1}{4}$, those portions lying
easterly of the easterly right-of-way line
of State Highway 115;
Sec. 13, W $\frac{1}{2}$ NW $\frac{1}{4}$;
Sec. 14, NE $\frac{1}{4}$ NE $\frac{1}{4}$, that portion lying
easterly of the easterly right-of-way line
of State Highway 115.
- The areas described aggregate 11,415 acres.

Surface and minerals in Pinon Canyon Maneuver Area

Sixth Principal Meridian, Colorado

- T. 30 S., R. 59 W.,
Sec. 6, lot 4;
Sec. 31, lot 2.
- T. 30 S., R. 60 W.,
Sec. 8, N $\frac{1}{2}$;
Sec. 10, N $\frac{1}{2}$;
Sec. 12, S $\frac{1}{2}$;
Sec. 13, N $\frac{1}{2}$;
Sec. 21, N $\frac{1}{2}$ NE $\frac{1}{4}$ and N $\frac{1}{2}$ NW $\frac{1}{4}$;
Sec. 22, NW $\frac{1}{4}$;
Sec. 25, NE $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$,
and SE $\frac{1}{4}$;
Sec. 26, N $\frac{1}{2}$ NW $\frac{1}{4}$;
Sec. 29, N $\frac{1}{2}$ NE $\frac{1}{4}$;
Sec. 33, S $\frac{1}{2}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ SW $\frac{1}{4}$, and SE $\frac{1}{4}$;
Sec. 35, SE $\frac{1}{4}$ SE $\frac{1}{4}$.
- The areas described aggregate 2,517 acres.

Minerals only in Pinon Canyon Maneuver Area

Portions of the Pinon Canyon Maneuver Area are defined by the northwesterly or left rim of the Purgatoire River Canyon when facing downstream, hereafter referred to as the "rim."

Sixth Principal Meridian, Colorado

- T. 28 S., R. 55 W.,
Sec. 4, lots 2, 3, and 4, and SW $\frac{1}{4}$ NW $\frac{1}{4}$,
those portions lying northwesterly of the
rim;
Sec. 5, lots 1 thru 4, S $\frac{1}{2}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$,
NE $\frac{1}{4}$ SW $\frac{1}{4}$, and NW $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 6, lots 1 thru 7, SE $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$,
and NE $\frac{1}{4}$ SW $\frac{1}{4}$;
Sec. 7, lots 1 and 2;
Sec. 18, lot 4, that portion lying westerly
of the rim (oil & gas);
- T. 28 S., R. 56 W.,
Sec. 1, lot 1, SE $\frac{1}{4}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$,
NW $\frac{1}{4}$ SW $\frac{1}{4}$, and SE $\frac{1}{4}$;
Sec. 2, lot 1;
Secs. 3 and 4;
Sec. 5, lots 1 thru 4, S $\frac{1}{2}$ SW $\frac{1}{4}$, and
SW $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 6, lots 1 thru 5, S $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$,
and SE $\frac{1}{4}$;
Sec. 7, NE $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$, and NE $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 8, W $\frac{1}{2}$ NE $\frac{1}{4}$, W $\frac{1}{2}$, and NW $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 9;
Sec. 10, N $\frac{1}{2}$;
Sec. 11, W $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$, and N $\frac{1}{2}$ SW $\frac{1}{4}$;
Sec. 12, NE $\frac{1}{4}$ and E $\frac{1}{2}$ NW $\frac{1}{4}$;
Sec. 13, NE $\frac{1}{4}$ NW $\frac{1}{4}$;
Sec. 14, SE $\frac{1}{4}$ SE $\frac{1}{4}$, that portion lying
northwesterly of the rim, S $\frac{1}{2}$ NE $\frac{1}{4}$,
S $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$, and W $\frac{1}{2}$ SE $\frac{1}{4}$;

- Sec. 21, NE $\frac{1}{4}$ NE $\frac{1}{4}$, W $\frac{1}{2}$, and W $\frac{1}{2}$ SE $\frac{1}{4}$;
 Sec. 22, E $\frac{1}{2}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$ (oil & gas), SE $\frac{1}{4}$ NW $\frac{1}{4}$, and N $\frac{1}{2}$ SE $\frac{1}{4}$ (oil & gas);
 Sec. 23, NE $\frac{1}{4}$ and SW $\frac{1}{4}$ SE $\frac{1}{4}$, those portions lying westerly and northwesterly of the rim, and W $\frac{1}{2}$;
 Sec. 26, NW $\frac{1}{4}$ NW $\frac{1}{4}$;
 Sec. 27, E $\frac{1}{2}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, and NW $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 28, W $\frac{1}{2}$ NW $\frac{1}{4}$ and W $\frac{1}{2}$ SW $\frac{1}{4}$;
 Sec. 29, N $\frac{1}{2}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, and SE $\frac{1}{4}$;
 Sec. 31, lot 4;
 Sec. 32, E $\frac{1}{2}$ and S $\frac{1}{2}$ SW $\frac{1}{4}$;
 Sec. 33, S $\frac{1}{2}$ NW $\frac{1}{4}$.
- T. 29 S., R. 56 W.,
 Sec. 4, lots 3 and 4, and S $\frac{1}{2}$ NW $\frac{1}{4}$, those portions lying northerly of the rim;
 Sec. 5, lot 3 and S $\frac{1}{2}$ SW $\frac{1}{4}$ (oil & gas), those portions lying westerly of the rim, lot 4 and SE $\frac{1}{4}$ NW $\frac{1}{4}$ (oil & gas);
 Sec. 6, lots 1 thru 7, S $\frac{1}{2}$ NE $\frac{1}{4}$ (oil & gas), SE $\frac{1}{4}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$ (oil & gas) and S $\frac{1}{2}$ SE $\frac{1}{4}$;
 Sec. 7, S $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, and NW $\frac{1}{4}$ SE $\frac{1}{4}$, those portions lying westerly of the rim, lots 1 thru 4, NE $\frac{1}{4}$ NE $\frac{1}{4}$ (oil & gas), NW $\frac{1}{4}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, and NE $\frac{1}{4}$ SW $\frac{1}{4}$;
 Sec. 8, NW $\frac{1}{4}$ NW $\frac{1}{4}$, that portion lying westerly of the rim (oil & gas);
 Sec. 19, lot 1, that portion lying westerly of the rim.
- T. 28 S., R. 57 W.,
 Sec. 1, lots 1 thru 4;
 Sec. 2, lots 1 thru 4, S $\frac{1}{2}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, and SE $\frac{1}{4}$;
 Sec. 3, lots 2, 3, and 4, SW $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$, and N $\frac{1}{2}$ SE $\frac{1}{4}$;
 Sec. 4, lots 1 thru 4, S $\frac{1}{2}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, and SE $\frac{1}{4}$;
 Sec. 5, lots 1 and 2, S $\frac{1}{2}$ NE $\frac{1}{4}$, and S $\frac{1}{2}$;
 Sec. 6, lots 1 thru 7, S $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, and N $\frac{1}{2}$ SE $\frac{1}{4}$;
 Sec. 7, lots 1 thru 4, SE $\frac{1}{4}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, and SE $\frac{1}{4}$;
 Sec. 8, N $\frac{1}{2}$ and W $\frac{1}{2}$ SW $\frac{1}{4}$;
 Sec. 9, NE $\frac{1}{4}$ NW $\frac{1}{4}$ and NE $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 10, NW $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$, and SW $\frac{1}{4}$ SW $\frac{1}{4}$;
 Sec. 11, NE $\frac{1}{4}$ and N $\frac{1}{2}$ SE $\frac{1}{4}$;
 Sec. 12, SW $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$, and SE $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 13, N $\frac{1}{2}$;
 Sec. 14;
 Sec. 15, E $\frac{1}{2}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, and SW $\frac{1}{4}$;
 Sec. 18, lots 1, 2, and 3;
 Sec. 22, NE $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$, and E $\frac{1}{2}$ SE $\frac{1}{4}$;
 Sec. 23;
 Sec. 24, NW $\frac{1}{4}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ NW $\frac{1}{4}$, and SW $\frac{1}{4}$ NW $\frac{1}{4}$;
 Sec. 25, W $\frac{1}{2}$;
 Sec. 26, E $\frac{1}{2}$;
 Sec. 27, N $\frac{1}{2}$, W $\frac{1}{2}$ SW $\frac{1}{4}$, and E $\frac{1}{2}$ SE $\frac{1}{4}$;
 Sec. 28, NE $\frac{1}{4}$ NE $\frac{1}{4}$, W $\frac{1}{2}$ NE $\frac{1}{4}$, W $\frac{1}{2}$, and W $\frac{1}{2}$ SE $\frac{1}{4}$;
 Sec. 29;
 Sec. 30, lots 3 and 4, E $\frac{1}{2}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, and E $\frac{1}{2}$ SW $\frac{1}{4}$;
 Sec. 31, lots 1 and 2, E $\frac{1}{2}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, and E $\frac{1}{2}$ SW $\frac{1}{4}$;
 Sec. 32, N $\frac{1}{2}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, and N $\frac{1}{2}$ SE $\frac{1}{4}$;
 Sec. 33, N $\frac{1}{2}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$, W $\frac{1}{2}$ SW $\frac{1}{4}$, and SE $\frac{1}{4}$ SW $\frac{1}{4}$;
 Sec. 34, NE $\frac{1}{4}$, N $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$, and N $\frac{1}{2}$ SE $\frac{1}{4}$.
- T. 29 S., R. 57 W.,
 Sec. 2, SW $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 3, lots 3 and 4, S $\frac{1}{2}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, and S $\frac{1}{2}$ SW $\frac{1}{4}$;
 Sec. 6, lot 1, SE $\frac{1}{4}$ NE $\frac{1}{4}$, and NW $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 7, lot 4, N $\frac{1}{2}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$ and S $\frac{1}{2}$ SE $\frac{1}{4}$;
 Sec. 8, S $\frac{1}{2}$ NE $\frac{1}{4}$ and NE $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 9, E $\frac{1}{2}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, and SE $\frac{1}{4}$;
 Sec. 10, W $\frac{1}{2}$ NW $\frac{1}{4}$ and SW $\frac{1}{4}$ SW $\frac{1}{4}$;
 Sec. 11, NE $\frac{1}{4}$, N $\frac{1}{2}$ NW $\frac{1}{4}$, and N $\frac{1}{2}$ SE $\frac{1}{4}$;
 Sec. 12, N $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$, and SW $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 13, N $\frac{1}{2}$ and N $\frac{1}{2}$ SW $\frac{1}{4}$;
 Sec. 14, E $\frac{1}{2}$, N $\frac{1}{2}$ NW $\frac{1}{4}$, and SW $\frac{1}{4}$;
 Sec. 15, SW $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, and SE $\frac{1}{4}$;
 Sec. 17, E $\frac{1}{2}$ NE $\frac{1}{4}$ and SW $\frac{1}{4}$ NW $\frac{1}{4}$;
 Sec. 18, lots 1 thru 4 and SE $\frac{1}{4}$;
 Sec. 19, lots 1, 2, and 3, E $\frac{1}{2}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, and NE $\frac{1}{4}$ SW $\frac{1}{4}$;
 Sec. 20, S $\frac{1}{2}$;
 Sec. 21;
 Sec. 22, SW $\frac{1}{4}$ NE $\frac{1}{4}$, W $\frac{1}{2}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, and SE $\frac{1}{4}$;
 Sec. 23, NW $\frac{1}{4}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ NW $\frac{1}{4}$, and S $\frac{1}{2}$;
 Sec. 24, S $\frac{1}{2}$ SW $\frac{1}{4}$ and S $\frac{1}{2}$ SE $\frac{1}{4}$, those portions lying northerly and northwesterly of the rim, NE $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, and N $\frac{1}{2}$ SE $\frac{1}{4}$;
 Sec. 25, NW $\frac{1}{4}$ NE $\frac{1}{4}$ and N $\frac{1}{2}$ NW $\frac{1}{4}$, those portions lying northwesterly of the rim;
 Sec. 26, SE $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ SW $\frac{1}{4}$, and SE $\frac{1}{4}$, those portions lying westerly and northwesterly of the rim, N $\frac{1}{2}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$, and N $\frac{1}{2}$ SW $\frac{1}{4}$;
 Sec. 27, E $\frac{1}{2}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, and SW $\frac{1}{4}$;
 Sec. 28, NW $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$, W $\frac{1}{2}$, and SE $\frac{1}{4}$;
 Sec. 29;
 Sec. 30, lots 3 and 4, N $\frac{1}{2}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$, and S $\frac{1}{2}$ SE $\frac{1}{4}$;
 Secs. 31, 32, and 33;
 Sec. 34, N $\frac{1}{2}$, SW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$, and SE $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 35, W $\frac{1}{2}$ NW $\frac{1}{4}$ and SW $\frac{1}{4}$ SW $\frac{1}{4}$, those portions lying westerly and northwesterly of the rim.
- T. 30 S., R. 57 W.,
 Sec. 3, SW $\frac{1}{4}$ SW $\frac{1}{4}$, that portion lying northwesterly of the rim, lots 3 and 4, SW $\frac{1}{4}$ NW $\frac{1}{4}$, and NW $\frac{1}{4}$ SW $\frac{1}{4}$;
 Secs. 4 thru 7;
 Sec. 8, N $\frac{1}{2}$ NE $\frac{1}{4}$, W $\frac{1}{2}$ SW $\frac{1}{4}$, and SE $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 9, S $\frac{1}{2}$ SW $\frac{1}{4}$, that portion lying northerly of the rim, and NE $\frac{1}{4}$ SW $\frac{1}{4}$;
 Sec. 17, E $\frac{1}{2}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, E $\frac{1}{2}$ SE $\frac{1}{4}$, and NW $\frac{1}{4}$ SE $\frac{1}{4}$, those portions lying westerly and northerly of the rim, W $\frac{1}{2}$ NE $\frac{1}{4}$, and NW $\frac{1}{4}$;
 Sec. 18, lot 1, N $\frac{1}{2}$ NE $\frac{1}{4}$, and NE $\frac{1}{4}$ NW $\frac{1}{4}$;
 Sec. 19, S $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, those portions lying westerly and orthwesterly of the rim, and lots 2 and 3;
 Sec. 30, lot 2 and NE $\frac{1}{4}$ NW $\frac{1}{4}$, those portions lying westerly of the rim, and lot 1.
- T. 28 S., R. 58 W.,
 Sec. 11, NE $\frac{1}{4}$, SW $\frac{1}{4}$, and W $\frac{1}{2}$ SE $\frac{1}{4}$;
 Sec. 12, N $\frac{1}{2}$ and E $\frac{1}{2}$ SE $\frac{1}{4}$;
 Sec. 13, N $\frac{1}{2}$, SW $\frac{1}{4}$, and N $\frac{1}{2}$ SE $\frac{1}{4}$;
 Sec. 14, N $\frac{1}{2}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, and SE $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 19, lots 1 thru 4, N $\frac{1}{2}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, and SE $\frac{1}{4}$;
 Sec. 20;
 Sec. 21, S $\frac{1}{2}$;
 Sec. 22, N $\frac{1}{2}$, SW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$, and SE $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 23, SE $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 24, S $\frac{1}{2}$ SW $\frac{1}{4}$ and SW $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 25, NW $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$, W $\frac{1}{2}$, and SE $\frac{1}{4}$;
 Sec. 26, NE $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, and SE $\frac{1}{4}$;
 Secs. 27 and 28;
 Sec. 29, N $\frac{1}{2}$;
 Sec. 30, lots 1, 2, and 4, E $\frac{1}{2}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, and E $\frac{1}{2}$ SW $\frac{1}{4}$;
 Sec. 31;
 Sec. 32, E $\frac{1}{2}$;
 Sec. 33, W $\frac{1}{2}$;
 Sec. 34;
 Sec. 35, N $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$, and SE $\frac{1}{4}$ SE $\frac{1}{4}$.
- T. 29 S., R. 58 W.,
 Sec. 1, lots 2, 3, and 4, SE $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, and SW $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 2, lots 1 thru 4, S $\frac{1}{2}$ NE $\frac{1}{4}$, and S $\frac{1}{2}$ NW $\frac{1}{4}$;
 Sec. 3, lots 1 thru 4, S $\frac{1}{2}$ NE $\frac{1}{4}$, and S $\frac{1}{2}$ NW $\frac{1}{4}$;
 Secs. 4 and 5;
 Sec. 6, lots 1 thru 6, S $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, and SE $\frac{1}{4}$;
 Sec. 7, E $\frac{1}{2}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ SE $\frac{1}{4}$, and NW $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 8;
 Sec. 9, N $\frac{1}{2}$, SW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, and SE $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 10, W $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$, and S $\frac{1}{2}$ SE $\frac{1}{4}$;
 Sec. 11, N $\frac{1}{2}$ and NE $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 12, NW $\frac{1}{4}$ NE $\frac{1}{4}$ and NW $\frac{1}{4}$ NW $\frac{1}{4}$;
 Sec. 13, NE $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, and SE $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 14, E $\frac{1}{2}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, and SW $\frac{1}{4}$ SW $\frac{1}{4}$;
 Sec. 15, N $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$, S $\frac{1}{2}$ SW $\frac{1}{4}$, and S $\frac{1}{2}$ SE $\frac{1}{4}$;
 Sec. 17, W $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$, S $\frac{1}{2}$ SW $\frac{1}{4}$, and S $\frac{1}{2}$ SE $\frac{1}{4}$;
 Sec. 18, lots 2, 3, and 4, NE $\frac{1}{4}$ NE $\frac{1}{4}$, W $\frac{1}{2}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$, and SE $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 19, lots 1 thru 4, N $\frac{1}{2}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, and S $\frac{1}{2}$ SE $\frac{1}{4}$;
 Sec. 20, E $\frac{1}{2}$, N $\frac{1}{2}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, and S $\frac{1}{2}$ SW $\frac{1}{4}$;
 Sec. 21, N $\frac{1}{2}$, SW $\frac{1}{4}$, and N $\frac{1}{2}$ SE $\frac{1}{4}$;
 Sec. 22, N $\frac{1}{2}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, and N $\frac{1}{2}$ SE $\frac{1}{4}$;
 Sec. 23, N $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$, and SE $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 24, E $\frac{1}{2}$ NE $\frac{1}{4}$, W $\frac{1}{2}$ NW $\frac{1}{4}$, and E $\frac{1}{2}$ SE $\frac{1}{4}$;
 Sec. 25, S $\frac{1}{2}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ NW $\frac{1}{4}$, S $\frac{1}{2}$ SW $\frac{1}{4}$, and SE $\frac{1}{4}$;
 Sec. 26, N $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, and N $\frac{1}{2}$ SE $\frac{1}{4}$;
 Sec. 27;
 Sec. 28, S $\frac{1}{2}$ NW $\frac{1}{4}$ and S $\frac{1}{2}$;
 Secs. 29, 30, and 31;
 Sec. 32, S $\frac{1}{2}$;
 Sec. 33;
 Sec. 34, E $\frac{1}{2}$;
 Sec. 35, SW $\frac{1}{4}$.
- T. 30 S., R. 58 W.,
 Sec. 2, lots 3 and 4, S $\frac{1}{2}$ NW $\frac{1}{4}$, and S $\frac{1}{2}$;
 Sec. 3, lots 1 and 4, SE $\frac{1}{4}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$, W $\frac{1}{2}$ SW $\frac{1}{4}$, and E $\frac{1}{2}$ SE $\frac{1}{4}$;
 Sec. 4;
 Sec. 5, lots 3 and 4, S $\frac{1}{2}$ NW $\frac{1}{4}$, and SW $\frac{1}{4}$;
 Sec. 6, lots 3 thru 7, SE $\frac{1}{4}$ NW $\frac{1}{4}$, and E $\frac{1}{2}$ SW $\frac{1}{4}$;

- Sec. 7, lots 1, 2, and 3, E $\frac{1}{2}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, and E $\frac{1}{2}$ SW $\frac{1}{4}$;
 Sec. 8, W $\frac{1}{2}$, W $\frac{1}{2}$ SE $\frac{1}{4}$, and SE $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 9, E $\frac{1}{2}$ and NW $\frac{1}{4}$;
 Sec. 10, W $\frac{1}{2}$;
 Secs. 11 and 12;
 Sec. 13, N $\frac{1}{2}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$ (oil & gas), SE $\frac{1}{4}$ NE $\frac{1}{4}$, W $\frac{1}{2}$, and SE $\frac{1}{4}$;
 Sec. 14;
 Sec. 15, NW $\frac{1}{4}$;
 Sec. 17;
 Sec. 18, lot 4, E $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, and S $\frac{1}{2}$ SE $\frac{1}{4}$;
 Secs. 19 and 20;
 Sec. 21, NW $\frac{1}{4}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$ (oil & gas), SE $\frac{1}{4}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$, and NW $\frac{1}{4}$ SW $\frac{1}{4}$;
 Sec. 22, W $\frac{1}{2}$ SW $\frac{1}{4}$ and NW $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 23, N $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$, and SE $\frac{1}{4}$ SW $\frac{1}{4}$;
 Sec. 24, NE $\frac{1}{4}$ and N $\frac{1}{2}$ SE $\frac{1}{4}$;
 Sec. 25, SE $\frac{1}{4}$ NE $\frac{1}{4}$ and W $\frac{1}{2}$ SE $\frac{1}{4}$, those portions lying westerly of the rim, NE $\frac{1}{4}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, W $\frac{1}{2}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, and SW $\frac{1}{4}$;
 Sec. 26, NE $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ NW $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, and S $\frac{1}{2}$;
 Sec. 27, W $\frac{1}{2}$ NE $\frac{1}{4}$, W $\frac{1}{2}$, and W $\frac{1}{2}$ SE $\frac{1}{4}$;
 Sec. 28, NE $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, and S $\frac{1}{2}$;
 Sec. 29, NW $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$, W $\frac{1}{2}$ SW $\frac{1}{4}$, and SE $\frac{1}{4}$ SW $\frac{1}{4}$;
 Sec. 30, lots 1 and 2, NE $\frac{1}{4}$, and E $\frac{1}{2}$ NW $\frac{1}{4}$;
 Sec. 32, N $\frac{1}{2}$;
 Sec. 33, E $\frac{1}{2}$;
 Sec. 34, W $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, and NW $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 35, N $\frac{1}{2}$, SW $\frac{1}{4}$, and W $\frac{1}{2}$ SE $\frac{1}{4}$, those portions lying northerly and westerly of the rim.
 T. 31 S., R. 58 W.,
 Sec. 2, SW $\frac{1}{4}$ NE $\frac{1}{4}$ and W $\frac{1}{2}$ SE $\frac{1}{4}$, those portions lying westerly of the rim, SE $\frac{1}{4}$ NW $\frac{1}{4}$, and SW $\frac{1}{4}$;
 Sec. 3, lot 4, SW $\frac{1}{4}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$, and E $\frac{1}{2}$ SE $\frac{1}{4}$;
 Sec. 4, E $\frac{1}{2}$ SW $\frac{1}{4}$ and SE $\frac{1}{4}$;
 Sec. 5, lots 1 and 2, S $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, and SE $\frac{1}{4}$;
 Sec. 6, lots 1 thru 6, S $\frac{1}{2}$ NE $\frac{1}{4}$, and SE $\frac{1}{4}$;
 Sec. 7, lots 1, 2, and 3 (oil & gas), NE $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, and SW $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 8, N $\frac{1}{2}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, and SE $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 9, SW $\frac{1}{4}$ SE $\frac{1}{4}$, that portion lying northwesterly of the rim (oil & gas), N $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$, and SE $\frac{1}{4}$ NW $\frac{1}{4}$ (oil & gas);
 Sec. 10, S $\frac{1}{2}$ NE $\frac{1}{4}$ and N $\frac{1}{2}$ SE $\frac{1}{4}$, those portions lying northerly and westerly of the rim, and NE $\frac{1}{4}$ NE $\frac{1}{4}$;
 Sec. 11, NW $\frac{1}{4}$ NE $\frac{1}{4}$ and NE $\frac{1}{4}$ NW $\frac{1}{4}$, those portions lying northerly of the rim, and NW $\frac{1}{4}$ NW $\frac{1}{4}$; T. 28 S., R. 59 W.,
 Sec. 24, E $\frac{1}{2}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, and SW $\frac{1}{4}$;
 Sec. 25.
 T. 29 S., R. 59 W.,
 Secs. 1 thru 4;
 Sec. 5, lots 1, 2, and 3, S $\frac{1}{2}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$, and NW $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 7, lots 3 and 4, E $\frac{1}{2}$ SW $\frac{1}{4}$, and SE $\frac{1}{4}$;
 Sec. 9;
 Sec. 10, NE $\frac{1}{4}$, N $\frac{1}{2}$ NW $\frac{1}{4}$, and N $\frac{1}{2}$ SE $\frac{1}{4}$;
 Sec. 11;
 Sec. 12, W $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$, W $\frac{1}{2}$ SW $\frac{1}{4}$, and NW $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 13, S $\frac{1}{2}$;
 Sec. 14, E $\frac{1}{2}$;
 Sec. 15, W $\frac{1}{2}$;
 Sec. 17, NW $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$, W $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, and SE $\frac{1}{4}$;
 Sec. 18, lots 1 thru 4, E $\frac{1}{2}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, and SE $\frac{1}{4}$;
 Sec. 19;
 Sec. 20, SW $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, and SE $\frac{1}{4}$;
 Sec. 21, NE $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$, and S $\frac{1}{2}$;
 Secs. 22, 23, and 24;
 Sec. 25, N $\frac{1}{2}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ NW $\frac{1}{4}$, and S $\frac{1}{2}$;
 Secs. 26 and 27;
 Sec. 28, N $\frac{1}{2}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ NW $\frac{1}{4}$, and S $\frac{1}{2}$ SW $\frac{1}{4}$;
 Sec. 29, NE $\frac{1}{4}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$, and SE $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 30, lots 1 and 2, W $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$ (oil & gas), N $\frac{1}{2}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$ (oil & gas), and SE $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 31, lots 2 and 3 (oil & gas), E $\frac{1}{2}$ NE $\frac{1}{4}$, W $\frac{1}{2}$ NE $\frac{1}{4}$ (oil & gas), SE $\frac{1}{4}$ NW $\frac{1}{4}$ (oil & gas), NE $\frac{1}{4}$ SW $\frac{1}{4}$ (oil & gas), and SE $\frac{1}{4}$ (oil & gas);
 Sec. 32, N $\frac{1}{2}$, N $\frac{1}{2}$ SW $\frac{1}{4}$ (oil & gas), SW $\frac{1}{4}$ SW $\frac{1}{4}$ (oil & gas), and N $\frac{1}{2}$ SE $\frac{1}{4}$ (oil & gas);
 Sec. 33, SE $\frac{1}{4}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ NW $\frac{1}{4}$, and SW $\frac{1}{4}$ NW $\frac{1}{4}$;
 Sec. 34, S $\frac{1}{2}$;
 Sec. 35, NE $\frac{1}{4}$ and NE $\frac{1}{4}$ SE $\frac{1}{4}$.
 T. 30 S., R. 59 W.,
 Sec. 1, lots 1 and 2, S $\frac{1}{2}$ NE $\frac{1}{4}$, and SE $\frac{1}{4}$;
 Sec. 2, W $\frac{1}{2}$ SW $\frac{1}{4}$ and SE $\frac{1}{4}$ SW $\frac{1}{4}$;
 Sec. 3, lots 1 thru 4, S $\frac{1}{2}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, and SE $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 4;
 Sec. 5, S $\frac{1}{2}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, and S $\frac{1}{2}$;
 Sec. 6, lots 5, 6, and 7, S $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, and SE $\frac{1}{4}$;
 Sec. 7;
 Sec. 8, W $\frac{1}{2}$;
 Sec. 9, W $\frac{1}{2}$;
 Sec. 10, NE $\frac{1}{4}$;
 Sec. 11;
 Sec. 12, SE $\frac{1}{4}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, and SW $\frac{1}{4}$ SW $\frac{1}{4}$;
 Sec. 13, NW $\frac{1}{4}$ SW $\frac{1}{4}$, S $\frac{1}{2}$ SW $\frac{1}{4}$, and S $\frac{1}{2}$ SE $\frac{1}{4}$;
 Sec. 14;
 Sec. 15, NE $\frac{1}{4}$ NW $\frac{1}{4}$, W $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, and SE $\frac{1}{4}$;
 Sec. 18;
 Sec. 19, lots 1 and 2, E $\frac{1}{2}$, and E $\frac{1}{2}$ NW $\frac{1}{4}$;
 Sec. 20, E $\frac{1}{2}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, and SW $\frac{1}{4}$;
 Secs. 21, 23, 24, and 25;
 Sec. 26, E $\frac{1}{2}$ NE $\frac{1}{4}$, W $\frac{1}{2}$ NW $\frac{1}{4}$, W $\frac{1}{2}$ SW $\frac{1}{4}$, and E $\frac{1}{2}$ SE $\frac{1}{4}$;
 Secs. 27 and 28;
 Sec. 29, N $\frac{1}{2}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, and N $\frac{1}{2}$ NW $\frac{1}{4}$;
 Sec. 30, lots 3 and 4, W $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, and W $\frac{1}{2}$ SE $\frac{1}{4}$;
 Sec. 31, lots 1 and 3, NW $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, and N $\frac{1}{2}$ SE $\frac{1}{4}$;
 Sec. 32, SW $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$, and W $\frac{1}{2}$ SE $\frac{1}{4}$;
 Sec. 34, S $\frac{1}{2}$;
 Sec. 35, S $\frac{1}{2}$.
 T. 31 S., R. 59 W.,
 Sec. 1, lots 3 and 4, S $\frac{1}{2}$ NW $\frac{1}{4}$, and SW $\frac{1}{4}$;
 Sec. 2;
 Sec. 3, lots 1 thru 4, S $\frac{1}{2}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, and SE $\frac{1}{4}$;
 Sec. 4, NE $\frac{1}{4}$ SW $\frac{1}{4}$, S $\frac{1}{2}$ SW $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$, and S $\frac{1}{2}$ SE $\frac{1}{4}$;
 Sec. 5, lots 2 and 3, SW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$, and SE $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 6, lots 1 thru 7, S $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, and E $\frac{1}{2}$ SW $\frac{1}{4}$;
 Sec. 7, lot 2, SW $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, and E $\frac{1}{2}$ SE $\frac{1}{4}$, those portions lying northerly of a line 10 feet northerly of and parallel to the center line of Las Animas County Road 54, lot 1, N $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$, and NE $\frac{1}{4}$ NW $\frac{1}{4}$;
 Sec. 8, S $\frac{1}{2}$ SW $\frac{1}{4}$, that portion lying northerly of a line 10 feet northerly of and parallel to the center line of Las Animas County Road 54, E $\frac{1}{2}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{2}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, and SW $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 9;
 Sec. 10, N $\frac{1}{2}$, SW $\frac{1}{4}$, and S $\frac{1}{2}$ SE $\frac{1}{4}$;
 Sec. 11, N $\frac{1}{2}$ and S $\frac{1}{2}$ SW $\frac{1}{4}$;
 Sec. 12, E $\frac{1}{2}$ and N $\frac{1}{2}$ NW $\frac{1}{4}$;
 Sec. 14, N $\frac{1}{2}$ NW $\frac{1}{4}$ and SW $\frac{1}{4}$ NW $\frac{1}{4}$;
 Sec. 15, N $\frac{1}{2}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, and N $\frac{1}{2}$ NW $\frac{1}{4}$.
 Sec. 17, NW $\frac{1}{4}$ NE $\frac{1}{4}$, that portion lying northeasterly of a line 10 feet northerly of and parallel to the center line of Las Animas County Road 54.
 T. 29 S., R. 60 W.,
 Sec. 9, SE $\frac{1}{4}$ NE $\frac{1}{4}$ and NE $\frac{1}{4}$ SE $\frac{1}{4}$, those portions lying southeasterly of the southeasterly right-of-way line for U.S. Highway 350, and SE $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 10, S $\frac{1}{2}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$, S $\frac{1}{2}$ SW $\frac{1}{4}$, and S $\frac{1}{2}$ SE $\frac{1}{4}$;
 Sec. 11, NE $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, and SE $\frac{1}{4}$;
 Secs. 12 thru 15;
 Sec. 17, S $\frac{1}{2}$ SW $\frac{1}{4}$, that portion lying southeasterly of the southeasterly right-of-way line of U.S. Highway 350;
 Sec. 21, E $\frac{1}{2}$;
 Sec. 22, 23, and 24;
 Sec. 25, N $\frac{1}{2}$, SW $\frac{1}{4}$, and NW $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 26;
 Sec. 33, SE $\frac{1}{4}$;
 Sec. 34;
 Sec. 35, N $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ NW $\frac{1}{4}$, and SW $\frac{1}{4}$.
 T. 30 S., R. 60 W.,
 Sec. 1, S $\frac{1}{2}$;
 Secs. 2 and 3;
 Sec. 10, NW $\frac{1}{4}$ SW $\frac{1}{4}$, S $\frac{1}{2}$ SW $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$, and S $\frac{1}{2}$ SE $\frac{1}{4}$;
 Sec. 11;
 Sec. 12, N $\frac{1}{2}$;
 Sec. 13, S $\frac{1}{2}$;
 Secs. 14 and 15;
 Sec. 19, lot 1, N $\frac{1}{2}$ NE $\frac{1}{4}$, and NE $\frac{1}{4}$ NW $\frac{1}{4}$;
 Sec. 20, W $\frac{1}{2}$ NE $\frac{1}{4}$ and N $\frac{1}{2}$ NW $\frac{1}{4}$;
 Sec. 21, S $\frac{1}{2}$ NW $\frac{1}{4}$ and SW $\frac{1}{4}$;
 Sec. 22, E $\frac{1}{2}$ and E $\frac{1}{2}$ SW $\frac{1}{4}$;
 Sec. 23, W $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$, and W $\frac{1}{2}$ SE $\frac{1}{4}$;
 Sec. 24, N $\frac{1}{2}$ and N $\frac{1}{2}$ SE $\frac{1}{4}$;
 Sec. 25, S $\frac{1}{2}$ NW $\frac{1}{4}$ and N $\frac{1}{2}$ SW $\frac{1}{4}$;
 Sec. 26, NE $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, and NE $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 27, N $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$, S $\frac{1}{2}$ SW $\frac{1}{4}$, and SW $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 28, N $\frac{1}{2}$ NW $\frac{1}{4}$, S $\frac{1}{2}$ SW $\frac{1}{4}$, and S $\frac{1}{2}$ SE $\frac{1}{4}$;
 Sec. 33, N $\frac{1}{2}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ NW $\frac{1}{4}$, and SW $\frac{1}{4}$ NW $\frac{1}{4}$;
 Sec. 34, N $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ NW $\frac{1}{4}$, S $\frac{1}{2}$ SW $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$, and S $\frac{1}{2}$ SE $\frac{1}{4}$;
 Sec. 35, S $\frac{1}{2}$ NE $\frac{1}{4}$, W $\frac{1}{2}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, and SW $\frac{1}{4}$ SE $\frac{1}{4}$.
 T. 31 S., R. 60 W.,
 Sec. 1, N $\frac{1}{2}$ SW $\frac{1}{4}$ and W $\frac{1}{2}$ SE $\frac{1}{4}$, those portions lying northerly and

northeasterly of a line 10 feet northerly of and parallel to the center line of Las Animas County Road 54, lots 1 thru 4 (oil & gas), S $\frac{1}{2}$ NE $\frac{1}{4}$ (oil & gas), S $\frac{1}{2}$ NW $\frac{1}{4}$ (oil & gas), and E $\frac{1}{2}$ SE $\frac{1}{4}$;

Sec. 2, S $\frac{1}{2}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$, and NW $\frac{1}{4}$ SE $\frac{1}{4}$ (oil & gas), those portions lying northerly of a line 10 feet northerly of and parallel to the center line of Las Animas County Road 54, lots 1 thru 4 (oil & gas), and S $\frac{1}{2}$ NE $\frac{1}{4}$ (oil & gas);

Sec. 3, S $\frac{1}{2}$ NE $\frac{1}{4}$, that portion lying northeasterly of a line 10 feet northerly of and parallel to the center line of Las Animas County Road 54, lot 1 (oil & gas), and lot 2;

Sec. 12, NE $\frac{1}{4}$ NE $\frac{1}{4}$, that portion lying northeasterly of a line 10 feet northerly of and parallel to the center line of Las Animas County Road 54.

T. 29 S., R. 61 W.,

Sec. 25, N $\frac{1}{2}$ NE $\frac{1}{4}$, a metes-and-bounds parcel contiguous to U.S. Highway 350 in the SE $\frac{1}{4}$ NE $\frac{1}{4}$, and E $\frac{1}{2}$ SE $\frac{1}{4}$.

The areas described aggregate 130,651 acres.

The areas described, including both surface and mineral estates, aggregate approximately 147,714 acres in El Paso, Pueblo, Fremont, and Las Animas Counties.

There is no suitable alternative site.

No water rights would be needed to fulfill the purpose of this withdrawal extension.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the BLM Colorado State Director at the address listed above (see **ADDRESSES**).

Comments, including names and street addresses of respondents, will be available for public review at the BLM Colorado State Office during regular business hours, 8:30 a.m. to 4 p.m. Monday through Friday, except Federal holidays. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. All submissions from organizations or businesses, and from individuals identifying themselves as representatives of officials of organizations or businesses, will be made available for public inspection in their entirety.

Notice of a public meeting will be announced in at least one newspaper of general circulation in the area of the withdrawal application area at least 30

days before the scheduled date of the meeting. A public meeting is scheduled for July 13, 2026, see the **DATES** and **ADDRESSES** sections earlier.

This withdrawal extension application will be processed in accordance with the regulations set forth in 43 CFR 2310.4.

(Authority: 43 CFR 2310.4)

Thomas Heinlein,

Acting BLM Colorado State Director.

[FR Doc. 2026–09638 Filed 5–13–26; 8:45 am]

BILLING CODE 4331–16–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–NER–ACAD–42123; PPNEACADSO, PPMPSPDIZ.YM0000]

Request for Nominations for the Acadia National Park Advisory Commission

AGENCY: National Park Service, Interior.

ACTION: Request for nominations.

SUMMARY: The National Park Service (NPS), U.S. Department of the Interior, is requesting nominations for qualified persons to serve as members of the Acadia National Park Advisory Commission (Commission).

DATES: Written nominations must be postmarked by June 15, 2026.

ADDRESSES: Nominations should be sent to Brandon Bies, Deputy Superintendent, Acadia National Park, P.O. Box 177, Bar Harbor, Maine 04609, or by email brandon_bies@nps.gov.

FOR FURTHER INFORMATION CONTACT: Brandon Bies, via telephone at (207) 288–8701. 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: The Commission was established by section 103 of Public Law 99–420, as amended, (16 U.S.C. 341 note), and in accordance with the Federal Advisory Committee Act (5 U.S.C. Ch. 10). The Commission advises the Secretary of the Interior (Secretary) and the NPS on matters relating to the management and development of Acadia National Park, including but not limited to, the acquisition of lands and interests in lands (including conservation easements on islands) and the

termination of rights of use and occupancy.

The Commission is composed of 16 members appointed by the Secretary, as follows: (a) three members at large; (b) three members appointed from among individuals recommended by the Governor of Maine; (c) four members appointed from among individuals recommended by each of the four towns on the island of Mount Desert; (d) three members appointed from among individuals recommended by each of the three Hancock County mainland communities of Gouldsboro, Winter Harbor, and Trenton; and (e) three members appointed from among individuals recommended by each of the three island towns of Cranberry Isles, Swans Island, and Frenchboro.

The NPS is seeking nominees to represent nominees in every category. Individuals selected to serve as the members at large will be appointed as special Government employees (SGEs). Individuals selected from the other categories will be appointed as representative members. Please be aware that members selected to serve as SGEs will be required, prior to appointment, to file a Confidential Financial Disclosure Report in order to avoid involvement in real or apparent conflicts of interest. You may find a copy of the Confidential Financial Disclosure Report at the following website: <https://www.doi.gov/ethics/special-government-employees>. Additionally, after appointment, members appointed as SGEs will be required to meet applicable financial disclosure and ethics training requirements. Please contact (202) 208–7960 or DOI_Ethics@sol.doi.gov with any questions about the ethics requirements for members appointed as SGEs.

Nominations received by the park will be sent directly to local municipalities for their consideration. Nominations should be typed and should include a resume providing an adequate description of the nominee's qualifications, including information that would enable the Department of the Interior to make an informed decision regarding meeting the membership requirements of the Commission and permit the Department to contact a potential member. All documentation, including letters of recommendation, must be compiled and submitted in one complete package. All those interested in membership, including current members whose terms are expiring, must follow the same nomination process. Members may not appoint deputies or alternates.

Members of the Commission serve without compensation. However, while away from their homes or regular places of business in the performance of services for the Commission as approved by the NPS, members may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in Government service are allowed such expenses under 5 U.S.C. 5703.

Authority: 5 U.S.C. Ch. 10.

Alma Ripps,

Chief, Office of Policy.

[FR Doc. 2026-09583 Filed 5-13-26; 8:45 am]

BILLING CODE 4312-52-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 NAND and DRAM Memory Chips and Products Containing the Same, DN 3908*; 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 Monolithic 3D Inc. on May 11, 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 NAND and DRAM memory chips and products containing the same. The complaint names as respondents: KIOXIA Holdings Corporation of Japan; KIOXIA Corporation of Japan; KIOXIA America, Inc. of San Jose, CA; KIOXIA Engineering Corporation of Japan; KIOXIA Iwate Corporation of Japan; KIOXIA Systems Co., Ltd. of Japan; KIOXIA Semiconductor Taiwan Corporation of Taiwan; SK hynix Inc. of South Korea; SK hynix America Inc. of San Jose, CA; and SK hynix Memory Solutions America Inc. of San Jose, CA. 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. 3908") 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

¹ Handbook for Electronic Filing Procedures: https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf.

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 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: May 12, 2026.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2026-09664 Filed 5-13-26; 8:45 am]

BILLING CODE 7020-02-P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-1450]

Certain Integrated Circuits, Electronic Devices Containing the Same, and Components Thereof; Notice of Commission Determination Not To Review Two Initial Determinations Terminating the Investigation With Respect to the Remaining Respondents; Termination of the Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission ("the Commission") has determined not to review two initial determinations ("ID") (Order Nos. 40, 41) issued by the presiding administrative law judge ("ALJ") terminating the investigation with respect to the remaining respondents based on settlement. The investigation is hereby terminated.

FOR FURTHER INFORMATION CONTACT: Carl P. Bretscher, Esq., Office of the General

Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205-2382. Copies of non-confidential documents filed in connection with this investigation may be viewed on the Commission's electronic docket (EDIS) at <https://edis.usitc.gov>. For help accessing EDIS, please email EDIS3Help@usitc.gov. General information concerning the Commission may also be obtained by accessing its internet server at <https://www.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205-1810.

SUPPLEMENTARY INFORMATION: On May 27, 2025, the Commission instituted the present investigation based on a complaint, as supplemented, filed by Onesta IP, LLC of Wayne, Pennsylvania ("Onesta"). 90 FR 22325-26 (May 27, 2025). The complaint alleges that the respondents violated section 337 of Tariff Act of 1930, as amended, 19 U.S.C. 1337, by the importation into the United States, the sale for importation, and the sale within the United States after importation of certain integrated circuits, electronic devices containing the same, and components thereof that infringe one or more of the asserted claims of U.S. Patent Nos. 7,717,350 ("the '350 patent"); 8,854,381 ("the '381 patent"); 9,116,809 ("the '809 patent"); 9,519,943 ("the '943 patent"); 11,741,019 ("the '019 patent"); and 11,841,803 ("the '803 patent"). *Id.* The complaint also alleges that a domestic industry exists or is in the process of being established. *Id.* The notice of investigation names the following respondents: NVIDIA Corporation of Santa Clara, California ("NVIDIA"); Qualcomm Incorporated of San Diego, California ("Qualcomm"); OnePlus Technology (Shenzhen) Co., Ltd. of Shenzhen, China ("OnePlus"); and Nothing Technology Limited of London, United Kingdom ("Nothing"). *Id.* The Office of Unfair Import Investigations ("OUII") is also a party to this investigation. *Id.*

On September 22, 2025, the Commission partially terminated the investigation with respect to asserted claims 13 and 14 of the '350 patent, claims 10 and 13 of the '943 patent, and claims 15 and 21 of the '809 patent, based on Onesta's unopposed withdrawal of those claims. Order No. 9 (Sept. 3, 2025), *unreviewed by Comm'n Notice* (Sept. 22, 2025).

On December 3, 2025, the Commission partially terminated the investigation with respect to asserted

claims 5-8 and 19-20 of the '381 patent. Order No. 11 (Sept. 25, 2025), *unreviewed by Comm'n Notice* (Dec. 3, 2025).

On December 31, 2025, the Commission partially terminated the investigation with respect to asserted claims 1-10 of the '943 patent, claims 10-12, 15, and 25 of the '350 patent; claim 9 of the '803 patent; claims 1-10 of the '019 patent; and claim 17 of the '809 patent. Order No. 16 (Dec. 2, 2025), *unreviewed by Comm'n Notice* (Dec. 31, 2025).

On March 18, 2026, the Commission partially terminated the investigation with respect to asserted claims 17 and 19-21 of the '943 patent, claims 13, 15, 16, and 19 of the '019 patent, and claims 2, 9, 11, 12, 18, 19, 23, and 24 of the '809 patent. Order No. 36 (Feb. 23, 2026), *unreviewed by Comm'n Notice* (Mar. 18, 2026).

On April 3, 2026, Onesta and respondents Qualcomm, OnePlus, and Nothing (collectively, the "Moving Respondents") filed a joint motion to terminate the investigation with respect to the Moving Respondents based on a settlement agreement. Onesta and the Moving Respondents certified that NVIDIA did not oppose the motion. On April 13, 2026, OUII filed a response in support of the motion.

On April 6, 2026, Onesta and respondent NVIDIA filed a joint motion to terminate the investigation with respect to NVIDIA based on a release agreement and patent agreement. Onesta and NVIDIA certified that respondents Qualcomm, OnePlus, and Nothing did not oppose the motion. On April 13, 2026, OUII filed a response in support of the motion.

On April 17, 2026, the presiding ALJ issued the two subject IDs granting the motion to terminate the investigation with respect to the Moving Respondents (Order No. 40) and the motion to terminate the investigation with respect to NVIDIA (Order No. 41). Order No. 40 (Apr. 17, 2026); Order No. 41 (Apr. 17, 2026). In each ID, the ALJ found that the moving parties had satisfied the requirements of Commission Rule 210.21(b)(1), 19 CFR 210.21(b)(1), by providing confidential and public copies of the settlement agreements and representing that there are no other agreements, written or oral, expressed or implied, between the moving parties concerning the subject matter of the investigation. There being no remaining respondents, the ALJ terminated the investigation with the termination of NVIDIA, per Commission Rule 210.21(b), 19 CFR 210.21(b). Order No. 41.

² All contract personnel will sign appropriate nondisclosure agreements.

³ Electronic Document Information System (EDIS): <https://edis.usitc.gov>

No petition to review either of the subject IDs was filed.

The Commission has determined not to review either of the subject IDs. Accordingly, respondents NVIDIA, Qualcomm, OnePlus, and Nothing are terminated from this investigation. There being no other respondents, the investigation is hereby terminated.

The Commission vote for this determination took place on May 11, 2026.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in Part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: May 12, 2026.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2026-09683 Filed 5-13-26; 8:45 am]

BILLING CODE 7020-02-P

DEPARTMENT OF JUSTICE

[OMB Number 1122-0017]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Extension of a Currently Approved Collection; Title—Semi-annual Progress Report for the Technical Assistance Program

AGENCY: Office on Violence Against Women, Department of Justice.

ACTION: 60-day notice.

SUMMARY: The Department of Justice, Office on Violence Against Women (OVW) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: Comments are encouraged and will be accepted for 60 days until July 13, 2026.

FOR FURTHER INFORMATION CONTACT: Written comments and/or suggestion regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to Tiffany Watson, Office on Violence Against Women, at 202-307-6026 or Tiffany.Watson@usdoj.gov.

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

1. *Type of Information Collection:* Extension of a currently approved collection

2. *Title of the Form/Collection:* Semi-annual Progress Report for the Technical Assistance Program

3. *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form Number: 1122-0017. U.S. Department of Justice, Office on Violence Against Women

4. *Affected public who will be asked or required to respond, as well as a brief abstract:* The affected public includes the 53 programs providing technical assistance as recipients under the Technical Assistance Program.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* It is estimated that it will take the 53 respondents (Technical Assistance providers) approximately one hour to complete a semi-annual progress report twice a year. The semi-annual progress report for the Technical Assistance Program is divided into sections that pertain to the different types of activities in which Technical Assistance Providers are engaged.

The primary purpose of the OVW Technical Assistance Program is to provide assistance to grantees and their subgrantees to enhance the success of local projects they are implementing with VAWA grant funds. In addition, OVW is focused on building the capacity of criminal justice and victim services organizations to respond effectively to sexual assault, domestic violence, dating violence, and stalking and to foster partnerships between

organizations that have not traditionally worked together to address violence against women, such as faith- and community-based organizations.

6. *An estimate of the total public burden (in hours) associated with the collection:* The total annual hour burden to complete the semi-annual progress report form is 106 hours. It will take approximately one hour for the grantees to complete the form twice a year.

7. *An estimate of the total annual cost burden associated with the collection, if applicable:* The annualized costs to the Federal Government resulting from the OVW staff review of the progress reports submitted by grantees are estimated to be \$6,144.89.

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: May 12, 2026.

Darwin Arceo,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2026-09628 Filed 5-13-26; 8:45 am]

BILLING CODE 4410-FX-P

DEPARTMENT OF JUSTICE

[OMB Number 1122-0024]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Extension of a Currently Approved Collection; Title—Semi-Annual Progress Report for the Tribal Sexual Assault Services Program

AGENCY: Office on Violence Against Women, Department of Justice.

ACTION: 60-day Notice.

SUMMARY: The Department of Justice, Office on Violence Against Women (OVW) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: Comments are encouraged and will be accepted for 60 days until July 13, 2026.

FOR FURTHER INFORMATION CONTACT: Written comments and/or suggestion regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to Tiffany Watson, Office on Violence Against Women, at

202–307–6026 or Tiffany.Watson@usdoj.gov.

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection:

1. *Type of Information Collection:* Extension of a Currently Approved Collection

2. *Title of the Form/Collection:* Semi-Annual Progress Report for the Tribal Sexual Assault Services Program

3. *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form Number: 1122- 0024. U.S. Department of Justice, Office on Violence Against Women

4. *Affected public who will be asked or required to respond, as well as a brief abstract:* The affected public includes the approximately 17 grantees of the Tribal Sexual Assault Services Program. The Sexual Assault Services Program (SASP), created by the Violence Against Women Act of 2005 (VAWA 2005), is the first federal funding stream solely dedicated to the provision of direct intervention and related assistance for victims of sexual assault. The SASP encompasses four different funding streams for States and Territories, Tribes, State Sexual Assault Coalitions, Tribal Coalitions, and culturally specific organizations. Overall, the purpose of SASP is to provide intervention, advocacy, accompaniment, support services, and related assistance for adult, youth, and child victims of sexual

assault, family and household members of victims, and those collaterally affected by the sexual assault. The Tribal SASP supports efforts to help survivors heal from sexual assault trauma through direct intervention and related assistance including 24-hour sexual assault hotlines, crisis intervention, and medical and criminal justice accompaniment. The Tribal SASP will support such services through the establishment, maintenance, and expansion of programs and projects to assist those victimized by sexual assault.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* It is estimated that it will take the approximately 17 respondents (grantees from the Tribal Sexual Assault Services Program) approximately one hour to complete a semi-annual progress report. The semi-annual progress report is divided into sections that pertain to the different types of activities in which grantees may engage. A Tribal SASP grantee will only be required to complete the sections of the form that pertain to its own specific activities.

6. *An estimate of the total public burden (in hours) associated with the collection:* The total annual hour burden to complete the data collection forms is 34 hours, that is 17 grantees completing a form twice a year with an estimated completion time for the form being one hour.

7. *An estimate of the total annual cost burden associated with the collection, if applicable:* The annualized costs to the Federal Government resulting from the OVW staff review of the progress reports submitted by grantees are estimated to be \$1,971.00.

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: May 12, 2026.

Darwin Arceo,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2026–09627 Filed 5–13–26; 8:45 am]

BILLING CODE 4410–FX–P

DEPARTMENT OF LABOR

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Slope and Shaft Sinking Plans (Pertains to the Surface Work Areas of Underground Coal Mines)

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting this Mine Safety & Health Administration (MSHA)-sponsored information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that the agency receives on or before June 15, 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: Section 103(h) of the Federal Mine Safety and Health Act of 1977 (Mine Act), 30 U.S.C. 813, authorizes MSHA to collect information necessary to carry out its duty in protecting the safety and health of miners.

Title 30 CFR 77.1900 requires underground coal mine operators to submit for approval a plan that will provide for the safety of workmen in each slope or shaft that is commenced or extended from the surface to the underground coal mine. Each slope or shaft sinking operation is unique in that each operator uses different methods and equipment and encounters different geological strata which makes it impossible for a single set of regulations to ensure the safety of the miners under all circumstances. This makes an individual slope or shaft sinking plan necessary. The plan must be consistent with prudent engineering design. Plans include the name and location of the mine; name and address of the mine operator; a description of the construction work and methods to be used in construction of the slope or

shaft, and whether all or part of the work will be performed by a contractor; the elevation, depth and dimensions of the slope or shaft; the location and elevation of the coalbed; the general characteristics of the strata through which the slope or shaft will be developed; the type of equipment which the operator proposes to use; the system of ventilation to be used; and safeguards for the prevention of caving during excavation.

For additional substantive information about this ICR, see the related notice published in the **Federal Register** on January 26, 2026 (91 FR 3224).

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–MSHA.

Title of Collection: Slope and Shaft Sinking Plans (Pertains to the Surface Work Areas of Underground Coal Mines).

OMB Control Number: 1219–0019.

Affected Public: Private Sector—Businesses or other for-profits.

Total Estimated Number of Respondents: 20.

Total Estimated Number of Responses: 50.

Total Estimated Annual Time Burden: 1,001 hours.

Total Estimated Annual Other Costs Burden: \$30.

(Authority: 44 U.S.C. 3507(a)(1)(D))

Nicole Bouchet,

Senior Paperwork Reduction Act Analyst.

[FR Doc. 2026–09581 Filed 5–13–26; 8:45 am]

BILLING CODE 4510–26–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

[NARA–26–0232; NARA–2026–017]

Records Schedules; Availability and Request for Comments

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice of certain Federal agency requests for records disposition authority (records schedules). We publish notice in the **Federal Register** and on *regulations.gov* for records schedules in which agencies propose to dispose of records they no longer need to conduct agency business. We invite public comments on such records schedules.

DATES: We must receive responses on the schedules listed in this notice by June 29, 2026.

ADDRESSES: To view a records schedule in this notice, or submit a comment on one, use the following address: <https://www.regulations.gov/docket/NARA-26-0232/document>. This is a direct link to the schedules posted in the docket for this notice on *regulations.gov*. You may submit comments by the following method:

Federal eRulemaking Portal: <https://www.regulations.gov>. On the website, enter either of the numbers cited at the top of this notice into the search field. This will bring you to the docket for this notice, in which we have posted the records schedules open for comment. Each schedule has a ‘comment’ button so you can comment on that specific schedule. For more information on *regulations.gov* and on submitting comments, see their FAQs at <https://www.regulations.gov/faq>.

If you are unable to comment via *regulations.gov*, you may email us at request.schedule@nara.gov for instructions on submitting your comment. You must cite the control number of the schedule you wish to

comment on. You can find the control number for each schedule in parentheses at the end of each schedule's entry in the list at the end of this notice.

FOR FURTHER INFORMATION CONTACT:

Matthew Eidson, Records Management Operations, by email at matthew.eidson@nara.gov or at 301–837–3109. For information about records schedules, contact Records Management Operations by email at request.schedule@nara.gov or by phone at 301–837–3109.

SUPPLEMENTARY INFORMATION:

Public Comment Procedures

We are publishing notice of records schedules in which agencies propose to dispose of records they no longer need to conduct agency business. We invite public comments on these records schedules, as required by 44 U.S.C. 3303a(a), and list the schedules at the end of this notice by agency and subdivision requesting disposition authority.

In addition, this notice lists the organizational unit(s) accumulating the records or states that the schedule has agency-wide applicability. It also provides the control number assigned to each schedule, which you will need if you submit comments on that schedule. We have uploaded the records schedules and accompanying appraisal memoranda to the *regulations.gov* docket for this notice as “other” documents. Each records schedule contains a full description of the records at the file unit level as well as their proposed disposition. The appraisal memorandum for the schedule includes information about the records.

We will post comments, including any personal information and attachments, to the public docket unchanged. Because comments are public, you are responsible for ensuring that you do not include any confidential or other information that you or a third party may not wish to be publicly posted. If you want to submit a comment with confidential information or cannot otherwise use the *regulations.gov* portal, you may contact request.schedule@nara.gov for instructions on submitting your comment.

We will consider all comments submitted by the posted deadline and consult as needed with the Federal agency seeking the disposition authority. After considering comments, we may or may not make changes to the proposed records schedule. The schedule is then sent for final approval by the Archivist of the United States.

After the schedule is approved, we will post on [regulations.gov](https://www.regulations.gov) a “Consolidated Reply” summarizing the comments, responding to them, and noting any changes we made to the proposed schedule. You may elect at [regulations.gov](https://www.regulations.gov) to receive updates on the docket, including an alert when we post the Consolidated Reply, whether or not you submit a comment. If you have a question, you can submit it as a comment, and can also submit any concerns or comments you would have to a possible response to the question. We will address these items in consolidated replies along with any other comments submitted on that schedule.

We will post schedules on our website in the Records Control Schedule (RCS) Repository, at <https://www.archives.gov/records-mgmt/rcs>, after the Archivist approves them. The RCS contains all schedules approved since 1973.

Background

Each year, Federal agencies create billions of records. To control this accumulation, agency records managers prepare schedules proposing retention periods for records and submit these schedules for NARA’s approval. Once approved by NARA, records schedules provide mandatory instructions on what happens to records when no longer needed for current Government business. The records schedules authorize agencies to preserve records of continuing value in the National Archives or to destroy, after a specified period, records lacking continuing administrative, legal, research, or other value. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. Most schedules, however, cover records of only one office or program or a few series of records. Many of these update previously approved schedules, and some include records proposed as permanent.

Agencies may not destroy Federal records without the approval of the Archivist of the United States. The Archivist grants this approval only after thorough consideration of the records’ administrative use by the agency of origin, the rights of the Government and of private people directly affected by the Government’s activities, and whether or not the records have historical or other value. Public review and comment on these records schedules is part of the Archivist’s consideration process.

Schedules Pending:

1. Bureau of Prisons, Bureau Electronic Medical Records (BEMR) (DAA-0129-2025-0001).
2. Internal Revenue Service, Compliance Data Warehouse (CDW) (DAA-0058-2025-0002).
3. National Aeronautics and Space Administration, Formal Directives (DAA-0255-2025-0003).
4. Office of Navajo and Hopi Indian Relocation, Warrant & Grazing Masters and Support records for Relocation, Communication, Construction, and Financial Administration (DAA-0220-2026-0001).
5. Veterans Health Administration, Mental Health and Behavioral Science (DAA-0015-2025-0003).
6. Veterans Health Administration, Sleep Study Records (DAA-0015-2025-0007).
7. Veterans Health Administration, Veterans Canteen Service (VCS) (DAA-0015-2025-0024).
8. U.S. Immigration and Customs Enforcement, Escape from Custody Records (DAA-0567-2024-0005).

William P. Fischer,

Acting Chief Records Officer for the U.S. Government.

[FR Doc. 2026-09573 Filed 5-13-26; 8:45 am]

BILLING CODE 7515-01-P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Institute of Museum and Library Services

Submission for OMB Review, Comment Request for Proposed Collection: Guidelines for IMLS Grants to States Five-Year Evaluation

AGENCY: Institute of Museum and Library Services, National Foundation on the Arts and the Humanities.

ACTION: Submission for OMB Review, request for comments on this collection of information.

SUMMARY: The Institute of Museum and Library Services (IMLS) announces the following information collection has been submitted to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. This law helps to ensure that requested data is provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. This Notice proposes the clearance of

the Guidelines for IMLS Grants to States Five-Year Evaluation.

A copy of the proposed information collection request can be obtained by contacting the individual listed below in the **FOR FURTHER INFORMATION CONTACT** section of this Notice.

DATES: Written comments must be submitted to the office listed in the **ADDRESSES** section below on or before June 17, 2026.

ADDRESSES: Written comments and recommendations for proposed information collection requests should be sent within 30 days of publication of this Notice to www.reginfo.gov/public/do/PRAMain. Find this particular information collection request by selecting “Institute of Museum and Library Services” under “Currently Under Review;” then check “Only Show ICR for Public Comment” checkbox. Once you have found this information collection request, select “Comment,” and enter or upload your comment and information. Alternatively, please mail your written comments to the Office of Information and Regulatory Affairs, Attn.: OMB Desk Officer for Education, Office of Management and Budget, Room 10235, Washington, DC 20503, or call (202) 395-7316.

OMB is particularly interested in comments that help the agency to:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency’s estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology (e.g., permitting electronic submission of responses).

FOR FURTHER INFORMATION CONTACT:

Teresa DeVoe, Associate Deputy Director of State Programs, Office of Library Services, Institute of Museum and Library Services, 200 Constitution Ave. NW, Suite N-3627, Washington, DC 20210. Ms. DeVoe can be reached by telephone at 202-653-4778, or by email at tdevoe@imls.gov.

SUPPLEMENTARY INFORMATION: IMLS is the primary source of federal support for

the nation's libraries and museums. The agency advances, supports, and empowers America's museums, libraries, and related organizations through grant making, research, and policy development. To learn more, visit www.imls.gov.

Current Action

This Notice proposes the clearance of the Guidelines for IMLS Grants to States Five-Year Evaluation. The Grants to States program is the largest source of federal funding for library services in the United States. Using a population-based formula, IMLS distributes approximately \$180 million among State Library Administrative Agencies (SLAAs) every year. An SLAA is defined in the Library Services and Technology Act (20 U.S.C. 9122 (3) and § 9122(4)) as "the official agency of a State charged by the law of the State with the extension and development of public library services throughout the state." SLAAs are located in each of the 50 States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

Each SLAA is required, under 20 U.S.C. 9134, to submit a plan that details library services goals for a five-year period, along with associated certifications. IMLS's authorizing legislation (20 U.S.C. 9134(c)) directs SLAAs to "independently evaluate, and report to the Director regarding, the activities assisted under this subchapter, prior to the end of the 5-year plan." This evaluation provides each SLAA an opportunity to measure progress in meeting the goals set forth in its approved Five-Year Plan, and provides IMLS with a framework to synthesize information across all state reports to tell a national story. This action is to renew clearance of the Guidelines for IMLS Grants to States Five-Year Evaluation for the next three years. The 60-day Notice was published in the **Federal Register** on March 9, 2026 (91 FR 11339). IMLS received no comments in response to the Notice.

Agency: Institute of Museum and Library Services.

Title: Guidelines for IMLS Grants to States Five-Year Evaluation.

OMB Number: 3137-0090.

Agency Number: 3137.

Respondents/Affected Public: State Library Administrative Agencies.

Total Number of Annual Respondents: 12.

Frequency of Response: Once every five years.

Annual Average Hours per Response: 18 hours.

Total Estimated Number of Annual Burden Hours: 1,062 hours.

Total Annual Cost Burden (dollars): \$35,322.

Total Annual Federal Costs: \$2,164.

Dated: May 12, 2026.

Suzanne Mbollo,

Grants Management Specialist, Institute of Museum and Library Services.

[FR Doc. 2026-09684 Filed 5-13-26; 8:45 am]

BILLING CODE 7036-01-P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Institute of Museum and Library Services

Submission for OMB Review, Comment Request for Proposed Collection: IMLS Grants to States Program State Reporting System

AGENCY: Institute of Museum and Library Services, National Foundation on the Arts and the Humanities.

ACTION: Submission for OMB Review, request for comments on this collection of information.

SUMMARY: The Institute of Museum and Library Services (IMLS) announces the following information collection has been submitted to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. This law helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. This Notice proposes the clearance of the IMLS Grants to States Program State Reporting System.

A copy of the proposed information collection request can be obtained by contacting the individual listed below in the **FOR FURTHER INFORMATION CONTACT** section of this Notice.

DATES: Written comments must be submitted to the office listed in the **ADDRESSES** section below on or before June 17, 2026.

ADDRESSES: Written comments and recommendations for proposed information collection requests should be sent within 30 days of publication of this Notice to www.reginfo.gov/public/do/PRAMain. Find this particular information collection request by selecting "Institute of Museum and

Library Services" under "Currently Under Review;" then check "Only Show ICR for Public Comment" checkbox. Once you have found this information collection request, select "Comment," and enter or upload your comment and information. Alternatively, please mail your written comments to Office of Information and Regulatory Affairs, Attn.: OMB Desk Officer for Education, Office of Management and Budget, Room 10235, Washington, DC 20503, or call (202) 395-7316.

OMB is particularly interested in comments that help the agency to:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology (e.g., permitting electronic submission of responses).

FOR FURTHER INFORMATION CONTACT: Teri DeVoe, Associate Deputy Director for Grants to States, Office of Library Services, Institute of Museum and Library Services, 200 Constitution Ave. NW, Suite N-3627, Washington, DC 20210. Ms. DeVoe can be reached by telephone at 202-653-4778, or by email at tdevoe@imls.gov.

SUPPLEMENTARY INFORMATION:

I. Background

IMLS is the primary source of federal support for the nation's libraries and museums. The agency advances, supports, and empowers America's museums, libraries, and related organizations through grant making, research, and policy development. To learn more, visit www.imls.gov.

II. Current Actions

This Notice proposes the clearance of the IMLS Grants to States Program State Reporting System. The Grants to States program is the largest source of federal funding support for library services in the United States. Using a population-based formula, approximately \$180 million is distributed among the State

Library Administrative Agencies (SLAAs) every year. A SLAA is defined in the Library Services and Technology Act (20 U.S.C. 9122(3) and § 9122(4)) as “the official agency of a State charged by the law of the State with the extension and development of public library services through the state. SLAAs are located in in each of the 50 States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

Under 20 U.S.C. 9134, each state is required to submit a plan that details library services goals for a five-year period, along with associated certifications. Pursuant to 20 U.S.C. 9134(c), each SLAA that receives an IMLS grant under the Grants to States program is required to evaluate and report on all funded project activities to the agency prior to the end of the execution of its five-year plan. Each SLAA receives IMLS funding to support activities for the five-year period through a series of overlapping two-year grant awards. Each SLAA must file interim and final financial reports, and final performance reports for each of these two-year grants through IMLS’s State Program Report (SPR) system. The 60-day Notice was published in the **Federal Register** on March 10, 2026 (91 FR 11578). IMLS received no comments in response to the Notice.

Agency: Institute of Museum and Library Services.

Title: IMLS Grants to States Program State Reporting System.

OMB Number: 3137–0071.

Affected Public: State and Territory Library Administrative Agencies.

Total Number of Respondents: 59.

Frequency of Response: Annually for the State Program Report, once every five years for the embedded Site Visit Checklist.

Average Hours per Response: 47.83 hours for the State Program Report (annually), 20 hours for the embedded Site Visit Checklist (once every five years).

Total Burden Hours: 3,058.

Total Annual Cost Burden: \$101,708.

Total Annual Federal Costs: \$42,471.

Dated: May 12, 2026.

Suzanne Mbollo,

Grants Management Specialist, Institute of Museum and Library Services.

[FR Doc. 2026–09682 Filed 5–13–26; 8:45 am]

BILLING CODE 7036–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2025–0051]

Information Collection: NRC Form 277, Request for Visit

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of submission to the Office of Management and Budget; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has recently submitted a request for renewal of an existing collection of information to the Office of Management and Budget (OMB) for review. The information collection is entitled, NRC Form 277, “Request for Visit.”

DATES: Submit comments by June 15, 2026. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to <https://www.reginfo.gov/public/do/PRAMain>. Find this particular information collection by selecting “Currently under Review—Open for Public Comments” or by using the search function.

FOR FURTHER INFORMATION CONTACT: Heather Dempsey, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–0856; email: Infocollects.Resource@nrc.gov.

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2025–0051 when contacting the NRC about the availability of information for this action. You may obtain publicly available information related to this action by any of the following methods:

- *Federal Rulemaking Website:* Go to <https://www.regulations.gov> and search for Docket ID NRC–2025–0051.

- *NRC’s Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at <https://www.nrc.gov/reading-rm/adams.html>. To begin the search, select “Begin ADAMS Public Search.” For problems with ADAMS, please contact

the NRC’s Public Document Room (PDR) reference staff at 1–800–397–4209, at 301–415–4737, or by email to PDR.Resource@nrc.gov. The supporting statement and NRC Form 277 are available in ADAMS under Accession Nos. ML26072A320 and ML25196A115, respectively.

- *NRC’s PDR:* The PDR, where you may examine and order copies of publicly available documents, is open by appointment. To make an appointment to visit the PDR, please send an email to PDR.Resource@nrc.gov or call 1–800–397–4209 or 301–415–4737, between 8 a.m. and 4 p.m. eastern time (ET), Monday through Friday, except Federal holidays.

- *NRC’s Clearance Officer:* A copy of the collection of information and related instructions may be obtained without charge by contacting the NRC’s Acting Clearance Officer, Heather Dempsey, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–0856; email: Infocollects.Resource@nrc.gov.

B. Submitting Comments

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to <https://www.reginfo.gov/public/do/PRAMain>. Find this particular information collection by selecting “Currently under Review—Open for Public Comments” or by using the search function.

The NRC cautions you not to include identifying or contact information in comment submissions that you do not want to be publicly disclosed in your comment submission. All comment submissions are posted at <https://www.regulations.gov> and entered into ADAMS. Comment submissions are not routinely edited to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the OMB, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that comment submissions are not routinely edited to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Background

Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the NRC recently submitted a request for renewal of an

existing collection of information to OMB for review entitled, NRC Form 277, "Request for Visit." The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The NRC published a **Federal Register** notice with a 60-day comment period on this information collection on December 31, 2025, 90 FR 61438.

1. *The title of the information collection:* NRC Form 277, "Request for Visit."

2. *OMB approval number:* 3150-0051.

3. *Type of submission:* Extension.

4. *The form number, if applicable:* NRC Form 277.

5. *How often the collection is required or requested:* As needed.

6. *Who will be required or asked to respond:* Licensees and NRC contractors.

7. *The estimated number of annual responses:* 60.

8. *The estimated number of annual respondents:* 60.

9. *The estimated number of hours needed annually to comply with the information collection requirement or request:* 10.

10. *Abstract:* NRC Form 277 is completed by NRC contractors and licensees who have been granted an NRC access authorization and require verification of that access authorization and need-to-know due to (1) a visit to the NRC, (2) a visit to other contractors/licensees or government agencies in which access to classified information will be involved, or (3) unescorted area access is desired.

Authority: 42 U.S.C. 2011 *et seq.*

Dated: May 11, 2026.

For the Nuclear Regulatory Commission.

Heather Dempsey,

Acting NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 2026-09607 Filed 5-13-26; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

[NRC-2026-0430]

Information Collection: Notice of Enforcement Discretion (NOED) for Operating Power Reactors and Gaseous Diffusion Plants (GDP), NRC Enforcement Policy

AGENCY: Nuclear Regulatory Commission.

ACTION: Renewal of existing information collection; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) invites public comment on the renewal of Office of Management and Budget (OMB) approval for an existing collection of information. The information collection is entitled, "Notice of Enforcement Discretion (NOED) for Operating Power Reactors and Gaseous Diffusion Plants (GDP), NRC Enforcement Policy."

DATES: Submit comments by July 13, 2026. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

ADDRESSES: You may submit comments by any of the following methods; however, the NRC encourages electronic comment submission through the Federal rulemaking website:

- *Federal rulemaking website:* Go to <https://www.regulations.gov> and search for Docket ID NRC-2026-0430. Address questions about Docket IDs in *Regulations.gov* to Bridget Curran; telephone: 301-415-1003; email: Bridget.Curran@nrc.gov. For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

- *Mail comments to:* Heather Dempsey, Office of the Chief Information Officer, Mail Stop: T-6 A10M, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

For additional direction on obtaining information and submitting comments, see "Obtaining Information and Submitting Comments" in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Heather Dempsey, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone: 301-415-0856; email: Infocollects.Resource@nrc.gov.

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC-2026-0430 when contacting the NRC about the availability of information for this action. You may obtain publicly available information related to this action by any of the following methods:

- *Federal Rulemaking Website:* Go to <https://www.regulations.gov> and search for Docket ID NRC-2026-0430. A copy of the collection of information and related instructions may be obtained without charge by accessing Docket ID NRC-2026-0430 on this website.

- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at <https://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "Begin ADAMS Public Search." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, at 301-415-4737, or by email to PDR.Resource@nrc.gov. A copy of the collection of information and related instructions may be obtained without charge by accessing ADAMS Accession No. ML23362A014. The supporting statement is available in ADAMS under Accession No. ML26041A108.

- *NRC's PDR:* The PDR, where you may examine and order copies of publicly available documents, is open by appointment. To make an appointment to visit the PDR, please send an email to PDR.Resource@nrc.gov or call 1-800-397-4209 or 301-415-4737, between 8 a.m. and 4 p.m. eastern time (ET), Monday through Friday, except Federal holidays.

- *NRC's Clearance Officer:* A copy of the collection of information and related instructions may be obtained without charge by contacting the NRC's Acting Clearance Officer, Heather Dempsey, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone: 301-415-0856; email: Infocollects.Resource@nrc.gov.

B. Submitting Comments

The NRC encourages electronic comment submission through the Federal rulemaking website (<https://www.regulations.gov>). Please include Docket ID NRC-2026-0430, in your comment submission.

The NRC cautions you not to include identifying or contact information in comment submissions that you do not want to be publicly disclosed in your comment submission. All comment submissions are posted at <https://www.regulations.gov> and entered into ADAMS. Comment submissions are not routinely edited to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that comment submissions are not routinely edited to remove such information before making the comment submissions available to

the public or entering the comment into ADAMS.

II. Background

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the NRC is requesting public comment on its intention to request the OMB's approval for the information collection summarized as follows.

1. *The title of the information collection:* Notice of Enforcement Discretion (NOEDs) for Operating Power Reactors and Gaseous Diffusion Plants (GDP), NRC Enforcement Policy.

2. *OMB approval number:* 3150-0136.

3. *Type of submission:* Extension.

4. *The form number, if applicable:* Not applicable.

5. *How often the collection is required or requested:* On occasion.

6. *Who will be required or asked to respond:* Those licensees that voluntarily request enforcement discretion through the NOED process.

7. *The estimated number of annual responses:* 8 (4 reporting responses + 4 recordkeepers).

8. *The estimated number of annual respondents:* 4.

9. *The estimated number of hours needed annually to comply with the information collection requirement or request:* 680 (600 reporting + 80 recordkeeping).

10. *Abstract:* The NRC's Enforcement Policy includes the circumstances in which the NRC may grant a NOED. On occasion, circumstances arise when a power plant licensee's compliance with a Technical Specification (TS) Limiting Condition for Operation or any other license condition would involve an unnecessary plant shutdown or transient. Similarly, for a gaseous diffusion plant, circumstances may arise where compliance with a Technical Safety Requirement (TSR) or other condition would unnecessarily call for a total plant shutdown, or compliance would unnecessarily place the plant in a condition where safety, safeguards, or security features were degraded or inoperable. In these circumstances, a licensee or certificate holder may request that the NRC exercise enforcement discretion, and the NRC staff may choose to not enforce the applicable TS, TSR, or other license or certificate condition. This enforcement discretion is designated as a NOED. A licensee or certificate holder seeking the issuance of a NOED must justify, in accordance with NRC Enforcement Manual (ADAMS Accession No. ML22056A177), the safety basis for the request, including an evaluation of the safety significance and potential

consequences of the proposed request, a description of proposed compensatory measures, a justification for the duration of the request, the basis for the licensee's or certificate holder's conclusion that the request does not have a potential adverse impact on the public health and safety, and does not involve adverse consequences to the environment, and any other information the NRC staff deems necessary before making a decision to exercise discretion.

III. Specific Requests for Comments

The NRC is seeking comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility? Please explain your answer.

2. Is the estimate of the burden of the information collection accurate? Please explain your answer.

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the information collection on respondents be minimized, including the use of automated collection techniques or other forms of information technology?

Authority: 42 U.S.C. 2011 *et seq.*

Dated: May 11, 2026.

For the Nuclear Regulatory Commission.

Heather Dempsey,

Acting NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 2026-09606 Filed 5-13-26; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

[NRC-2025-1567]

Information Collection: NUREG/BR-0254, Payment Methods and NRC Form 629, Authorization for Payment by Credit Card

AGENCY: Nuclear Regulatory Commission.

ACTION: Renewal of existing information collection; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) invites public comment on the renewal of Office of Management and Budget (OMB) approval for an existing collection of information. The information collection is entitled, NUREG/BR-0254, "Payment Methods," and NRC Form 629, "Authorization for Payment by Credit Card."

DATES: Submit comments by July 13, 2026. Comments received after this date

will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

ADDRESSES: You may submit comments by any of the following methods (unless this document describes a different method for submitting comments on a specific subject); however, the NRC encourages electronic comment submission through the Federal rulemaking website:

- *Federal rulemaking website:* Go to <https://www.regulations.gov> and search for Docket ID NRC-2025-1567. Address questions about Docket IDs in *Regulations.gov* to Bridget Curran; telephone: 301-415-1003; email: Bridget.Curran@nrc.gov. For technical questions, contact the individual(s) listed in the For Further Information Contact section of this document.

- *Mail comments to:* Heather Dempsey, Office of the Chief Information Officer, Mail Stop: T-6 A10M, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

For additional direction on obtaining information and submitting comments, see "Obtaining Information and Submitting Comments" in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT:

Heather Dempsey, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone: 301-415-0856; email: Infocollects.Resource@nrc.gov.

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC-2025-1567 when contacting the NRC about the availability of information for this action. You may obtain publicly available information related to this action by any of the following methods:

- *Federal Rulemaking Website:* Go to <https://www.regulations.gov> and search for Docket ID NRC-2025-1567. A copy of the collection of information and related instructions may be obtained without charge by accessing Docket ID NRC-2025-1567 on this website.

- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at <https://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "Begin ADAMS Public Search." For

problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, at 301-415-4737, or by email to PDR.Resource@nrc.gov. A copy of the collection of information and related instructions may be obtained without charge by accessing ADAMS Accession Nos. ML25072A290 and ML26090A437. The supporting statement is available in ADAMS under Accession No: ML26027A125.

- **NRC's PDR:** The PDR, where you may examine and order copies of publicly available documents, is open by appointment. To make an appointment to visit the PDR, please send an email to PDR.Resource@nrc.gov or call 1-800-397-4209 or 301-415-4737, between 8 a.m. and 4 p.m. eastern time (ET), Monday through Friday, except Federal holidays.

- **NRC's Clearance Officer:** A copy of the collection of information and related instructions may be obtained without charge by contacting the NRC's Acting Clearance Officer, Heather Dempsey, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone: 301-415-0856; email: Infocollects.Resource@nrc.gov.

B. Submitting Comments

The NRC encourages electronic comment submission through the Federal rulemaking website (<https://www.regulations.gov>). Please include Docket ID NRC-2025-1567, in your comment submission.

The NRC cautions you not to include identifying or contact information in comment submissions that you do not want to be publicly disclosed in your comment submission. All comment submissions are posted at <https://www.regulations.gov> and entered into ADAMS. Comment submissions are not routinely edited to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that comment submissions are not routinely edited to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Background

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the NRC is requesting public comment on its intention to

request the OMB's approval for the information collection summarized as follows.

1. *The title of the information collection:* NUREG/BR-0254, "Payment Methods," and NRC Form 629, "Authorization for Payment by Credit Card."

2. *OMB approval number:* 3150-0190.

3. *Type of submission:* Revision.

4. *The form number, if applicable:* NRC Form 629.

5. *How often the collection is required or requested:* As needed.

6. *Who will be required or asked to respond:* NRC licensees.

7. *The estimated number of annual responses:* 700.

8. *The estimated number of annual respondents:* 700—There are no record-keeping requirements associated with this collection.

9. *The estimated number of hours needed annually to comply with the information collection requirement or request:* 116.

10. *Abstract:* The NRC bills licensees, applicants, and individuals for civil penalties, licensing fees, inspection fees, and other fees. The four methods used to pay bills owed to the NRC are: (1) Payment by Automated Clearinghouse Network (ACH); (2) Payment by Credit Card; (3) Payment by Electronic Funds Transfer/FedWire; and (4) Payment by Digital Wallet (PayPal and Venmo). NUREG/BR-0254, "Payment Methods" provides instructions on how to transfer monies owed to the NRC; no information is collected by the NRC in using this brochure. NRC Form 629, "Authorization for Payment by Credit Card" is used to authorize collection of credit card payment information which is done so exclusively through *Pay.gov*.

III. Specific Requests for Comments

The NRC is seeking comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility? Please explain your answer.

2. Is the estimate of the burden of the information collection accurate? Please explain your answer.

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the information collection on respondents be minimized, including the use of automated collection techniques or other forms of information technology?

(Authority: 42 U.S.C. 2011 *et seq.*)

Dated: May 12, 2026.

For the Nuclear Regulatory Commission.

Heather Dempsey,

Acting NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 2026-09675 Filed 5-13-26; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

[NRC-2025-1534]

Information Collection: Nondiscrimination on the Basis of Sex in Educational Programs or Activities Receiving Federal Financial Assistance

AGENCY: Nuclear Regulatory Commission.

ACTION: Renewal of existing information collection; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) invites public comment on the renewal of Office of Management and Budget (OMB) approval for an existing collection of information. The information collection is entitled, "Nondiscrimination on the Basis of Sex in Educational Programs or Activities Receiving Federal Financial Assistance."

DATES: Submit comments by July 13, 2026. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

ADDRESSES: You may submit comments by any of the following methods; however, the NRC encourages electronic comment submission through the Federal rulemaking website:

- Federal rulemaking website: Go to <https://www.regulations.gov> and search for Docket ID NRC-2025-1534. Address questions about Docket IDs in *Regulations.gov* to Bridget Curran; telephone: 301-415-1003; email: Bridget.Curran@nrc.gov. For technical questions, contact the individual(s) listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

- *Mail comments to:* Heather Dempsey, Office of the Chief Information Officer, Mail Stop: T-6 A10M, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

For additional direction on obtaining information and submitting comments, see "Obtaining Information and Submitting Comments" in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Heather Dempsey, Office of the Chief

Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone: 301-415-0856; email: Infocollects.Resource@nrc.gov.

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC-2025-1534 when contacting the NRC about the availability of information for this action. You may obtain publicly available information related to this action by any of the following methods:

- *Federal Rulemaking website*: Go to <https://www.regulations.gov> and search for Docket ID NRC-2025-1534.

- *NRC's Agencywide Documents Access and Management System (ADAMS)*: You may obtain publicly available documents online in the ADAMS Public Documents collection at <https://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "Begin ADAMS Public Search." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, at 301-415-4737, or by email to PDR.Resource@nrc.gov. The supporting statement is available in ADAMS under Accession No. ML26100A125.

- *NRC's PDR*: The PDR, where you may examine and order copies of publicly available documents, is open by appointment. To make an appointment to visit the PDR, please send an email to PDR.Resource@nrc.gov or call 1-800-397-4209 or 301-415-4737, between 8 a.m. and 4 p.m. eastern time (ET), Monday through Friday, except Federal holidays.

- *NRC's Clearance Officer*: A copy of the collection of information and related instructions may be obtained without charge by contacting the NRC's Acting Clearance Officer, Heather Dempsey, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone: 301-415-0856; email: Infocollects.Resource@nrc.gov.

B. Submitting Comments

The NRC encourages electronic comment submission through the Federal rulemaking website (<https://www.regulations.gov>). Please include Docket ID NRC-2025-1534, in your comment submission.

The NRC cautions you not to include identifying or contact information in comment submissions that you do not want to be publicly disclosed in your comment submission. All comment submissions are posted at [https://](https://www.regulations.gov)

www.regulations.gov and entered into ADAMS. Comment submissions are not routinely edited to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that comment submissions are not routinely edited to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Background

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the NRC is requesting public comment on its intention to request the OMB's approval for the information collection summarized as follows.

1. *The title of the information collection*: Nondiscrimination on the Basis of Sex in Educational Programs or Activities Receiving Federal Financial Assistance.

2. *OMB approval number*: 3150-0209.

3. *Type of submission*: Extension.

4. *The form number, if applicable*: Not applicable.

5. *How often the collection is required or requested*: Annually.

6. *Who will be required or asked to respond*: All recipients that receive Federal financial assistance from the NRC.

7. *The estimated number of annual responses*: 600.

8. *The estimated number of annual respondents*: 600.

9. *The estimated number of hours needed annually to comply with the information collection requirement or request*: 2,050.

10. *Abstract*: The regulations under part 5 of title 10 of the *Code of Federal Regulations* implement the provisions of Title IX of the Education Amendments of 1972, as amended, except section 904 and 906 of those amendments (20 U.S.C. 1681, 1682, 1683, 1685, 1686, 1687, 1688 and *Bostock v. Clayton County, Georgia* under Title VII of the Civil Rights Act of 1964, 42 U.S.C. 2000e et seq., 140 S. Ct. 1731, 1741, 590 U.S.). The provisions are designed to eliminate, with certain exceptions, discrimination on the basis of sex in any education program or activity receiving Federal financial assistance (FFA), whether or not such program or activity is offered or sponsored by an educational institution as defined in the Title IX regulations. Except as provided

in §§ 5.205 through 5.235(a), the Title IX regulations apply to every recipient and to each education program or activity operated by the recipient that receives FFA from the NRC.

III. Specific Requests for Comments

The NRC is seeking comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility? Please explain your answer.

2. Is the estimate of the burden of the information collection accurate? Please explain your answer.

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the information collection on respondents be minimized, including the use of automated collection techniques or other forms of information technology?

Authority: 42 U.S.C. 2011 *et seq.*

Dated: May 11, 2026.

For the Nuclear Regulatory Commission.

Heather Dempsey,

Acting NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 2026-09605 Filed 5-13-26; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

[NRC-2026-0067]

Information Collection: NRC Form 974, Privacy Act Compliant Form

AGENCY: Nuclear Regulatory Commission.

ACTION: Renewal of existing information collection; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) invites public comment on the renewal of Office of Management and Budget (OMB) approval for an existing collection of information. The information collection is entitled, NRC Form 974, "Privacy Act Compliant Form."

DATES: Submit comments by July 13, 2026. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

ADDRESSES: You may submit comments by any of the following methods however, the NRC encourages electronic comment submission through the Federal rulemaking website:

- *Federal rulemaking website*: Go to <https://www.regulations.gov> and search

for Docket ID NRC–2026–0067. Address questions about Docket IDs in *Regulations.gov* to Bridget Curran; telephone: 301–415–1003; email: *Bridget.Curran@nrc.gov*. For technical questions, contact the individual(s) listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

• *Mail comments to:* Heather Dempsey, Office of the Chief Information Officer, Mail Stop: T–6 A10M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

For additional direction on obtaining information and submitting comments, see “Obtaining Information and Submitting Comments” in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Heather Dempsey, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–0856; email: *Infocollects.Resource@nrc.gov*.

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2026–0067 when contacting the NRC about the availability of information for this action. You may obtain publicly available information related to this action by any of the following methods:

• *Federal Rulemaking website:* Go to <https://www.regulations.gov> and search for Docket ID NRC–2026–0067. A copy of the collection of information and related instructions may be obtained without charge by accessing Docket ID NRC–2026–0067 on this website.

• *NRC’s Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at <https://www.nrc.gov/reading-rm/adams.html>. To begin the search, select “Begin ADAMS Public Search.” For problems with ADAMS, please contact the NRC’s Public Document Room (PDR) reference staff at 1–800–397–4209, at 301–415–4737, or by email to *PDR.Resource@nrc.gov*. A copy of the collection of information and related instructions may be obtained without charge by accessing ADAMS Accession No. ML26100A209. The supporting statement and Draft Supporting Statement is available in ADAMS under Accession No. ML26014A074.

• *NRC’s PDR:* The PDR, where you may examine and order copies of publicly available documents, is open

by appointment. To make an appointment to visit the PDR, please send an email to *PDR.Resource@nrc.gov* or call 1–800–397–4209 or 301–415–4737, between 8 a.m. and 4 p.m. eastern time (ET), Monday through Friday, except Federal holidays.

• *NRC’s Clearance Officer:* A copy of the collection of information and related instructions may be obtained without charge by contacting the NRC’s Acting Clearance Officer, Heather Dempsey, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–0856; email: *Infocollects.Resource@nrc.gov*.

B. Submitting Comments

The NRC encourages electronic comment submission through the Federal rulemaking website (<https://www.regulations.gov>). Please include Docket ID NRC–2026–0067, in your comment submission.

The NRC cautions you not to include identifying or contact information in comment submissions that you do not want to be publicly disclosed in your comment submission. All comment submissions are posted at <https://www.regulations.gov> and entered into ADAMS. Comment submissions are not routinely edited to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that comment submissions are not routinely edited to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Background

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the NRC is requesting public comment on its intention to request the OMB’s approval for the information collection summarized as follows.

1. *The title of the information collection:* NRC Form 974, Privacy Act Compliant Form.
2. *OMB approval number:* 3150–0262.
3. *Type of submission:* Extension.
4. *The form number, if applicable:* NRC Form 974.
5. *How often the collection is required or requested:* On occasion.
6. *Who will be required or asked to respond:* The public.

7. *The estimated number of annual responses:* 12.

8. *The estimated number of annual respondents:* 12.

9. *The estimated number of hours needed annually to comply with the information collection requirement or request:* 3.

10. *Abstract:* The NRC provides an electronic process that allows members of the public to voluntarily submit complaints regarding the NRC’s privacy data collection practices. Complainants may provide the following information: name, telephone number, email address, a summary of the privacy complaint, a summary of any steps already taken by the complainant or the NRC to resolve the issue, and the preferred method of contact.

III. Specific Requests for Comments

The NRC is seeking comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility? Please explain your answer.
2. Is the estimate of the burden of the information collection accurate? Please explain your answer.
3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?
4. How can the burden of the information collection on respondents be minimized, including the use of automated collection techniques or other forms of information technology?

Authority: 42 U.S.C. 2011 *et seq.*

Dated: May 12, 2026.

For the Nuclear Regulatory Commission.

Heather Dempsey,

Acting NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 2026–09676 Filed 5–13–26; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

Agency Information Collection Activities; Renewal of an Existing Information Collection: Optional Form 306, Declaration for Federal Employment

AGENCY: Office of Personnel Management.

ACTION: 60-Day notice and request for comments.

SUMMARY: The Office of Personnel Management (OPM), Suitability Executive Agent Programs, is notifying the general public and Federal agencies that OPM proposes to request the Office

of Management and Budget (OMB) renew a previously approved information collection, Optional Form 306 (OF 306), *Declaration for Federal Employment*, without change.

DATES: Comments must be received on or before July 13, 2026.

ADDRESSES: You may submit comments on the Federal Rulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing at <http://www.regulations.gov> as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Joe Knouff, Director, Suitability Executive Agent Programs, U.S. Office of Personnel Management, P.O. Box 699, Slippery Rock, PA 16057, or by email at SuitEA@opm.gov.

SUPPLEMENTARY INFORMATION: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3506(c)(2)(A)), OPM provides the general public and Federal agencies an opportunity to comment on this proposed renewal of an information collection. This process helps ensure that the collection is necessary for the proper performance of agency functions, minimizes public burden, and enhances the practical utility of the information collected.

The OF 306 is completed by applicants who are under consideration for Federal or Federal contract employment. The information collected on this form is mainly used to determine a person's acceptability for Federal and Federal contract employment, and that person's retirement status and life insurance enrollment. The information on this form may be used in conducting an investigation to determine a person's suitability or ability to hold a security clearance, and it may be disclosed to authorized officials making similar, subsequent determinations. The form asks for personal identifying data and information about violations of the law, past convictions, imprisonments, probations, parole, military court martial, delinquency on a Federal debt, Selective Service Registration, United States military service, Federal civilian or military retirement benefits received or applied for, and life insurance enrollment. The information collected can be obtained at the pre-appointment stage and may support preliminary eligibility and suitability screening;

additional investigative forms may be required where appropriate.

A copy of the proposed information collection and the associated instructions are available at: https://www.opm.gov/forms/pdf_fill/of0306.pdf. OPM is not proposing any revisions to the form at this time.

OPM invites comments on:

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 respondents, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

ANALYSIS

Agency: Suitability Executive Agent Program, Office of Personnel Management.

Title: Optional Form 306 (OF 306), Declaration for Federal Employment.

OMB Number: 3206-0182.

Frequency: On occasion.

Affected Public: Individuals or households.

Number of Respondents: 217,102.

Estimated Time per Respondent: 15 minutes.

Total Burden Hours: 54,276 hours.

Office of Personnel Management.

Alexys Stanley,

Federal Register Liaison.

[FR Doc. 2026-09678 Filed 5-13-26; 8:45 am]

BILLING CODE 6325-66-P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2026-236 and K2026-235; MC2026-237 and K2026-236]

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:* May 19, 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:

Table of Contents

- I. Introduction
- II. Public Proceeding(s)
- III. Summary Proceeding(s)

I. Introduction

Pursuant to 39 CFR 3041.405, the Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to Competitive negotiated service agreement(s). The request(s) may propose the addition of a negotiated service agreement from the Competitive product list or the modification of an existing product currently appearing on the Competitive product list.

The public portions of the Postal Service's request(s) can be accessed via the Commission's website (<http://www.prc.gov>). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3011.301.¹

Section II identifies the docket number(s) associated with each Postal Service request, if any, that will be reviewed in a public proceeding as defined by 39 CFR 3010.101(p), the title of each such request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each such request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 and 39 CFR 3000.114 (Public Representative). The Public Representative does not represent any individual person, entity or particular point of view, and, when Commission attorneys are appointed, no attorney-client relationship is established. Section II also establishes comment deadline(s) pertaining to each such request.

The Commission invites comments on whether the Postal Service's request(s) identified in Section II, if any, are consistent with the policies of title 39. Applicable statutory and regulatory

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).

requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3035, and 39 CFR part 3041. Comment deadline(s) for each such request, if any, appear in Section II.

Section III identifies the docket number(s) associated with each Postal Service request, if any, to add a standardized distinct product to the Competitive product list or to amend a standardized distinct product, the title of each such request, the request's acceptance date, and the authority cited by the Postal Service for each request. Standardized distinct products are negotiated service agreements that are variations of one or more Competitive products, and for which financial models, minimum rates, and classification criteria have undergone advance Commission review. *See* 39 CFR 3041.110(n); 39 CFR 3041.205(a). Such requests are reviewed in summary proceedings pursuant to 39 CFR 3041.325(c)(2) and 39 CFR 3041.505(f)(1). Pursuant to 39 CFR 3041.405(c)-(d), the Commission does not appoint a Public Representative or request public comment in proceedings to review such requests. The comment due date discussed below does not apply to Section III proceedings (Docket Nos. MC2026–236 and K2026–235).

II. Public Proceeding(s)

1. *Docket No(s).*: MC2026–237 and K2026–236; *Filing Title*: USPS Request to Add Parcel Select Contract 64 to the Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date*: May 11, 2026; *Filing Authority*: 39 U.S.C. 3642, 39 CFR 3035.105, and 39 CFR 3041.310; *Public Representative*: Christopher Mohr; *Comments Due*: May 19, 2026.

III. Summary Proceeding(s)

1. *Docket No(s).*: MC2026–236 and K2026–235; *Filing Title*: USPS Request to Add New Fulfillment Standardized Distinct Product, PM–GA Contract 984, and Notice of Filing Materials Under Seal; *Filing Acceptance Date*: May 11, 2026; *Filing Authority*: 39 U.S.C. 3642 and 3633, 39 CFR 3035.105, and 39 CFR 3041.325.

This Notice will be published in the **Federal Register**.

Danielle LeFlore,
Legal Assistant.

[FR Doc. 2026–09621 Filed 5–13–26; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL SERVICE

Change in Rates and Classifications of General Applicability for Competitive Products

AGENCY: Postal Service.

ACTION: Notice of a change in rates and classifications of general applicability for competitive products.

SUMMARY: This notice sets forth changes in rates and classifications of general applicability for competitive products.

DATES: *Effective date:* July 12, 2026.

FOR FURTHER INFORMATION CONTACT: Elizabeth Reed, 202–268–3179.

SUPPLEMENTARY INFORMATION: On May 8, 2026, pursuant to their authority under 39 U.S.C. 3632, the Governors of the Postal Service established price and classification changes for competitive products. The Governors' Decision and the record of proceedings in connection with such decision are reprinted below in accordance with section 3632(b)(2). Mail Classification Schedule language containing the new prices can be found at www.prc.gov.

Colleen Hibbert-Kapler,

Attorney, Ethics and Legal Compliance.

Decision of the Governors of the United States Postal Service on Changes in Rates and Classifications of General Applicability for Competitive Products (Governors' Decision No. 26–2)

May 8, 2026

Statement of Explanation and Justification

Pursuant to our authority under section 3632 of title 39, as amended by the Postal Accountability and Enhancement Act of 2006 (“PAEA”), we establish prices and classifications of general applicability for the Postal Service's competitive products. The changes are described generally below, with a detailed description of the changes in the Postal Service's associated draft Mail Classification Schedule change document. That document contains the draft Mail Classification Schedule sections with classification changes in legislative format, and new prices displayed in the price charts.

As shown in the nonpublic annex being filed under seal herewith, the changes we establish should enable each competitive product to cover its attributable costs (39 U.S.C. 3633(a)(2)) and should result in competitive products as a whole complying with 39 U.S.C. 3633(a)(3), which, as implemented by 39 CFR 3035.107(c), requires competitive products

collectively to contribute a minimum of 8.0 percent to the Postal Service's institutional costs. Accordingly, no issue of subsidization of competitive products by market dominant products should arise (39 U.S.C. 3633(a)(1)). We therefore find that the new prices are in accordance with 39 U.S.C. 3632–3633 and 39 CFR 3035.102.

I. Domestic Products

A. Priority Mail Express

Priority Mail Express prices will remain unchanged for July 2026, and the existing structure of zoned Retail and Commercial price categories will be maintained. Dimensional weighting will have its dim divisor changed from 166 to 139 to better align with industry standard.

Two new fees related to the processing of packages containing Hazardous Materials will be introduced. A HazMat Handling Fee for Priority Mail Express will be \$7.50 to cover the costs of manual handling required when HazMat items fly. Also, a HazMat Noncompliance Fee of \$50 will be applied to any competitive commercial product when Hazardous Materials are detected but the customer did not appropriately declare and label them.

B. Priority Mail

Priority Mail prices will remain unchanged for July 2026, and the existing structure of zoned Retail and Commercial price categories will be maintained. Dimensional weighting will have its dim divisor changed from 166 to 139 to better align with industry standard.

Two new fees related to the processing of packages containing Hazardous Materials will be introduced. A HazMat Handling Fee for Priority Mail will be \$7.50 to cover the costs of manual handling required when HazMat items fly. Also, a HazMat Noncompliance Fee of \$50 will be applied to any competitive commercial product when Hazardous Materials are detected but the customer did not appropriately declare and label them.

C. Parcel Select

Parcel Select outbound prices will remain unchanged for July 2026, and the existing structure will be maintained. The price for Parcel Select Forwarding and Returns, currently set at \$3.80, will increase to \$6.00 for July 2026 in order to better drive address quality. For customers using Address Correction Service (ACS) with Shipper Paid Forwarding/Return, the price will increase from \$3.20 to \$5.40. Dimensional weighting will have its

dim divisor changed from 166 to 139 to better align with industry standard. The definition of Connect Local will be expanded to allow the use of USPS Smart Lockers as a drop off or pickup location.

Two new fees related to the processing of packages containing Hazardous Materials will be introduced. A HazMat Handling Fee for Parcel Select will be established but set at \$0 initially, with the option for the fee to increase in the future. Also, a HazMat Noncompliance Fee of \$50 will be applied to any competitive commercial product when Hazardous Materials are detected but the customer did not appropriately declare and label them.

D. USPS Ground Advantage

USPS Ground Advantage prices will largely remain unchanged for July 2026, except that the ounce-based rate differentiation for USPS Ground Advantage Commercial will be eliminated. This change results in an average price increase of 11.8 percent for USPS Ground Advantage Commercial. Retail prices will remain unchanged. Dimensional weighting will have its dim divisor changed from 166 to 139 to better align with industry standard.

Two new fees related to the processing of packages containing Hazardous Materials will be introduced. A HazMat Handling Fee for USPS Ground Advantage will be established but set at \$0 initially, with the option for the fee to increase in the future. Also, a HazMat Noncompliance Fee of \$50 will be applied to any competitive commercial product when Hazardous Materials are detected but the customer did not appropriately declare and label them.

F. Domestic Extra Services

Competitive Post Office Box prices will be increasing 3.0 percent on average, within the existing price ranges. Classification changes will be made to the definition of Package Intercept so that intercepted packages will use the original product and rate category, rather than always being forwarded or returned via Priority Mail.

New for July 2026, an Addresses API service and pricing will be introduced under Address Enhancement Services. The Addresses API service will validate and correct address information to improve package and mail delivery service. Monthly tiered pricing will vary based on the number of record requests. While the Addresses API service is similar to the existing AMS API service, both offerings will continue for the foreseeable future. Most customers are

expected to migrate to the Addresses API offering over time.

The remaining Extra Services will not receive any price or classification changes. No price or classification changes are being made to International competitive products for July 2026.

Order

The changes in prices and classes set forth herein shall be effective at 12:01 a.m. on July 12, 2026. We direct the Secretary of the Board of Governors Office to have this decision published in the **Federal Register** in accordance with 39 U.S.C. 3632(b)(2) and direct management to file with the Postal Regulatory Commission appropriate notice of these changes.

By The Governors:

/s/

Amber F. McReynolds,
Chair, Board of Governors.

United States Postal Service Office of the Board of Governors

Certification of Governors' Vote On Governors' Decision No. 26–2

Consistent with 39 U.S.C. 3632(a), I hereby certify that, on May 8, 2026, the Governors voted on adopting Governors' Decision No. 26–2, and that a majority of the Governors then holding office voted in favor of that Decision.

Date: May 8, 2026

/s/

Lucy C. Trout,
Acting Secretary of the Board of Governors.

[FR Doc. 2026–09584 Filed 5–13–26; 8:45 am]

BILLING CODE 7710–12–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–105439; File No. SR–NASDAQ–2026–040]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Establish Fees for Industry Members Related to Reasonably Budgeted CAT Costs of the National Market System Plan Governing the Consolidated Audit Trail for May 1, 2026 Through December 31, 2026

May 11, 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 April 27, 2026, The Nasdaq Stock Market LLC

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

(“Nasdaq” or “Exchange”) filed with the Securities and Exchange Commission (“SEC” or “Commission”) the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to establish fees for Industry Members³ related to reasonably budgeted CAT costs of the National Market System Plan Governing the Consolidated Audit Trail (the “CAT NMS Plan” or “Plan”) for the period from May 1, 2026 through December 31, 2026. These fees would be payable to Consolidated Audit Trail, LLC (“CAT LLC” or the “Company”) and referred to as CAT Fee 2026–1, and would be described in a section of the Exchange's fee schedule entitled “Consolidated Audit Trail Funding Fees.” The fee rate for CAT Fee 2026–1 would be \$0.000001 per executed equivalent share. CAT Executing Brokers will receive their first monthly invoice for CAT Fee 2026–1 in June 2026 calculated based on their transactions as CAT Executing Brokers for the Buyer (“CEBB”) and/or CAT Executing Brokers for the Seller (“CEBS”) in May 2026. As described further below, CAT Fee 2026–1 is anticipated to be in place for eight months, and is anticipated to recover approximately two-thirds of the costs set forth in the reasonably budgeted CAT costs for 2026.

The text of the proposed rule change is available on the Exchange's website at <https://listingcenter.nasdaq.com/rulebook/nasdaq/rulefilings>, and at the principal office of the Exchange.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set

³ An “Industry Member” is defined as “a member of a national securities exchange or a member of a national securities association.” See Rule General 7, Section 1. See also Section 1.1 of the CAT NMS Plan. Unless otherwise specified, capitalized terms used in this rule filing are defined as set forth in the CAT NMS Plan and/or the CAT Compliance Rule. See Rule General 7 (Consolidated Audit Trail Compliance).

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

On July 11, 2012, the Commission adopted Rule 613 of Regulation NMS, which required the self-regulatory organizations ("SROs") to submit a national market system ("NMS") plan to create, implement and maintain a consolidated audit trail that would capture customer and order event information for orders in NMS securities across all markets, from the time of order inception through routing, cancellation, modification or execution.⁴ On November 15, 2016, the Commission approved the CAT NMS Plan.⁵ Under the CAT NMS Plan, the Operating Committee has the discretion to establish funding for CAT LLC to operate the CAT, including establishing fees for Industry Members to be assessed by CAT LLC that would be implemented on behalf of CAT LLC by the Participants.⁶ The Operating Committee adopted a revised funding model to fund the CAT ("CAT Funding Model"). On March 16, 2026, the Commission approved the CAT Funding Model after concluding that the model satisfied the requirements of Section 11A of the Exchange Act and Rule 608 thereunder.⁷

The CAT Funding Model provides a framework for the recovery of the costs to create, develop and maintain the CAT, including providing a method for allocating costs to fund the CAT among Participants and Industry Members. The CAT Funding Model establishes two categories of fees: (1) CAT fees assessed by CAT LLC and payable by certain Industry Members to recover a portion of historical CAT costs previously paid by the Participants ("Historical CAT Assessment" fees); and (2) CAT fees assessed by CAT LLC and payable by Participants and Industry Members to

fund prospective CAT costs ("CAT Fees").⁸

Under the CAT Funding Model, Participants, CEBBs and CEBs are subject to fees designed to cover the ongoing budgeted costs of the CAT, as determined by the Operating Committee. "The Operating Committee will establish fees ('CAT Fees') to be payable by Participants and Industry Members with regard to CAT costs not previously paid by the Participants ('Prospective CAT Costs')." ⁹ In establishing a CAT Fee, the Operating Committee will calculate a "Fee Rate" for the relevant period. Then, for each month in which a CAT Fee is in effect, each CEBB and CEB would be required to pay the fee for each transaction in Eligible Securities executed by the CEBB or CEBs from the prior month as set forth in CAT Data, where the fee for each transaction will be calculated by multiplying the number of executed equivalent shares in the transaction by one-third and by the Fee Rate.

The CAT Fees to be paid by CEBBs and CEBs are designed to contribute toward the recovery of two-thirds of the budgeted CAT costs for the relevant period.¹⁰ The CAT Funding Model is designed to require that the Participants contribute to the recovery of the remaining one-third of the budgeted CAT costs.¹¹ Participants would be subject to the same Fee Rate as CEBBs and CEBs.¹² While CAT Fees charged to Industry Members become effective in accordance with the requirements of Section 19(b) of the Exchange Act,¹³ CAT fees charged to Participants are implemented via an approval of the CAT fees by the Operating Committee in accordance with the requirements of the CAT NMS Plan.¹⁴ Accordingly, this filing does not address Participant CAT fees as they are described in the CAT NMS Plan.¹⁵

⁸ Under the CAT Funding Model, the Operating Committee may establish CAT Fees related to CAT costs going forward. Section 11.3(a) of the CAT NMS Plan. This filing only establishes CAT Fee 2026-1 related to reasonably budgeted CAT costs for the period from May 1, 2026 through December 31, 2026 as described herein; it does not address any other potential CAT Fees related to CAT costs. Any such other CAT Fee will be subject to a separate fee filing. In addition, under the CAT Funding Model, the Operating Committee may establish one or more Historical CAT Assessments. Section 11.3(b) of the CAT NMS Plan. This filing does not address any Historical CAT Assessments.

⁹ Section 11.3(a) of the CAT NMS Plan.

¹⁰ Section 11.3(a)(iii)(A) of the CAT NMS Plan.

¹¹ Section 11.3(a)(ii)(A) of the CAT NMS Plan.

¹² Section 11.3(a)(ii) of the CAT NMS Plan.

¹³ Section 11.3(a)(i)(A)(I) of the CAT NMS Plan.

¹⁴ CAT Funding Model Approval Order at 13448.

¹⁵ See Section 11.3(a)(ii) and Appendix B of the CAT NMS Plan.

CAT LLC proposes to charge CEBBs and CEBs (as described in more detail below) CAT Fee 2026-1 to recover the reasonably budgeted CAT costs for the period from May 1, 2026 through December 31, 2026 in accordance with the CAT Funding Model. To implement this fee on behalf of CAT LLC, the CAT NMS Plan requires the Participants to "file with the SEC under Section 19(b) of the Exchange Act any such fees on Industry Members that the Operating Committee approves, and such fees shall be labeled as 'Consolidated Audit Trail Funding Fees.'" ¹⁶ The Plan further states that "[o]nce the Operating Committee has approved such Fee Rate, the Participants shall be required to file with the SEC pursuant to Section 19(b) of the Exchange Act CAT Fees to be charged to Industry Members calculated using such Fee Rate." ¹⁷ Accordingly, the purpose of this filing is to implement a CAT Fee on behalf of CAT LLC for Industry Members, referred to as CAT Fee 2026-1, in accordance with the CAT NMS Plan.

(1) CAT Executing Brokers

CAT Fee 2026-1 will be charged to each CEBB and CEBs for each applicable transaction in Eligible Securities.¹⁸ The CAT NMS Plan defines a "CAT Executing Broker" to mean:

(a) with respect to a transaction in an Eligible Security that is executed on an exchange, the Industry Member identified as the Industry Member responsible for the order on the buy-side of the transaction and the Industry Member responsible for the sell-side of the transaction in the equity order trade event and option trade event in the CAT Data submitted to the CAT by the relevant exchange pursuant to the Participant Technical Specifications; and (b) with respect to a transaction in an Eligible Security that is executed otherwise than on an exchange and required to be reported to an equity trade reporting facility of a registered national securities association, the Industry Member identified as the executing broker and the Industry Member identified as the contra-side executing broker in the TRF/ORF/ADF transaction data event in the CAT Data submitted to the CAT by FINRA

¹⁶ Section 11.1(b) of the CAT NMS Plan.

¹⁷ Section 11.3(a)(i)(A)(I) of the CAT NMS Plan.

¹⁸ In its approval of the CAT Funding Model, the Commission determined that charging CAT fees to CAT Executing Brokers was appropriate. In reaching this conclusion, the Commission noted that the use of CAT Executing Brokers is appropriate because the CAT Funding Model is based upon the calculation of *executed* equivalent shares, and, therefore, charging CAT Executing Brokers would reflect their executing role in each transaction. Furthermore, the Commission noted that, because CAT Executing Brokers are already identified in transaction reports from the exchanges and FINRA's equity trade reporting facilities recorded in CAT Data, charging CAT Executing Brokers could streamline the billing process. CAT Funding Model Approval Order at 13413.

⁴ Securities Exchange Act Rel. No. 67457 (July 18, 2012), 77 FR 45722 (Aug. 1, 2012).

⁵ Securities Exchange Act Rel. No. 79318 (Nov. 15, 2016), 81 FR 84696 (Nov. 23, 2016) ("CAT NMS Plan Approval Order").

⁶ Section 11.1(b) of the CAT NMS Plan.

⁷ Securities Exchange Act Rel. No. 105003 (Mar. 16, 2026), 91 FR 13410 (Mar. 19, 2026) ("CAT Funding Model Approval Order"). This CAT Funding Model replaced the prior funding model that was approved by the Commission on September 6, 2023. Securities Exchange Act Rel. No. 98290 (Sept. 6, 2023), 88 FR 62628 (Sept. 12, 2023).

pursuant to the Participant Technical Specifications; provided, however, in those circumstances where there is a non-Industry Member identified as the contra-side executing broker in the TRF/ORF/ADF transaction data event or no contra-side

executing broker is identified in the TRF/ORF/ADF transaction data event, then the Industry Member identified as the executing broker in the TRF/ORF/ADF transaction data event would be treated as CAT Executing Broker for the Buyer and for the Seller.¹⁹

The following fields of the Participant Technical Specifications indicate the CAT Executing Brokers for the transactions executed on an exchange:

EQUITY ORDER TRADE (EOT)²⁰

No.	Field name	Data type	Description	Include key
12.n.8/13.n.8	member	Member Alias	The identifier for the member firm that is responsible for the order on this side of the trade. Not required if there is no order for the side as indicated by the NOBUYID/NOSELLID instruction. This must be provided if orderID is provided.	C

OPTION TRADE (OT)²¹

No.	Field name	Data type	Description	Include key
16.n.13/17.n.13	member	Member Alias	The identifier for the member firm that is responsible for the order.	R

In addition, the following fields of the Participant Technical Specifications would indicate the CAT Executing

Brokers for the transactions executed otherwise than on an exchange:

TRF/ORF/ADF TRANSACTION DATA EVENT (TRF)²²

No.	Field name	Data type	Description	Include key
26	reportingExecutingMpid	Member Alias	MPID of the executing party	R
28	contraExecutingMpid	Member Alias	MPID of the contra-side executing party.	C

(2) Calculation of Fee Rate 2026–1

The Operating Committee determined the Fee Rate to be used in calculating CAT Fee 2026–1 (“Fee Rate 2026–1”) by dividing the reasonably budgeted CAT costs (“Budgeted CAT Costs 2026–1”) for the period from May 1, 2026 through December 31, 2026 (“CAT Fee 2026–1 Period”) by the reasonably projected total executed share volume of all transactions in Eligible Securities for the eight-month recovery period, as discussed in detail below.²³ Based on this calculation, the Operating Committee has determined that Fee Rate 2026–1 would be \$0.000003799483243631228 per executed equivalent share. This rate is then divided by three and rounded to

determine the fee rate of \$0.000001 per executed equivalent share that will be assessed to CEBBs and CEBs, as also discussed in detail below.

(A) CAT Fee 2026–1 Period

CAT LLC proposes to implement CAT Fee 2026–1. CAT LLC proposes to commence CAT Fee 2026–1 during the year, rather than at the beginning of the year. Accordingly, CAT Fee 2026–1 “would be calculated as described in paragraph (II)” of Section 11.3(a)(i)(A) of the CAT NMS Plan,²⁴ which states that “[d]uring each year, the Operating Committee will calculate a new Fee Rate by dividing the reasonably budgeted CAT costs for the remainder of the year by the reasonably projected total

executed equivalent share volume of all transactions in Eligible Securities for the remainder of the year.”²⁵ For CAT Fee 2026–1, the reasonably budgeted CAT costs for “the remainder of the year” are the reasonably budgeted CAT costs from May 1, 2026 through December 31, 2026 as set forth in the updated annual budget for 2026 for CAT LLC approved by the Operating Committee on March 31, 2026 (“Updated 2026 CAT Budget”).²⁶

(B) Executed Equivalent Shares for Transactions in Eligible Securities

Under the CAT NMS Plan, for purposes of calculating CAT Fees, executed equivalent shares in a transaction in Eligible Securities will be

¹⁹ Section 1.1 of the CAT NMS Plan. In its approval order for the CAT Funding Model, the Commission “recognize[d] that Industry Members may pass-through CAT fees for customer executed volume.” See CAT Funding Model Approval Order at 13424.

²⁰ See Table 23, Section 4.7 (Order Trade Event) of the CAT Reporting Technical Specifications for Plan Participants, Version 4.2.0-r2 (Feb. 24, 2026), <https://www.catnmsplan.com/sites/default/files/>

2026-02/02.24.2026-CAT_Reporting_Technical_Specifications_for_Participants_4.2.0-r2.pdf (“CAT Reporting Technical Specifications for Plan Participants”).

²¹ See Table 52, Section 5.2.5.1 (Simple Option Trade Event) of the CAT Reporting Technical Specifications for Plan Participants.

²² See Table 62, Section 6.1 (TRF/ORF/ADF Transaction Data Event) of the CAT Reporting Technical Specifications for Plan Participants.

²³ Section 11.3(a)(i) of the CAT NMS Plan.

²⁴ Section 11.3(a)(i)(A)(IV) of the CAT NMS Plan.

²⁵ Section 11.3(a)(i)(A)(II) of the CAT NMS Plan.

²⁶ The Updated 2026 CAT Budget is available on the CAT website (<https://www.catnmsplan.com/sites/default/files/2026-04/03.31.26-CAT-2026-Budget.pdf>).

reasonably counted as follows: (1) each executed share for a transaction in NMS Stocks will be counted as one executed equivalent share; (2) each executed contract for a transaction in Listed Options will be counted based on the multiplier applicable to the specific Listed Options (*i.e.*, 100 executed equivalent shares or such other applicable multiplier); and (3) each executed share for a transaction in OTC Equity Securities will be counted as 0.01 executed equivalent share.²⁷

(C) Budgeted CAT Costs 2026–1

The CAT NMS Plan states that “[t]he budgeted CAT costs for the year shall be comprised of all reasonable fees, costs and expenses reasonably budgeted to be incurred by or for the Company in connection with the development, implementation and operation of the CAT as set forth in the annual operating budget approved by the Operating Committee pursuant to Section 11.1(a) of the CAT NMS Plan, or as adjusted during the year by the Operating Committee.”²⁸ Section 11.1(a) of the CAT NMS Plan describes the requirement for the Operating Committee to approve an operating budget for CAT LLC on an annual basis. It requires the budget to “include the projected costs of the Company, including the costs of developing and operating the CAT for the upcoming year, and the sources of all revenues to cover such costs, as well as the funding of any reserve that the Operating Committee reasonably deems

appropriate for the prudent operation of the Company.” Section 11.1(a)(i) of the CAT NMS Plan further states that:

[w]ithout limiting the foregoing, the reasonably budgeted CAT costs shall include technology (including cloud hosting services, operating fees, CAIS operating fees, change request fees and capitalized developed technology costs), legal, consulting, insurance, professional and administration, and public relations costs, a reserve and such other cost categories as reasonably determined by the Operating Committee to be included in the budget.

In accordance with the requirements under the CAT NMS Plan, the Operating Committee approved an annual budget for 2026 for CAT LLC (“Original 2026 CAT Budget”) on December 11, 2025.²⁹ On March 31, 2026, the Operating Committee approved an updated budget for 2026, referred to as the Updated 2026 CAT Budget. The Updated 2026 CAT Budget includes actual costs for each category for January and February 2026, with updated estimated costs for the remainder of the year. The updated costs for May through December as included in the Updated 2026 CAT Budget (*i.e.*, Budgeted CAT Costs 2026–1) are the costs used in calculating CAT Fee 2026–1.³⁰ The 2026 CAT budgets, both the Original 2026 CAT Budget and the Updated 2026 CAT Budget, were prepared on the accrual basis of accounting.³¹

As described in detail below, the Budgeted CAT Costs 2026–1 would be \$15,149,648. CEBBs collectively will be responsible for one-third of the

Budgeted CAT Costs 2026–1 (which is \$5,049,882.67), and CEBBs collectively will be responsible for one-third of the Budgeted CAT Costs 2026–1 (which is \$5,049,882.67).

The following describes in detail the Budgeted CAT Costs 2026–1 for CAT Fee 2026–1. The following cost details are provided in accordance with the requirement in the CAT NMS Plan to provide in the fee filing the following:

the budget for the upcoming year (or remainder of the year, as applicable), including a brief description of each line item in the budget, including (1) technology line items of cloud hosting services, operating fees, CAIS operating fees, change request fees and capitalized developed technology costs, (2) legal, (3) consulting, (4) insurance, (5) professional and administration, and (6) public relations costs, a reserve and/or such other categories as reasonably determined by the Operating Committee to be included in the budget, and the reason for changes in each such line item from the prior CAT fee filing.³²

Each of the costs described below is reasonable, appropriate and necessary for the creation, implementation and maintenance of CAT.

The following table breaks down the Budgeted CAT Costs 2026–1 into the categories set forth in Section 11.3(a)(iii)(B) of the CAT NMS Plan.³³ The Budgeted CAT Costs 2026–1 reflect the costs for May through December as included in the Updated 2026 CAT Budget. The Budgeted CAT Costs 2026–1 are the costs used in calculating CAT Fee 2026–1.

BUDGETED CAT COSTS 2026–1

Budget category	Budgeted CAT costs 2026–1 ^b (<i>i.e.</i> , costs for May–December 2026)
Capitalized Developed Technology Costs ^a	^c \$3,450,000
Technology Costs	83,737,680
Cloud Hosting Services	^d 49,866,667
Operating Fees	^e 19,691,953
CAIS Operating Fees	^f 14,179,060
Change Request Fees	^g 0
Legal	^h 5,670,452
Consulting	ⁱ 1,025,957
Insurance	^j 852,768
Professional and administration	^k 749,151
Public relations	^l 0

²⁷ Section 11.3(a)(i)(B) of the CAT NMS Plan. In approving the CAT Funding Model, the Commission concluded that “the use of executed equivalent share volume provides an appropriate basis for the calculation of CAT fees.” CAT Funding Model Approval Order at 13413.

²⁸ Section 11.3(a)(i)(C) of the CAT NMS Plan.

²⁹ The Original 2026 CAT Budget is available on the CAT website (https://www.catnmsplan.com/sites/default/files/2025-12/12.08.25-CAT-LLC-2026-Financial_and_Operating_Budget.pdf).

³⁰ The version of the Updated 2026 CAT Budget set forth on the CAT website is presented on a

quarterly basis, but is prepared based on more granular detail. The costs for May and June are estimated based on two-thirds of costs for Q2 where the budgeted monthly amounts are consistent. For those cases in which the costs for a category vary from month to month in Q2, the specific budgeted amounts for May and June are noted.

³¹ CAT budgets for periods prior to 2025 were prepared on the cash basis of accounting, as such budgets were primarily used to determine the dollar amount of promissory notes from the Participants that were required to fund the ongoing operations of the CAT. Commencing in 2025, with the contemplated recovery of costs from Industry

Members and the Participants via CAT Fees, the Original 2025 CAT Budget was prepared on the accrual basis of accounting to properly match projected revenues with estimated expenses incurred. A cash basis budget reflects expenditures when paid, while an accrual basis budget reflects expenditures when incurred. In moving from a cash basis budget to an accrual basis budget, there is no double counting of expenses.

³² Section 11.3(a)(iii)(B) of the CAT NMS Plan.

³³ Note that costs and related cost calculations provided in this filing may reflect minor variations from the budgeted costs due to rounding.

BUDGETED CAT COSTS 2026–1—Continued

Budget category	Budgeted CAT costs 2026–1 ^b (i.e., costs for May–December 2026)
Interest Income	^m (1,453,382)
Total Costs	94,032,626
Reserve (25% of Total Costs)	23,508,157
Total Costs and Reserve	117,540,783
Use of Existing Reserve	ⁿ (102,391,135)
Total Budgeted CAT Costs 2026–1	15,149,648

^a The non-cash amortization of these capitalized developed technology costs to be incurred during the CAT Fee 2026–1 Period have been appropriately excluded from the above table.³⁴

^b Budgeted CAT Costs 2026–1 described in this table of costs were determined based on an analysis of a variety of factors, including historical costs/invoices, estimated costs from respective vendors/service providers, contractual terms with vendors/service providers, anticipated service levels and needs, and discussions with vendors and Participants.

^c This cost number for capitalized developed technology costs reflects (1) capitalized developed technology costs of \$3,450,000 for May, \$0 for June and \$0 for the third and fourth quarters of 2026 as included in the Updated 2026 CAT Budget; and (2) \$0 for the Software License Fee 2026 for the second, third, and fourth quarters of 2026 as included in the Updated 2026 CAT Budget: $(\$3,450,000 + \$0 + \$0 + \$0) + (\$0 + \$0 + \$0) = \$3,450,000$.

^d This cost number for cloud hosting services reflects two-thirds of the cloud hosting services costs for the second quarter and the cloud hosting services for the third and fourth quarters of 2026 as included in the Updated 2026 CAT Budget: $(\frac{2}{3} \times \$18,700,000) + \$18,700,000 + \$18,700,000 = \$49,866,667$.

^e This cost number for operating fees reflects (1) two-thirds of the Non-CAIS fixed operating fees for the second quarter and the Non-CAIS fixed operating fees for the third and fourth quarters of 2026 as included in the Updated 2026 CAT Budget and (2) two-thirds of the market data vendor fees for the second quarter and the market data vendor fees for the third and fourth quarter of 2026 as included in the Updated 2026 CAT Budget: $(\frac{2}{3} \times \$7,191,853) + \$7,191,853 + \$7,191,853 + (\frac{2}{3} \times \$192,630) + \$192,630 + \$192,630 = \$19,691,953$.

^f This cost number for CAIS operating fees reflects two-thirds of the CAIS fixed operating fees for the second quarter and the CAIS fixed operating fees for the third and fourth quarters of 2026 as included in the Updated 2026 CAT Budget: $(\frac{2}{3} \times \$5,317,147) + \$5,317,147 + \$5,317,147 = \$14,179,060$.

^g This \$0 cost number for change requests reflects the fact that there were no change request fees set forth in the Updated 2026 CAT Budget.

^h This cost number for legal services reflects two-thirds of the legal costs for the second quarter and the legal costs for the third and fourth quarters of 2026 as included in the Updated 2026 CAT Budget: $(\frac{2}{3} \times \$2,145,170) + \$2,125,170 + \$2,115,170 = \$5,670,452$.

ⁱ This cost number for consulting services reflects two-thirds of the consulting costs for the second quarter and the consulting costs for the third and fourth quarters of 2026 as included in the Updated 2026 CAT Budget: $(\frac{2}{3} \times \$384,734) + \$384,734 + \$384,734 = \$1,025,957$.

^j This cost number for insurance reflects two-thirds of the insurance costs for the second quarter and the insurance costs for the third and fourth quarters of 2026 as included in the Updated 2026 CAT Budget: $(\frac{2}{3} \times \$300,977) + \$321,042 + \$331,074 = \$852,768$.

^k This cost number for professional and administration services reflects two-thirds of the professional and administration costs for the second quarter and the professional and administration costs for the third and fourth quarters of 2026 as included in the Updated 2026 CAT Budget: $(\frac{2}{3} \times \$280,932) + \$280,932 + \$280,932 = \$749,151$.

^l This \$0 cost number of change requests reflects the fact that there were no change request fees set forth in the Updated 2026 CAT Budget.

^m This interest income reflects interest income (net of bank fees) of \$517,208 for May and June and interest income (net of bank fees) for the third and fourth quarters of 2026 as included in the Updated 2026 CAT Budget: $\$517,208 + \$571,010 + \$365,164 = \$1,453,382$. Note that interest income for May and June 2026 of \$517,208 is slightly less than two-thirds of \$809,598 (which is \$539,732) for the second quarter as the amount of interest income varies from month to month.

ⁿ This amount for the use of the existing reserve is calculated by subtracting from the Accrued Liquidity Reserve Balance as of the Beginning of the Year in the Updated 2026 CAT Budget the 25% Incremental Liquidity Reserve Accrued during 2026 for the first quarter and for April of 2026 as included in the Updated 2026 CAT Budget: $\$155,403,378 - (\$41,800,153 + \$11,212,091) = \$102,391,135$. Note that the 25% Incremental Liquidity Reserved Accrued during 2026 for April 2026 of \$11,212,091 is slightly more than one-third of \$33,366,432 (which is \$11,122,144) for the second quarter as the amount of the 25% Incremental Liquidity Reserved Accrued during 2026 varies from month to month.

To the extent that CAT LLC enters into notes with Participants or others to pay costs incurred during the period in which CAT Fee 2026–1 is in effect, CAT LLC will use the proceeds from CAT Fee 2026–1 and the related Participant CAT fees to repay such notes.

The following table compares the annual budgeted CAT costs as set forth in the updated annual CAT budget for

2025 approved by the Operating Committee in May 2025 (“May Updated 2025 CAT Budget”),³⁵ the updated annual CAT budget for 2025 approved by the Operating Committee in November 2025 (“November Updated 2025 CAT Budget”),³⁶ the Original 2026 CAT Budget and the Updated 2026 CAT Budget, and is provided for

informational purposes. In each case, the costs provided reflect the costs for the entire year for each of the budgets; this differs from the above chart which focuses on budgeted costs for the period from May 1, 2026 through December 31, 2026, which, as noted, are the costs that are used in the calculation of the fee rate in this fee filing.

³⁴ With respect to certain costs that were “appropriately excluded,” such excluded costs relate to the amortization of capitalized technology costs, which are amortized over the life of the Plan Processor Agreement. As such costs have already been otherwise reflected in the filing, their inclusion would double count the capitalized

technology costs. In addition, amortization is a non-cash expense.

³⁵ The May Updated 2025 CAT Budget is available on the CAT website (https://www.catnmsplan.com/sites/default/files/2025-05/05.19.25-CAT-LLC-2025-Financial_and_Operating-Budget.pdf).

³⁶ The November Updated 2025 CAT Budget is available on the CAT website (https://www.catnmsplan.com/sites/default/files/2025-12/12.22.25_CAT-LLC-2025-Finacial_and_Operating-Budget.pdf).

COMPARISON OF FULL YEAR BUDGETED COSTS

Budget category	Full year of 2025 budgeted CAT costs from updated 2025 CAT budget (May 2025)	Full year of 2025 budgeted CAT costs from updated 2025 budget (Nov. 2025)	Full year of 2026 budgeted CAT costs from original 2026 CAT budget	Full year of 2026 budgeted CAT costs from updated 2026 CAT budget
Capitalized Developed Technology Costs ^a	\$4,871,962	\$5,163,991	\$8,228,827	\$8,378,964
Technology Costs	211,548,472	173,091,660	137,514,003	128,643,476
Cloud Hosting Services	159,230,937	122,084,811	81,900,006	77,529,362
Operating Fees ^b	30,817,686	29,932,001	34,345,413	29,845,524
CAIS Operating Fees	20,749,848	20,749,848	21,268,584	21,268,590
Change Request Fees	750,000	325,000	0	0
Legal	7,370,002	7,312,547	8,485,000	8,939,184
Consulting	1,749,998	1,750,000	1,550,000	1,550,000
Insurance	1,594,452	1,368,750	1,505,625	1,254,070
Professional and administration	1,193,090	1,392,679	1,145,500	1,085,500
Public relations	6,575	6,575	0	0
Interest Income	0	(2,510,223)	(1,995,958)	(2,806,325)
Total Annual CAT Costs ^c	228,334,551	187,575,979	156,432,998	147,044,869

^a This cost number is calculated by adding together the Capitalized Developed Technology Costs and the Software License Fee for each budget.

^b This cost number is calculated by adding together the Operating fees, the Cyber Insurance Premium Adjustment (if any) and market data vendor fees (if any separate fees) for each budget.

^c This total cost number does not include an amount for a reserve.

In addition, the following table compares the budgeted costs for January and February 2026 that were used in drafting the Original 2026 CAT Budget with the actual costs for January and February 2026 that were used in

drafting the Updated 2026 CAT Budget. The Original 2026 CAT Budget includes budgeted costs for January and February 2026, whereas the Updated 2026 CAT Budget includes actual costs for January and February 2026. The variance from

the budgeted costs for January and February 2026 to the actual costs for January and February 2026 are used in this filing in supporting the reasonableness of the estimates for each category of costs.

COMPARISON OF BUDGETED AND ACTUAL COSTS FOR JANUARY & FEBRUARY 2026

Budget category	Budgeted costs for January & February 2026 (as used in drafting the original 2026 CAT budget)	Actual costs for January & February 2026 (as used in drafting the updated 2026 CAT budget)	Variance from budgeted costs for January & February 2026 to actual costs for January & February of 2026
Capitalized Developed Technology Costs ^a	\$671,472	\$4,145,430	Increase by \$3,473,958. ^b
Technology Costs	25,894,000	21,501,183	
Cloud Hosting Services	17,200,000	12,829,362	Decrease by \$4,370,638. ^c
Operating Fees	5,149,236	5,127,057	Decrease by \$22,179.
CAIS Operating Fees	3,544,764	3,544,764	No change.
Change Request Fees	0	0	No change.
Legal	1,424,166	1,838,617	Increase by \$414,451. ^d
Consulting	258,334	267,554	Increase by \$9,220.
Insurance	250,938	200,652	Decrease by \$50,286.
Professional and administration	190,916	149,061	Decrease by \$41,855.
Public relations	0	0	No change.
Interest Income	(758,343)	(757,527)	Decrease by \$816.
Total	27,931,483	27,344,970	Decrease by \$586,513.

^a This cost number for capitalized developed technology costs is calculated by adding together the capitalized developed technology costs and the software license fee for each budget.

^b The variance for capitalized developed technology costs is the result of costs related to the software license fee in accordance with the Plan Processor Agreement with FCAT.

^c This variance is attributable to lower than forecasted market volumes and the impact of lower processing costs due to shutting down certain functionalities.

^d The variance in legal costs is attributable to unanticipated issues that required additional legal efforts on behalf of CAT LLC that developed after the budget was created.

(i) Technology Costs—Cloud Hosting Services

(a) Description of Cloud Hosting Services Costs

Section 11.3(a)(iii)(B)(B)(1) of the CAT NMS Plan requires the fee filing for a Prospective CAT Fee to provide a brief description of the cloud hosting services costs set forth in the budget. The Operating Committee approved an operating budget for the CAT pursuant to Section 11.1(a) of the CAT NMS Plan that included \$49,866,667 in technology costs for cloud hosting services for the CAT Fee 2026–1 Period. The technology costs for cloud hosting services represent costs reasonably budgeted to be incurred for services provided by the cloud services provider for the CAT, Amazon Web Services, Inc. (“AWS”) during the CAT Fee 2026–1 Period.

In the agreement between CAT LLC and the Plan Processor for the CAT (“Plan Processor Agreement”), FINRA CAT, LLC (“FCAT”), AWS was named as the subcontractor to provide cloud hosting services. Under the Plan Processor Agreement, CAT LLC is required to pay FCAT the fees incurred by the Plan Processor for cloud hosting services provided by AWS as FCAT’s subcontractor on a monthly basis for the cloud hosting services, and FCAT, in turn, pays such fees to AWS. The fees for cloud hosting services were negotiated by FCAT on an arm’s length basis with the goals of managing costs and receiving services required to comply with the CAT NMS Plan and Rule 613, taking into consideration a variety of factors, including the expected volume of data, the breadth of services provided and market rates for similar services. Services provided by AWS include storage services, databases, compute services and other services (such as networking, management tools and DevOps tools), as well as various environments for CAT, such as development, performance testing, test, and production environments. FCAT utilizes such cloud hosting services for a broad array of services for the CAT, such as data ingestion, data management, and analytic tools for the CAT. AWS performs cloud hosting services for both the CAT transaction database as well as the Reference Database (previously referred to as the Customer and Account Information System, or “CAIS”).³⁷ It is

anticipated that such cloud hosting services will continue during the CAT Fee 2026–1 Period.

The cost for AWS cloud services for the CAT is a function of the volume of CAT Data, largely as a result of the processing and storage of the CAT Data.³⁸ The greater the amount of CAT Data, the greater the cost of AWS services to CAT LLC. During the CAT Fee 2026–1 Period, it is expected that AWS would provide cloud hosting services for volumes of CAT Data far in excess of the volume predictions set forth in the CAT NMS Plan. The CAT NMS Plan states, when all CAT Reporters are submitting their data to the CAT, it “must be sized to receive[,] process and load more than 58 billion records per day,”³⁹ and that “[i]t is expected that the Central Repository will grow to more than 29 petabytes of raw, uncompressed data.”⁴⁰ In contrast with those estimates, the Q3 2025 data volumes averaged 792 billion events per day. The highest peak data volume to date of 1.45 trillion events was recorded on April 7, 2025. The top five peak days were recorded in April 2025.

CAT LLC estimates that the budget for cloud hosting services costs during the CAT Fee 2026–1 Period will be approximately \$49,866,667.⁴¹ The budget for cloud hosting services costs during the CAT Fee 2026–1 Period is calculated based on the Updated 2026 CAT Budget. Specifically, this estimate was calculated by adding two-thirds of the cloud hosting services costs for the second quarter and the cloud hosting services for the third and fourth quarters of 2026 as included in the Updated 2026 CAT Budget.⁴²

CAT LLC estimated the budget for the cost for cloud hosting services for the CAT Fee 2026–1 Period based on an assumption of 35% annual year-over-year volume growth for the transaction database and an assumption of 5% annual year-over-year volume growth

2026) (“CAIS Amendment”). The SEC subsequently approved another amendment to the CAT NMS Plan to implement various cost savings measures that made further changes to the Reference Database. Securities Exchange Act Rel. No. 105107 (Mar. 27, 2026), 91 FR 16284 (Mar. 27, 2026) (“Cost Savings Amendment”).

³⁸ In addition to the effect of the data volume on the cloud hosting costs, the processing timelines set forth in the Plan contribute to the cloud hosting costs. For further discussion of the effect of processing timelines on cloud hosting costs, see Section 3(b)(2)(A)(i) below.

³⁹ Section 1.3 of Appendix D of the CAT NMS Plan, n.262.

⁴⁰ Section 1.3 of Appendix D of the CAT NMS Plan.

⁴¹ See chart entitled “Budgeted CAT Costs 2026–1” in Section 3(a)(2)(C) above.

⁴² This calculation is $(\frac{2}{3} \times \$18,700,000) + \$18,700,000 + \$18,700,000 = \$49,866,667$.

for the Reference Database. CAT LLC determined these growth assumptions in coordination with FCAT.⁴³

This process for estimating the budget for cloud hosting services costs for the CAT Fee 2026–1 Period is the same process by which CAT LLC estimated the cloud hosting services costs for the Original 2026 CAT Budget.

The Original 2026 CAT Budget estimated a budget for cloud hosting services of \$17,200,000 for January and February 2026. The actual costs for cloud hosting services for January and February 2026, which are set forth in the Updated 2026 CAT Budget, were \$12,829,362. Therefore, the variance between budgeted and actual cloud hosting services costs for January and February 2026 was an approximate decrease of \$4,370,638 as a result of lower volumes and a change in functionality.⁴⁴ Accordingly, CAT LLC believes that the process for estimating the budgeted cloud hosting services costs for the CAT Fee 2026–1 Period is reasonable.

(b) Changes From Prior Fee Filing

Section 11.3(a)(iii)(B)(B) of the CAT NMS Plan requires the fee filing for a Prospective CAT Fee to describe the reason for changes in the line item for cloud hosting services costs from the prior CAT Fee filing. As this is the first Prospective CAT Fee filing under this CAT Funding Model, this filing describes the changes in the cloud hosting services costs from the Original 2026 Budget.⁴⁵ Specifically, the following describes the differences in the costs for cloud hosting services included in the Original 2026 CAT Budget versus the Updated 2026 CAT Budget, and the reasons for any changes.

The annual 2026 budgeted costs for cloud hosting services included in the

⁴³ Note that these growth rates are based on events processed and stored in the CAT. Executed transactions are a small subset of such events. As a result, the number of transactions in the CAT, and, hence, the number of executed equivalent shares, is not directly correlated with the number of events processed in the CAT or the costs of cloud hosting services for the CAT. Accordingly, the number of executed equivalent shares may stay relatively constant from year to year while the number of events processed and stored in the CAT may grow significantly.

⁴⁴ See chart entitled “Comparison of Budgeted and Actual Costs for January & February 2026” in Section 3(a)(2)(C) above.

⁴⁵ The last Prospective CAT Fee, CAT Fee 2025–2, was implemented pursuant to the prior CAT funding model. Moreover, the final invoice for CAT Fee 2025–2 was sent in December 2025, and, therefore, there is a six-month gap between the final invoice for CAT Fee 2025–2 and the first invoice for CAT Fee 2026–1, which would be in June 2026. Accordingly, this filing describes the changes in the cloud hosting services costs from the Original 2026 Budget.

³⁷ On January 13, 2026, the SEC approved an amendment to the CAT NMS Plan relating to the Customer and Account Information System (referred to as “CAIS”). Effective with this amendment, CAIS has been renamed as the “Reference Database.” Securities Exchange Act Rel. No. 104586 (Jan. 13, 2026), 91 FR 2164 (Jan. 16,

Original 2026 CAT Budget were \$81,900,006, and the annual 2026 budgeted costs for cloud hosting services included in the Updated 2026 CAT Budget are \$77,529,362. Accordingly, budgeted annual costs for cloud hosting services decreased by \$4,370,644 from the Original 2026 CAT Budget to the Updated 2026 CAT Budget, which is an approximate 5% reduction in cloud hosting services costs for the full year of 2026.⁴⁶ The budgeted decrease in costs for cloud hosting services reflects lower costs for January and February 2026 due to lower than forecasted market volumes in January and the impact of lower processing costs due to shutting down certain functionalities.

(ii) Technology Costs—Operating Fees

(a) Description of Operating Fees

Section 11.3(a)(iii)(B)(B)(1) of the CAT NMS Plan requires the fee filing for a Prospective CAT Fee to provide a brief description of the operating fees set forth in the budget. The Operating Committee approved an operating budget for the CAT pursuant to Section 11.1(a) of the CAT NMS Plan that included \$19,691,953 in technology costs for operating fees for the CAT Fee 2026–1 Period. Operating fees are those fees paid by CAT LLC to FCAT as the Plan Processor to operate and maintain the CAT and to perform business operations related to the system, including compliance, security, testing, training, communications with the industry (e.g., management of the FINRA CAT Helpdesk, FAQs, website and webinars) and program management as required by the CAT NMS Plan. Operating fees also include market data provider costs, as discussed below.

Plan Processor: FCAT. Under the Plan Processor Agreement with FCAT, CAT LLC is required to pay FCAT a negotiated monthly fixed price for the operation of the CAT. This fixed price contract was negotiated on an arm's length basis with the goals of managing costs and receiving services required to comply with the CAT NMS Plan and Rule 613, taking into consideration a variety of factors, including the breadth of services provided and market rates for similar types of activity. It is anticipated that FCAT will provide a variety of services to the CAT during the CAT Fee 2026–1 Period, including the following:

- Provide the CAT-related functions and services as the Plan Processor as required by SEC Rule 613 and the CAT

NMS Plan in connection with the operation and maintenance of the CAT;

- Address compliance items, including drafting CAT policies and procedures, and addressing Regulation SCI requirements;
- Provide support to the Operating Committee, the Compliance Subcommittee and CAT working groups;
- Assist with interpretive efforts, exemptive requests and amendments regarding the CAT NMS Plan;
- Oversee the security of the CAT;
- Monitor the operation of the CAT, including with regard to Participant and Industry Member reporting;
- Provide support to subcontractors under the Plan Processor Agreement;
- Provide support in discussions with the Participants and the SEC and its staff;
- Operate the FINRA CAT Helpdesk;
- Facilitate communications with the industry, including via FAQs, CAT Alerts, meetings, presentations and webinars;
- Administer the CAT website and all of its content;
- Maintain cyber security insurance related to the CAT;
- Assist with billing, collection and other CAT fee-related activity; and
- Provide technical support and assistance with connectivity, data access, and user support, including the use of CAT Data and query tools, for Participants and the SEC staff.

CAT LLC calculated the budget for the FCAT technology costs for operating fees for the CAT Fee 2026–1 Period based on the recurring monthly operating fees under the Plan Processor Agreement.

Market Data Provider: Algoseek. It is anticipated that the operating fees costs for the CAT Fee 2026–1 Period will include costs related to the receipt of certain market data for the CAT pursuant to an agreement between FCAT and Algoseek, LLC (“Algoseek”). CAT LLC determined that Algoseek would provide market data that included data elements set forth in Section 6.5(a)(ii) of the CAT NMS Plan, and that the fees were reasonable and in line with market rates for the market data received. All costs under the contract would be treated as a direct pass through cost to CAT LLC. CAT LLC estimated the budget for the costs for Algoseek for the CAT Fee 2026–1 Period based on the monthly rate set forth in the agreement between Algoseek and FCAT.

Operating Fee Estimates. CAT LLC estimates that the budget for operating fees during the CAT Fee 2026–1 Period

will be approximately \$19,691,953.⁴⁷ The budget for operating fees during the CAT Fee 2026–1 Period is calculated based on the Updated 2026 CAT Budget. Specifically, this estimate was calculated by adding (1) two-thirds of the Non-CAIS fixed operating fees for the second quarter and the Non-CAIS fixed operating fees for the third and fourth quarters of 2026 included in the Updated 2026 CAT Budget and (2) two-thirds of the market data vendor fees for the second quarter and the market data vendor fees for the third and fourth quarter of 2026 included in the Updated 2026 CAT Budget.⁴⁸

As discussed above, CAT LLC estimated the budget for the operating fees during the CAT Fee 2026–1 Period based on monthly rates set forth in the Plan Processor Agreement and the agreement with Algoseek. CAT LLC also recognized that the operating fees are generally consistent throughout the year. This process for estimating the budget for the operating fees for the CAT Fee 2026–1 Period is the same process by which CAT LLC estimated the operating fees for the Original 2026 CAT Budget. The Original 2026 CAT Budget estimated a budget for operating fees of \$5,149,236 for January and February 2026, and the actual costs for operating fees for January and February 2026 were \$5,127,057. Therefore, the variance between budgeted and actual operating fees for this period was small—\$22,179.⁴⁹ Accordingly, CAT LLC believes that the process for estimating the budgeted operating fees for the CAT Fee 2026–1 Period is reasonable.

(b) Changes from Prior Fee Filing

Section 11.3(a)(iii)(B)(B) of the CAT NMS Plan requires the fee filing for a Prospective CAT Fee to describe the reason for changes in the line item for operating fees from the prior CAT Fee filing. As this is the first Prospective CAT Fee filing under this CAT Funding Model, this filing describes the changes in the operating fees from the Original 2026 Budget. Specifically, the following describes the differences in the costs for operating fees included in the Original 2026 CAT Budget versus the Updated 2026 CAT Budget, and the reasons for any changes.

The annual 2026 budgeted costs for operating fees included in the Original

⁴⁷ See chart entitled “Budgeted CAT Costs 2026–1” in Section 3(a)(2)(C) above.

⁴⁸ This calculation is $((\frac{2}{3} \times \$7,191,853) + \$7,191,853 + \$7,191,853) + ((\frac{2}{3} \times \$192,630) + \$192,630 + \$192,630) = \$19,691,953$.

⁴⁹ See chart entitled “Comparison of Budgeted and Actual Costs for January & February 2026” in Section 3(a)(2)(C) above.

⁴⁶ See chart entitled “Comparison of Full Year Budgeted Costs” in Section 3(a)(2)(C) above.

2026 CAT Budget were \$34,345,413, and the annual 2026 budgeted costs for operating fees included in the Updated 2026 CAT Budget are \$29,845,524. Accordingly, budgeted annual costs for operating fees decreased by \$4,499,889 from the Original 2026 CAT Budget to the Updated 2026 CAT Budget, which is an approximate 13% reduction in operating fees for the full year of 2026.⁵⁰ The budgeted decrease in costs for operating fees reflects the proposed amendments to the Plan Processor Agreement related to the recent cost savings amendments to the CAT NMS Plan.⁵¹

(iii) Technology Costs—CAIS Operating Fees

(a) Description of CAIS Operating Fees

Section 11.3(a)(iii)(B)(B)(1) of the CAT NMS Plan requires the fee filing for a Prospective CAT Fee to provide a brief description of the CAIS operating fees set forth in the budget. The Operating Committee approved an operating budget for the CAT pursuant to Section 11.1(a) of the CAT NMS Plan that included \$14,179,060 in technology costs for CAIS operating fees for the CAT Fee 2026–1 Period. CAIS operating fees represent the fees paid to FCAT for services provided with regard to the operation and maintenance of the Reference Database (previously referred to as CAIS), and to perform the business operations related to the system, including compliance, security, testing, training, communications with the industry (e.g., management of the FINRA CAT Helpdesk, FAQs, website and webinars) and program management. The CAT is required under the CAT NMS Plan to capture and store Reference Data in the Reference Database and to create a CAT-Customer-ID for each Customer.⁵²

During the CAT Fee 2026–1 Period, it is anticipated that FCAT will provide services related to the Reference Database. Under the Plan Processor Agreement with FCAT, CAT LLC is required to pay FCAT for services related to the Reference Database provided by FCAT on a monthly basis. CAT LLC negotiated the fees for FCAT's services related to the Reference Database on an arm's length basis with the goals of managing costs and receiving services required to comply with the CAT NMS Plan, taking into consideration a variety of factors,

including the services to be provided and market rates for similar types of activity. During the CAT Fee 2026–1 Period, it is anticipated that FCAT will continue to provide services relating to the ongoing operation, maintenance and support of the Reference Database.

CAT LLC estimates that the budget for CAIS operating fees during the CAT Fee 2026–1 Period will be approximately \$14,179,060.⁵³ The budget for CAIS operating fees during the CAT Fee 2026–1 Period is calculated based on the Updated 2026 CAT Budget. Specifically, this estimate was calculated by adding two-thirds of the CAIS fixed operating fees for the second quarter and the CAIS fixed operating fees for the third and fourth quarters of 2026 included in the Updated 2026 CAT Budget.⁵⁴

CAT LLC calculated the budget for FCAT's services related to the Reference Database for the CAT Fee 2026–1 Period based on the recurring monthly CAIS operating fees under the Plan Processor Agreement. This process for estimating the budget for the CAIS operating fees for the CAT Fee 2026–1 Period is the same process by which CAT LLC estimated the CAIS operating fees for the Original 2026 CAT Budget. The Original 2026 CAT Budget estimated a budget of \$3,544,764 for CAIS operating fees for January and February of 2026. The actual costs for CAIS operating fees for January and February of 2026, which are included in the Updated 2026 CAT Budget, were \$3,544,764. There was no variance between budgeted and actual CAIS operating fees for the first two months of 2026.⁵⁵ Accordingly, CAT LLC believes that the process for estimating the budgeted CAIS operating fees for the CAT Fee 2026–1 Period is reasonable.

(b) Changes From Prior Fee Filing

Section 11.3(a)(iii)(B)(B) of the CAT NMS Plan requires the fee filing for a Prospective CAT Fee to describe the reason for changes in the line item for CAIS operating fees from the prior CAT Fee filing. As this is the first Prospective CAT Fee filing under this CAT Funding Model, this filing describes the changes in the CAIS operating fees from the Original 2026 Budget. Specifically, the following describes the differences in the costs for CAIS operating fees included in the Original 2026 CAT

Budget versus the Updated 2026 CAT Budget, and the reasons for any changes.

CAIS operating fees are based on a recurring monthly rate payable to FCAT and are unchanged from the Original 2026 CAT Budget to the Updated 2026 CAT Budget. The annual 2026 budgeted costs for CAIS operating fees included in the Original 2026 CAT Budget were \$21,268,584, and the annual 2026 budgeted costs for CAIS operating fees included in the Updated 2026 CAT Budget are \$21,268,590.⁵⁶ Accordingly, the budgeted annual costs for CAIS operating fees are the same for both the Original 2026 CAT Budget and the Updated 2026 CAT Budget.

(iv) Technology Costs—Change Request Fees

(a) Description of Change Request Fees

Section 11.3(a)(iii)(B)(B)(1) of the CAT NMS Plan requires the fee filing for a Prospective CAT Fee to provide a brief description of the change request fees set forth in the budget. The Operating Committee approved an operating budget for the CAT pursuant to Section 11.1(a) of the CAT NMS Plan that included \$0 in technology costs for change request fees for the CAT Fee 2026–1 Period. The technology costs related to change request fees include costs related to certain modifications, upgrades or other changes to the CAT.

Change requests are standard practice and necessary to reflect operational changes, including changes related to new market developments, such as new market participants. In general, if CAT LLC determines that a modification, upgrade or other changes to the functionality or service is necessary and appropriate, CAT LLC will submit a request for such a change to the Plan Processor. The Plan Processor will then respond to the request with a proposal for implementing the change, including the cost (if any) of such a change. CAT LLC then determines whether to approve the proposed change.

The change request budget line is established to include expected costs to be incurred in which the nature of the costs (i.e., capitalization versus expensing) have not yet been determined. Upon the incurrence of such costs, the final determination of capitalization versus expensing is determined and then such costs are reclassified from the change request line to the appropriate technology cost line item.

CAT LLC estimates that the budget for change requests during the CAT Fee 2026–1 Period will be approximately

⁵⁰ See chart entitled "Comparison of Full Year Budgeted Costs" in Section 3(a)(2)(C) above.

⁵¹ See CAIS Amendment and Cost Savings Amendment.

⁵² See Section 9 of Appendix D of the CAT NMS Plan.

⁵³ See chart entitled "Budgeted CAT Costs 2026–1" in Section 3(a)(2)(C) above.

⁵⁴ This calculation is $(\frac{2}{3} \times \$5,317,147) + \$5,317,147 + \$5,317,147 = \$14,179,060$.

⁵⁵ See chart entitled "Comparison of Budgeted and Actual Costs for January & February 2026" in Section 3(a)(2)(C) above.

⁵⁶ See chart entitled "Comparison of Full Year Budgeted Costs" in Section 3(a)(2)(C) above.

\$0.⁵⁷ The budget for change requests during the CAT Fee 2026–1 Period is calculated based on the Updated 2026 CAT Budget. This \$0 cost number for change request fees reflects the fact that there were no change request fees set forth in the Updated 2026 CAT Budget.

CAT LLC estimated the budget for the potential change requests for the CAT Fee 2026–1 Period based on, among other things, a review of past change requests and potential future change request needs, as well as discussions with FCAT. This process for estimating the budget for the change requests for the CAT Fee 2026–1 Period is the same process by which CAT LLC estimated the change requests cost for the Original 2026 CAT Budget. The Original 2026 CAT Budget estimated a change request budget of \$0 for January and February of 2026. The actual costs for change requests for January and February of 2026, which are set forth in the Updated 2026 CAT Budget, were \$0. There was no variance between budgeted and actual change request costs for January and February of 2026.⁵⁸ Accordingly, CAT LLC believes that the process for estimating the budgeted change request costs for the CAT Fee 2026–1 Period is reasonable.

(b) Changes From Prior Fee Filing

Section 11.3(a)(iii)(B)(B) of the CAT NMS Plan requires the fee filing for a Prospective CAT Fee to describe the reason for changes in the line item for change request fees from the prior CAT Fee filing. As this is the first Prospective CAT Fee filing under this CAT Funding Model, this filing describes the changes in the change request fees from the Original 2026 Budget. Specifically, the following describes the differences (if any) in the costs for change request fees included in the Original 2026 CAT Budget versus the Updated 2026 CAT Budget, and the reasons for any changes.

The annual 2026 budgeted costs for change requests included in the Original 2026 CAT Budget were \$0, and the annual 2026 budgeted costs for change requests included in the Updated 2026 CAT Budget are \$0.⁵⁹ Accordingly, budgeted annual costs for change requests are the same for both the Original 2026 CAT Budget and the Updated 2026 CAT Budget.

(v) Technology Costs—Capitalized Developed Technology Costs

(a) Description of Capitalized Developed Technology Costs

Section 11.3(a)(iii)(B)(B)(1) of the CAT NMS Plan requires the fee filing for a Prospective CAT Fee to provide a brief description of the capitalized developed technology costs set forth in the budget. The Operating Committee approved an operating budget for the CAT pursuant to Section 11.1(a) of the CAT NMS Plan that includes \$3,450,000 in technology costs for capitalized developed technology costs for the CAT Fee 2026–1 Period. This category of costs includes the budget for capitalizable application development costs incurred in the development of the CAT. It is anticipated that such costs will include certain costs related to the software license fee for the Reference Database in accordance with the Plan Processor Agreement with FCAT, as well as costs related to a set of technology changes to be implemented by FCAT related to the cost savings amendments⁶⁰ and the move to 23x5 trading.

CAT LLC estimates that the budget for capitalized developed technology costs during the CAT Fee 2026–1 Period will be approximately \$3,450,000.⁶¹ The budget for capitalized developed technology costs during the CAT Fee 2026–1 Period is calculated based on the Updated 2026 CAT Budget. Specifically, this estimate was calculated by adding (1) capitalized developed technology costs of \$3,450,000 for May, \$0 for June and \$0 for the third and fourth quarters of 2026 included in the Updated 2026 CAT Budget; and (2) \$0 for the Software License Fee 2026 for the second, third, and fourth quarters of 2026 included in the Updated 2026 CAT Budget.⁶²

CAT LLC estimated the budget for capitalized developed technology costs for the CAT Fee 2026–1 Period based on an analysis of a variety of factors, including information related to potential technology costs and related contractual and Plan requirements, and discussions with FCAT regarding such potential technology costs. This process for estimating the budget for capitalized developed technology costs for the CAT Fee 2026–1 Period is the same process by which CAT LLC estimated the capitalized developed technology costs

for the Original 2026 CAT Budget. The Original 2026 CAT Budget estimated a budget for capitalized developed technology costs of \$671,472 for January and February 2026, and the actual costs for capitalized developed technology costs for January and February 2026 were \$4,145,430.⁶³ The variance of \$3,473,958 for January and February 2026 is the result of costs related to the software license fee for the Reference Database in accordance with the Plan Processor Agreement with FCAT. Accordingly, CAT LLC believes that the process for estimating the budgeted capitalized developed technology costs for the CAT Fee 2026–1 Period is reasonable.

(b) Changes From Prior Fee Filing

Section 11.3(a)(iii)(B)(B) of the CAT NMS Plan requires the fee filing for a Prospective CAT Fee to describe the reason for changes in the line item for capitalized developed technology costs from the prior CAT Fee filing. As this is the first Prospective CAT Fee filing under this CAT Funding Model, this filing describes the changes in the capitalized developed technology costs from the Original 2026 Budget. Specifically, the following describes the differences in the costs for capitalized developed technology costs as included in the Original 2026 CAT Budget versus the Updated 2026 CAT Budget, and the reasons for any changes.

The annual 2026 budget for capitalized developed technology costs included in the Original 2026 CAT Budget was \$8,228,827, and the annual 2026 budget for capitalized developed technology costs included in the Updated 2026 CAT Budget are \$8,378,964.⁶⁴ Accordingly, the annual budget for capitalized developed technology costs increased by \$150,137 from the Original 2026 CAT Budget to the Updated 2026 CAT Budget, which is an approximate 2% increase in the capitalized developed technology costs for the full year of 2026. This budgeted increase in the annual budget for capitalized developed technology costs was the result of costs related to the software license fee for the Reference Database in accordance with the Plan Processor Agreement with FCAT.

(vi) Legal Costs

(a) Description of Legal Costs

Section 11.3(a)(iii)(B)(B)(2) of the CAT NMS Plan requires the fee filing for a

⁵⁷ See chart entitled “Budgeted CAT Costs 2026–1” in Section 3(a)(2)(C) above.

⁵⁸ See chart entitled “Comparison of Budgeted and Actual Costs for January & February 2026” in Section 3(a)(2)(C) above.

⁵⁹ See chart entitled “Comparison of Full Year Budgeted Costs” in Section 3(a)(2)(C) above.

⁶⁰ See CAIS Amendment and Cost Savings Amendment.

⁶¹ See chart entitled “Budgeted CAT Costs 2026–1” in Section 3(a)(2)(C) above.

⁶² This calculation is $(\$3,450,000 + \$0 + \$0 + \$0) + (\$0 + \$0 + \$0) = \$3,450,000$. Note that the \$4,178,964 cost for the software license fee was not included in the CAT Fee 2026–1 Period.

⁶³ See chart entitled “Comparison of Budgeted and Actual Costs for January & February 2026” in Section 3(a)(2)(C) above.

⁶⁴ See chart entitled “Comparison of Full Year Budgeted Costs” in Section 3(a)(2)(C) above.

Prospective CAT Fee to provide a brief description of the legal costs set forth in the budget. The Operating Committee approved an operating budget for the CAT pursuant to Section 11.1(a) of the CAT NMS Plan that includes \$5,670,452 in legal costs for the CAT Fee 2026–1 Period. This category of costs represents budgeted costs for legal services for this period. CAT LLC anticipates that it will receive legal services from two law firms, Wilmer Cutler Pickering Hale and Dorr LLP (“WilmerHale”) and Jenner & Block LLP (“Jenner”), during the CAT Fee 2026–1 Period.

Law Firm: WilmerHale. It is anticipated that legal costs during the CAT Fee 2026–1 Period will include costs related to the legal services performed by WilmerHale. CAT LLC anticipates that it will continue to employ WilmerHale during the CAT Fee 2026–1 Period based on, among other things, their expertise, long history with the project and recognition that the hourly fee rates for this law firm are anticipated to be in line with market rates for specialized legal expertise. WilmerHale’s billing rates are negotiated on an annual basis and are determined with reference to the rates charged by other leading law firms for similar work. The Participants assess WilmerHale’s performance and review prospective budgets and staffing plans submitted by WilmerHale on an annual basis. The legal fees will be paid by CAT LLC to WilmerHale.

During the CAT Fee 2026–1 Period, it is anticipated that WilmerHale will provide legal services related to the following:

- Assist with CAT fee filings and related funding issues;
- Draft exemptive requests from CAT NMS Plan requirements and/or proposed amendments to the CAT NMS Plan;
- Provide legal guidance with respect to interpretations of CAT NMS Plan requirements;
- Provide legal support for the Operating Committee, Compliance Subcommittee, working groups and Leadership Team;
- Draft SRO rule filings related to the CAT Compliance Rule;
- Manage corporate governance matters, including supporting Operating Committee meetings and preparing resolutions and consents;
- Assist with communications with the industry, including CAT Alerts and presentations;
- Provide guidance regarding the confidentiality of CAT Data;
- Assist with cost management analyses and proposals;

- Assist with commercial contract-related matters, including change orders and amendments, Plan Processor Agreement items, and subcontract matters;

- Provide support with regard to discussions with the SEC and its staff, including with respect to addressing interpretive and implementation issues;
- Provide legal guidance with respect to the CAT budgets;
- Provide background assistance to other counsel for CAT matters;
- Assist with legal responses related to third-party data requests; and
- Provide legal support regarding CAT policies and procedures.

CAT LLC estimated the budget for the legal costs for WilmerHale for the CAT Fee 2026–1 Period through an analysis of a variety of factors, including WilmerHale fee rates, historical legal fees, and information related to pending legal issues and potential future legal issues.

Law Firm: Jenner. It is anticipated that legal costs during the CAT Fee 2026–1 Period will include costs related to the legal services performed by Jenner. CAT LLC anticipates that it will continue to employ Jenner during the CAT Fee 2026–1 Period based on, among other things, their expertise, history with the project and recognition that their hourly fee rates are in line with market rates for specialized legal expertise. The legal fees will be paid by CAT LLC to Jenner.

During the CAT Fee 2026–1 Period, it is anticipated that Jenner will continue to provide legal assistance to CAT LLC regarding certain litigation matters, including: (1) CAT LLC’s defense against a lawsuit filed in the Western District of Texas against the SEC Chair, the SEC and CAT LLC challenging the validity of Rule 613 and the CAT and alleging various constitutional, statutory, and common law claims;⁶⁵ (2) CAT LLC’s intervention in a lawsuit in the Eleventh Circuit filed by various parties against the SEC challenging the SEC’s approval of the CAT Funding Model;⁶⁶ and (3) a lawsuit in the Eleventh Circuit filed by Citadel Securities LLC seeking review of the SEC’s May 20, 2024 order⁶⁷ granting the Participants temporary conditional exemptive relief related to the reporting of bids and/or offers made in response to a request for quote or other form of solicitation response provided in standard electronic format that is not

immediately actionable.⁶⁸ Litigation involving CAT LLC is an expense of operating the CAT, and, therefore, is appropriately an obligation of both Participants and Industry Members under the CAT Funding Model. Jenner also will continue to provide legal counseling to CAT LLC related to the above-listed litigation and other litigation risk.

CAT LLC estimated the budget for the legal costs for Jenner for the CAT Fee 2026–1 Period through an analysis of a variety of factors, including Jenner’s fee rates, historical legal fees, and information related to pending legal issues and potential future legal issues.

Legal Cost Estimates. CAT LLC estimates that the budget for legal services during the CAT Fee 2026–1 Period will be approximately \$5,670,452.⁶⁹ The budget for legal services during the CAT Fee 2026–1 Period is calculated based on the Updated 2026 CAT Budget. Specifically, this estimate was calculated by adding budgeted costs for two-thirds of the legal costs for the second quarter and the legal costs for the third and fourth quarters of 2026 included in the Updated 2026 CAT Budget.⁷⁰

CAT LLC estimated the budget for the legal services for the CAT Fee 2026–1 Period based on an analysis of a variety of factors, including law firm fee rates, historical legal fees, and information related to pending legal issues and potential future legal issues. This process for estimating the budget for the legal services for CAT Fee 2026–1 Period is the same process by which CAT LLC estimated the legal cost for the Original 2026 CAT Budget. The Original 2026 CAT Budget estimated a budget for legal costs of \$1,424,166 for January and February of 2026. The actual costs for legal services for January and February 2026, which are included in the Updated 2026 Budget, were \$1,838,617.⁷¹ The increase of \$414,451 was due to unanticipated issues that required additional legal efforts on behalf of CAT LLC that developed after the budget was created. Such additional costs were primarily due to additional legal work related to litigation matters as well as regulatory and corporate legal matters. Accordingly, CAT LLC believes that the process for estimating the

⁶⁸ *Citadel Securities v. SEC*, Case No. 24–12300 (11th Cir.).

⁶⁹ See chart entitled “Budgeted CAT Costs 2026–1” in Section 3(a)(2)(C) above.

⁷⁰ This calculation is $(\frac{2}{3} \times \$2,145,170) + \$2,125,170 + \$2,115,170 = \$5,670,452$.

⁷¹ See chart entitled “Comparison of Budgeted and Actual Costs for January & February 2026” in Section 3(a)(2)(C) above.

⁶⁵ *Davidson et al. v. Atkins et al.*, Case No. 6:24-cv-197 (W.D. Tex.).

⁶⁶ *Am. Sec. Ass’n v. SEC*, Case No. 26–10936 (11th Cir.).

⁶⁷ Securities Exchange Act Rel. No. 100181 (May 20, 2024), 89 FR 45715 (May 23, 2024).

budgeted legal costs for the CAT Fee 2026–1 Period is reasonable.

(b) Changes From Prior Fee Filing

Section 11.3(a)(iii)(B)(B) of the CAT NMS Plan requires the fee filing for a Prospective CAT Fee to describe the reason for changes in the line item for legal costs from the prior CAT Fee filing. As this is the first Prospective CAT Fee filing under this CAT Funding Model, this filing describes the changes in the legal costs from the Original 2026 Budget. Specifically, the following describes the differences in the legal costs included in the Original 2026 CAT Budget versus the Updated 2026 CAT Budget, and the reasons for any changes.

The annual 2026 budgeted legal costs included in the Original 2026 CAT Budget were \$8,485,000, and the annual 2026 budgeted legal costs included in the Updated 2026 CAT Budget are \$8,939,184.⁷² Accordingly, the annual budget for legal costs increased by \$454,184 from the Original 2026 CAT Budget to the Updated 2026 CAT Budget for the full year of 2026, which is an approximate 5% increase in the legal costs for the full year of 2026. This budgeted increase in the legal costs in the Updated 2026 CAT Budget from the Original 2026 Budget was primarily due to an anticipated increase in legal costs related to litigation matters as well as regulatory and corporate legal matters.

(vii) Consulting Costs

(a) Description of Consulting Costs

Section 11.3(a)(iii)(B)(B)(3) of the CAT NMS Plan requires the fee filing for a Prospective CAT Fee to provide a brief description of the consulting costs set forth in the budget. The Operating Committee approved an operating budget for the CAT pursuant to Section 11.1(a) of the CAT NMS Plan that included \$1,025,957 in consulting costs for the CAT Fee 2026–1 Period. The consulting costs represent the fees estimated to be paid to the consulting firm Deloitte & Touche LLP (“Deloitte”) as project manager during the CAT Fee 2026–1 Period. The services provided by Deloitte to the CAT include advisory services related to the operation of the CAT, and meeting facilitation and communications coordination, vendor support and financial analyses. In addition, the consulting costs include the compensation for the Chair of the CAT Operating Committee.

It is anticipated that the costs for CAT during the CAT Fee 2026–1 Period will include costs related to consulting services performed by Deloitte. CAT

LLC anticipates that it will continue to employ Deloitte during the CAT Fee 2026–1 Period based on, among other things, their expertise, long history with the project, and the recognition that it is anticipated that the consulting fees will remain in line with market rates for this type of specialized consulting work. Deloitte’s fee rates are negotiated on an annual basis. CAT LLC assesses Deloitte’s performance and reviews prospective budgets and staffing plans submitted by Deloitte on an annual basis. The consulting fees will be paid by CAT LLC to Deloitte.

It is anticipated that Deloitte will provide a variety of consulting services to the CAT during the CAT Fee 2026–1 Period, including the following:

- Implement program operations for the CAT project;
- Provide support to the Operating Committee, the Chair of the Operating Committee and the Leadership Team, including project management support, coordination and planning for meetings and communications, and interfacing with law firms and the SEC;
- Assist with cost and funding matters for the CAT, including assistance with loans and the CAT bank account for CAT funding;
- Provide support for updating the SEC on the progress of the development of the CAT; and
- Provide support for third party vendors for the CAT, including FCAT, Anchin and the law firms engaged by CAT LLC.

In addition, the consulting costs include the compensation for the Chair of the CAT Operating Committee, which is paid by CAT LLC.

CAT LLC estimates that the budget for consulting costs during the CAT Fee 2026–1 Period will be approximately \$1,025,957.⁷³ The budget for consulting costs during the CAT Fee 2026–1 Period is calculated based on the Updated 2026 CAT Budget. Specifically, this estimate was calculated by adding two-thirds of the consulting costs for the second quarter and the consulting costs for the third and fourth quarters of 2026 included in the Updated 2026 CAT Budget.⁷⁴

CAT LLC estimates the budget for the consulting costs for Deloitte for the CAT Fee 2026–1 Period based on the current statement of work with Deloitte, which took into consideration past consulting costs, potential future consulting needs, the proposed rates and other contractual issues, and discussions with Deloitte, as

well as the compensation arrangement for the Chair. This process for estimating the budget for consulting costs for the CAT Fee 2026–1 Period is the same process by which CAT LLC estimated the consulting costs for the Original 2026 CAT Budget. The Original 2026 CAT Budget estimated a budget for consulting services of \$258,334 for January and February 2026, and the actual costs for consulting services for January and February 2026, which are included in the Updated 2026 CAT Budget, were \$267,554.⁷⁵ Therefore, the variance between budgeted and actual consulting costs for January and February was approximately 4%. Accordingly, CAT LLC believes that the process for estimating the budgeted consulting costs for the CAT Fee 2026–1 Period is reasonable.

(b) Changes From Prior Fee Filing

Section 11.3(a)(iii)(B)(B) of the CAT NMS Plan requires the fee filing for a Prospective CAT Fee to describe the reason for changes in the line item for consulting costs from the prior CAT Fee filing. As this is the first Prospective CAT Fee filing under this CAT Funding Model, this filing describes the changes in the consulting costs from the Original 2026 Budget. Specifically, the following describes the differences (if any) in the consulting costs included in the Original 2026 CAT Budget versus the Updated 2026 CAT Budget, and the reasons for any changes.

The annual 2026 budget for consulting costs included in the Original 2026 CAT Budget was \$1,550,000, and the annual 2026 budget for consulting costs included in the Updated 2026 CAT Budget is \$1,550,000.⁷⁶ Accordingly, the annual budget for consulting costs has not changed from the Original 2026 CAT Budget to the Updated 2026 CAT Budget for the full year of 2026.

(viii) Insurance Costs

(a) Description of Insurance Costs

Section 11.3(a)(iii)(B)(B)(4) of the CAT NMS Plan requires the fee filing for a Prospective CAT Fee to provide a brief description of the insurance costs set forth in the budget. The Operating Committee approved an operating budget for the CAT pursuant to Section 11.1(a) of the CAT NMS Plan that included \$852,768 in insurance costs for

⁷² See chart entitled “Comparison of Full Year Budgeted Costs” in Section 3(a)(2)(C) above.

⁷³ See chart entitled “Budgeted CAT Costs 2026–1” in Section 3(a)(2)(C) above.

⁷⁴ This calculation is $(\frac{2}{3} \times \$2,145,170) + \$2,125,170 + \$2,115,170 = \$5,670,452$.

⁷⁵ See chart entitled “Comparison of Budgeted and Actual Costs for January & February 2026” in Section 3(a)(2)(C) above.

⁷⁶ See chart entitled “Comparison of Full Year Budgeted Costs” in Section 3(a)(2)(C) above.

the CAT Fee 2026–1 Period.⁷⁷ The insurance costs represent the costs to be incurred for insurance for the CAT during the CAT Fee 2026–1 Period.

It is anticipated that the insurance costs for CAT during the CAT Fee 2026–1 Period will include costs related to cyber security liability insurance, directors' and officers' liability insurance, and errors and omissions liability insurance brokered by USI Insurance Services LLC ("USI"). Such policies are standard for corporate entities, and cyber security liability insurance is important for the CAT System. CAT LLC anticipates that it will continue to maintain this insurance during the CAT Fee 2026–1 Period, and notes that the annual premiums for these policies were competitive for the coverage provided. CAT LLC estimated the budget for the insurance costs for the CAT Fee 2026–1 Period based on the insurance estimate from USI for 2026. The annual premiums would be paid by CAT LLC to USI.

The budgeted insurance costs for the CAT Fee 2026–1 Period are based on an insurance cost estimate from USI for 2026. Accordingly, CAT LLC believes that the process for estimating the budgeted insurance costs for the CAT Fee 2026–1 Period is reasonable.

(b) Changes From Prior Fee Filing

Section 11.3(a)(iii)(B)(B) of the CAT NMS Plan requires the fee filing for a Prospective CAT Fee to describe the reason for changes in the line item for insurance costs from the prior CAT Fee filing. As this is the first Prospective CAT Fee filing under this CAT Funding Model, this filing describes the changes in the insurance costs from the Original 2026 Budget. Specifically, the following describes the differences in the insurance costs included in the Original 2026 CAT Budget versus the Updated 2026 CAT Budget, and the reasons for any changes.

The annual 2026 budgeted insurance costs included in the Original 2026 CAT Budget were \$1,505,625, and the annual 2026 budgeted insurance costs included in the Updated 2026 CAT Budget are \$1,254,070.⁷⁸ Accordingly, the annual budget for insurance costs decreased by \$251,555 from the Original 2026 CAT Budget to the Updated 2026 CAT Budget for the full year of 2026, which is an approximate 16% decrease in the insurance costs for the full year of 2026. This budgeted decrease in the insurance costs in the Updated 2026 CAT Budget

from the Original 2026 Budget was primarily due to an anticipated decrease in insurance premiums.

(ix) Professional and Administration Costs

(a) Description of Professional and Administration Costs

Section 11.3(a)(iii)(B)(B)(5) of the CAT NMS Plan requires the fee filing for a Prospective CAT Fee to provide a brief description of the professional and administration costs set forth in the budget. The Operating Committee approved an operating budget for the CAT pursuant to Section 11.1(a) of the CAT NMS Plan that included \$749,151 in professional and administration costs for the CAT Fee 2026–1 Period. In adopting the CAT NMS Plan, the Commission amended the Plan to add a requirement that CAT LLC's financial statements be prepared in compliance with GAAP, audited by an independent public accounting firm, and made publicly available.⁷⁹ The professional and administration costs would include costs related to accounting and accounting advisory services to support the operating and financial functions of CAT, financial statement audit services by an independent accounting firm, preparation of tax returns, and various cash management and treasury functions. The professional and administration costs represent the fees to be paid to Anchin, Block & Anchin ("Anchin") and Grant Thornton LLP ("Grant Thornton") for financial services during the CAT Fee 2026–1 Period.

Financial Advisory Firm: Anchin. It is anticipated that the professional and administration costs for the CAT Fee 2026–1 Period will include costs related to financial advisory services performed by Anchin. CAT LLC anticipates that it will continue to employ Anchin during the CAT Fee 2026–1 Period based on, among other things, the firm's relevant expertise and fees, which are anticipated to remain in line with market rates for these financial advisory services. The fees for these services will be paid by CAT LLC to Anchin.

It is anticipated that Anchin will provide a variety of services to the CAT during the CAT Fee 2026–1 Period, including the following:

- Update and maintain internal controls;
- Provide cash management and treasury functions;
- Facilitate bill payments to vendors;
- Facilitate repayments of promissory notes to Participants;

- Provide monthly bookkeeping;
- Review vendor invoices and documentation in support of cash disbursements;
- Review documentation to ensure that repayments of promissory notes to Participants are in accordance with established policies and procedures;
- Provide accounting research and consultations on various accounting, financial reporting and tax matters;
- Address not-for-profit tax and accounting considerations;
- Prepare tax returns;
- Address various accounting, financial reporting and operating inquiries from Participants;
- Develop and maintain annual and interim operating and financial budgets, including budget to actual and budget to budget fluctuation analyses;
- Support compliance with the CAT NMS Plan;
- Work with and provide support to the Operating Committee, Leadership Team and various CAT working groups;
- Prepare monthly, quarterly and annual financial statements;
- Review and reconcile the monthly FINRA CAT reports/analyses related to billings, collections, outstanding accounts receivable and cash account;
- Perform certain verification, completeness, and validation testing related to the monthly FINRA CAT reports/analyses related to billings;
- Support the annual financial statement audits by an independent auditor;
- Review historical costs from inception;
- Provide accounting and financial information in support of SEC filings; and
- Perform additional ad hoc accounting and financial advisory services, as requested by CAT LLC.

CAT LLC estimated the annual budget for the costs for Anchin based on historical costs adjusted for cost of living rate increases, and projected incremental advisory and support services.

Accounting Firm: Grant Thornton. It is anticipated that the professional and administration costs for the CAT Fee 2026–1 Period will include costs related to accounting services performed by Grant Thornton. CAT LLC anticipates that it will continue to employ Grant Thornton during the CAT Fee 2026–1 Period based on, among other things, the firm's relevant expertise and fees, which are anticipated to remain in line with market rates for these financial advisory services. It is anticipated that Grant Thornton will continue to be engaged as an independent accounting firm to complete the audit of CAT LLC's

⁷⁷ See chart entitled "Budgeted CAT Costs 2026–1" in Section 3(a)(2)(C) above.

⁷⁸ See chart entitled "Comparison of Full Year Budgeted Costs" in Section 3(a)(2)(C) above.

⁷⁹ Section 9.2 of the CAT NMS Plan.

financial statements, in accordance with the requirements of the CAT NMS Plan. The fees for these services will be paid by CAT LLC to Grant Thornton. CAT LLC estimated the budget for the accounting costs for Grant Thornton for the CAT Fee 2026–1 Period based on the anticipated hourly rates and the anticipated services plus an administrative fee.

Professional and Administration Cost Estimates. CAT LLC estimates that the budget for professional and administration services during the CAT Fee 2026–1 Period will be approximately \$749,151.⁸⁰ The budget for professional and administration services during the CAT Fee 2026–1 Period is based on the Updated 2026 CAT Budget. CAT LLC estimated the budget for the professional and administration costs for the CAT Fee 2026–1 Period based on a review of past professional and administration costs, potential future professional and administration needs, the proposed rates and other contractual issues, as well as discussions with Anchin and Grant Thornton. This process for estimating the budget for the professional and administration costs for the CAT Fee 2026–1 Period is the same process by which CAT LLC estimated the professional and administration costs for the Original 2026 CAT Budget. The Original 2026 CAT Budget estimated a budget for professional and administration costs of \$190,916 for January and February 2026, and the actual costs for professional and administration services for January and February 2026, which are set forth in the Updated 2026 Budget, were \$149,061.⁸¹ The decrease of \$41,855 was due to a lower than expected professional and administration services costs and to the movement of bank fees from the professional and administration category to the interest income category. Accordingly, CAT LLC believes that the process for estimating the budgeted professional and administration costs for the CAT Fee 2026–1 Period is reasonable.

(b) Changes From Prior Fee Filing

Section 11.3(a)(iii)(B)(B) of the CAT NMS Plan requires the fee filing for a Prospective CAT Fee to describe the reason for changes in the line item for professional and administration costs from the prior CAT Fee filing. As this is the first Prospective CAT Fee filing under this CAT Funding Model, this

filing describes the changes in the professional and administration costs from the Original 2026 Budget. Specifically, the following describes the differences in the professional and administration costs included in the Original 2026 CAT Budget versus the Updated 2026 CAT Budget, and the reasons for any changes.

The annual 2026 budgeted professional and administration costs as included in the Original 2026 CAT Budget were \$1,145,500, and the annual 2026 budgeted professional and administration costs included in the Updated 2026 CAT Budget are \$1,085,500.⁸² Accordingly, the budgeted annual costs for professional and administration services decreased by \$60,000 from the Original 2026 CAT Budget to the Updated 2026 CAT Budget for the full year of 2026. This budgeted decrease in the professional and administration costs in the Updated 2026 CAT Budget from the Original 2026 Budget was due to the movement of bank fees from the professional and administration category to the interest income category, and not a change in costs related to Anchin and Grant Thornton services.

(x) Public Relations Costs

(a) Description of Public Relations Costs

Section 11.3(a)(iii)(B)(B)(6) of the CAT NMS Plan requires the fee filing for a Prospective CAT Fee to provide a brief description of the public relations costs set forth in the budget. The Operating Committee approved an operating budget for the CAT pursuant to Section 11.1(a) of the CAT NMS Plan that included \$0 in public relations costs for the CAT Fee 2026–1 Period. The public relations costs would represent the fees paid to a public relations firm for professional communications services to CAT, including media relations consulting, strategy and execution. Because CAT LLC anticipates that it will not engage a public relations firm for the CAT Fee Period 2026–1, the budget for public relations costs for this period is \$0.⁸³

(b) Changes From Prior Fee Filing

Section 11.3(a)(iii)(B)(B) of the CAT NMS Plan requires the fee filing for a Prospective CAT Fee to describe the reason for changes in the line item for public relations costs from the prior CAT Fee filing. As this is the first Prospective CAT Fee filing under this CAT Funding Model, this filing

describes the changes in the public relations costs from the Original 2026 Budget. Specifically, the following describes the differences (if any) in public relations costs included in the Original 2026 CAT Budget versus the Updated 2026 CAT Budget, and the reasons for any changes.

The annual budgeted public relations costs for 2026 included in the Original 2026 CAT Budget were \$0, and the annual budgeted public relations costs for 2026 included in the Updated 2026 CAT Budget are \$0.⁸⁴ Accordingly, the annual budgeted public relations costs for 2026 are the same for both the Original 2026 CAT Budget and the Updated 2026 CAT Budget.

(xi) Interest Income

(a) Description of Interest Income

Section 11.1(a) of the CAT NMS Plan requires the CAT budget to include “the sources of all revenues to cover costs.” Accordingly, the Updated 2026 CAT Budget includes a line item for interest income. Specifically, the Operating Committee approved an operating budget for the CAT pursuant to Section 11.1(a) of the CAT NMS Plan that included \$1,453,382 in interest income for the CAT Fee 2026–1 Period.⁸⁵ Interest income represents the interest earned on the surplus reserve and other funds held by CAT LLC. Such income would be used to reduce the amount to be collected to fund the CAT.

CAT LLC estimates the budget for the interest income for the CAT Fee 2026–1 Period based on the estimate of the funds held by CAT LLC and the expected interest rates on such funds. The Original 2026 CAT Budget estimated interest income of \$758,343 for January and February 2026, and the actual interest income for January and February 2026, which are included in the Updated 2026 CAT Budget, were \$757,527.⁸⁶ As mentioned above, bank fees were moved from the professional and administration category in the Original 2026 CAT Budget to the interest income category in the Updated 2026 CAT Budget. Accordingly, the interest income amount for the Updated 2026 CAT Budget was net of \$10,000 in bank fees. Therefore, the variance between budgeted and actual interest income (aside from bank fees) for January and February 2026 was approximately \$10,000. Accordingly,

⁸⁴ See chart entitled “Comparison of Full Year Budgeted Costs” in Section 3(a)(2)(C) above.

⁸⁵ See chart entitled “Budgeted CAT Costs 2026–1” in Section 3(a)(2)(C) above.

⁸⁶ See chart entitled “Comparison of Budgeted and Actual Costs for January & February 2026” in Section 3(a)(2)(C) above.

⁸⁰ See chart entitled “Budgeted CAT Costs 2026–1” in Section 3(a)(2)(C) above.

⁸¹ See chart entitled “Comparison of Budgeted and Actual Costs for January & February 2026” in Section 3(a)(2)(C) above.

⁸² See chart entitled “Comparison of Full Year Budgeted Costs” in Section 3(a)(2)(C) above.

⁸³ See chart entitled “Budgeted CAT Costs 2026–1” in Section 3(a)(2)(C) above.

CAT LLC believes that the process for estimating the budgeted interest income for the CAT Fee 2026–1 Period is reasonable.

(b) Changes From Prior Fee Filing

Section 11.3(a)(iii)(B)(B) of the CAT NMS Plan requires the fee filing for a Prospective CAT Fee to describe the reason for changes in each line item from the prior CAT Fee filing. As this is the first Prospective CAT Fee filing under this CAT Funding Model, this filing describes the changes in interest income from the Original 2026 CAT Budget. Specifically, the following describes the differences in the interest income included in the Original 2026 CAT Budget versus the Updated 2026 CAT Budget, and the reasons for any changes.

The annual 2026 budgeted interest income as included in the Original 2026 CAT Budget was \$1,995,958, and the annual 2026 budgeted interest income included in the Updated 2026 CAT Budget is \$2,806,325.⁸⁷ Accordingly, the budgeted interest income (not including bank fees) increased by \$810,367 from the Original 2026 CAT Budget to the Updated 2026 CAT Budget for the full year of 2026, which is an approximate 40% increase in the interest income for the full year of 2026. This budgeted increase in the interest income in the Updated 2026 CAT Budget from the Original 2026 Budget was primarily due to higher than expected cash balances being maintained after the approval of the Original 2026 Budget.

(xii) Reserve

(a) Description of Reserve

Section 11.3(a)(iii)(B)(B) of the CAT NMS Plan requires the fee filing for a Prospective CAT Fee to provide a brief description of the reserve costs set forth in the budget. The Operating Committee approved an operating budget for the CAT pursuant to Section 11.1(a) of the CAT NMS Plan that includes a reserve amount for 2026. Section 11.1(a)(i) of the CAT NMS Plan states that the budget shall include a reserve. Section 11.1(a)(ii) of the CAT NMS Plan further describes the reserve as follows:

For the reserve referenced in paragraph (a)(i) of this Section, the budget will include an amount reasonably necessary to allow the Company to maintain a reserve of not more than 25% of the annual budget. To the extent collected CAT fees exceed CAT costs, including the reserve of 25% of the annual budget, such surplus shall be used to offset future fees. For the avoidance of doubt, the Company will only include an amount for

the reserve in the annual budget if the Company does not have a sufficient reserve (which shall be up to but not more than 25% of the annual budget). For the avoidance of doubt, the calculation of the amount of the reserve would exclude the amount of the reserve from the budget.

CAT LLC determined to maintain a reserve in the amount of 25% of the total expenses set forth in the Updated 2026 CAT Budget (which does not include the reserve amount). Accordingly, the total 25% reserve of \$23,508,157 was calculated by multiplying the total expenses set forth in the Updated 2026 CAT Budget (other than the reserve) by 25%.⁸⁸

The Updated 2026 CAT Budget estimates that CAT LLC will have \$102,391,135 in reserve as of the beginning of the CAT Fee Period 2026–1. Such reserve is related, in part, to (i) the collection of CAT fees in excess of the budgeted CAT costs in light of the greater actual executed equivalent share volume than the projected executed equivalent share volume for prior CAT Fees, and (ii) a reduction in anticipated budgeted costs associated with the implementation of certain cost savings measures. This reserve balance of \$102,391,135 would be used to offset a portion of CAT costs for CAT Fee Period 2026–1, thereby reducing the fee rate to be paid for CAT Fee 2026–1.

Specifically, the total costs (including the 25% reserve) for CAT Fee 2026–1 of \$117,540,783 would be reduced by the \$102,391,135 in reserve. Therefore, the Total Budgeted CAT Costs 2026–1 would be \$15,149,648.

Accordingly, the fee rate for CAT Fee 2026–1 is calculated based on this reduced amount of \$15,149,648, resulting in a fee rate of \$0.000001 per executed equivalent share. If the fee rate for CAT Fee 2026–1 were calculated solely based on the reasonably budgeted costs for CAT for May–December 2026, excluding the reduction in that amount due to the surplus reserve offset, the fee rate would be the higher rate of \$0.000010.⁸⁹

(b) Changes From Prior Fee Filing

Section 11.3(a)(iii)(B)(B) of the CAT NMS Plan requires the fee filing for a Prospective CAT Fee to describe the reason for changes in the line item for a reserve from the prior CAT Fee filing. As this is the first Prospective CAT Fee filing under this CAT Funding Model, this filing describes the changes in reserve from the Original 2026 CAT Budget. Specifically, the following

describes the differences in the reserve included in the Original 2026 CAT Budget versus the Updated 2026 CAT Budget, and the reasons for any changes.

The accrued liquidity reserve balance at the beginning of the year included in the Original 2026 CAT Budget was \$119,128,336. The Original 2026 CAT Budget contemplated using the reserve to pay CAT bills throughout the year as no CAT fee was in effect. The accrued liquidity reserve balance at the beginning of the year included in the Updated 2026 CAT Budget was \$155,403,378. The increase in the accrued liquidity reserve balance at the beginning of the year from the Original 2026 CAT Budget to the Updated 2026 CAT Budget reflected the additional CAT Fees that had been received after the approval of the Original 2026 CAT Budget. In addition, the Updated 2026 CAT Budget not only reflected the use of the surplus reserve to pay CAT bills but also the accrual of additional reserve to establish a 25% reserve through CAT Fee 2026–1. Accordingly, the estimated liquidity reserve balance increased from a deficit of \$37,304,661 included in the Original 2026 CAT Budget to a reserve balance of \$23,508,157 included in the Updated 2026 CAT Budget for the full year of 2026.

(D) Projected Total Executed Equivalent Share Volume

The calculation of Fee Rate 2026–1 also requires the determination of the projected total executed equivalent share volume of transactions in Eligible Securities for the CAT Fee 2026–1 Period. Under the CAT NMS Plan, the Operating Committee is required to “reasonably determine the projected total executed equivalent share volume of all transactions in Eligible Securities for each relevant period based on the executed equivalent share volume of all transactions in Eligible Securities for the prior twelve months.”⁹⁰ The Operating Committee is required to base its projection on the prior twelve months, but it may use its discretion to analyze the likely volume for the upcoming year. Such discretion would allow the Operating Committee to use its judgment when estimating projected total executed equivalent share volume if the volume over the prior twelve months was unusual or otherwise unfit to serve as the basis of a future volume estimate.⁹¹

The total executed equivalent share volume of transactions in Eligible Securities for the 12-month period from March 2025 through February 2026 was

⁸⁸ The reserve was calculated by multiplying \$94,032,626 by 25%, which equals approximately \$23,508,157.

⁸⁹ See CAT Fee Alert 2026–1 (Apr. 1, 2026).

⁹⁰ Section 11.3(a)(i)(D) of the CAT NMS Plan.

⁹¹ CAT Funding Model Approval Order at 13452.

⁸⁷ See chart entitled “Comparison of Full Year Budgeted Costs” in Section 3(a)(2)(C) above.

5,980,937,549,360.49 executed equivalent shares. The Operating Committee has determined to calculate the projected total executed equivalent share volume for the eight-month recovery period for CAT Fee 2026–1 by multiplying by 8/12ths the executed equivalent share volume for the 12-month period from March 2025 through February 2026. The Operating Committee determined that such an approach was reasonable as the CAT's annual executed equivalent share volume has increased from prior years (e.g., the executed equivalent share volume for 2024 was 4,295,884,600,069.41), and the Operating Committee believes that it is reasonable to conclude that the annual executed equivalent share volume will remain at the higher level. Accordingly, the projected total executed equivalent share volume for the eight-month period for CAT Fee 2026–1 is projected to be 3,987,291,699,573.66 executed equivalent shares.⁹²

The projected total executed equivalent share volume of all transactions in Eligible Securities for the eight-month recovery period for CAT Fee 2026–1 and a description of the calculation of the projection is provided in this filing in accordance with the requirement in the CAT NMS Plan to provide such information in a fee filing for a CAT Fee.⁹³

(E) Fee Rate 2026–1

Fee Rate 2026–1 would be calculated by dividing the Budgeted CAT Costs 2026–1 by the reasonably projected total executed equivalent share volume of all transactions in Eligible Securities for the eight-month recovery period for CAT Fee 2026–1, as described in detail above.⁹⁴ Specifically, Fee Rate 2026–1 would be calculated by dividing \$15,149,648 by 3,987,291,699,573.66 executed equivalent shares. As a result, Fee Rate 2026–1 would be \$0.000003799483243631228 per executed equivalent share. Fee Rate 2026–1 is provided in this filing in accordance with the requirement in the

CAT NMS Plan to provide the Fee Rate in a fee filing for a CAT Fee.⁹⁵

Fee Rate 2026–1 would be used to calculate the fee rate to be paid by CEBBs and CEBBs for CAT Fee 2026–1. Such fee rate is calculated by multiplying Fee Rate 2026–1 of \$0.000003799483243631228 by one-third, and rounding the result to six decimal places.⁹⁶ Accordingly, the fee rate to be paid by CEBBs and CEBBs for CAT Fee 2026–1 would be \$0.000001 per executed equivalent share.

(3) Monthly Fees

CEBBs and CEBBs would be required to pay fees for CAT Fee 2026–1 on a monthly basis for eight months, from July 2026 until January 2027. A CEBB's or CEBB's fee for each month would be calculated based on the transactions in Eligible Securities executed by the CEBB or CEBB from the prior month.⁹⁷ Proposed paragraph (a)(6)(A) of the fee schedule would state that each CAT Executing Broker would receive its first invoice for CAT Fee 2026–1 in June 2026, and would receive an invoice for CAT Fee 2026–1 each month thereafter until January 2027. Proposed paragraph (a)(6)(B) of the fee schedule would state that "Consolidated Audit Trail, LLC shall provide each CAT Executing Broker with an invoice for CAT Fee 2026–1 on a monthly basis." In addition, paragraph (b)(1) of the fee schedule states that each CEBB and CEBB is required to pay its CAT fees "each month."

(4) Consolidated Audit Trail Funding Fees

To implement CAT Fee 2026–1, the Exchange proposes to add a new paragraph to the "Consolidated Audit Trail Funding Fees" section of the Exchange's fee schedule, to include the proposed paragraphs described below.

(A) Fee Schedule for CAT Fee 2026–1

The CAT NMS Plan states that:

Each Industry Member that is the CAT Executing Broker for the buyer in a transaction in Eligible Securities ("CAT Executing Broker for the Buyer" or "CEBB") and each Industry Member that is the CAT Executing Broker for the seller in a transaction in Eligible Securities ("CAT Executing Broker for the Seller" or "CEBS") will be required to pay a CAT Fee for each such transaction in Eligible Securities in the

prior month based on CAT Data. The CEBB's CAT Fee or CEBB's CAT Fee (as applicable) for each transaction in Eligible Securities will be calculated by multiplying the number of executed equivalent shares in the transaction by one-third and by the Fee Rate reasonably determined pursuant to paragraph (a)(i) of this Section 11.3.⁹⁸

Accordingly, based on the factors discussed above, the Exchange proposes to add paragraph (a)(6) to the Consolidated Audit Trail Funding Fees section of its fee schedule. Proposed paragraph (a)(6) would state the following:

(A) Each CAT Executing Broker shall receive its first invoice for CAT Fee 2026–1 in June 2026, which shall set forth the CAT Fee 2026–1 fees calculated based on transactions in May 2026, and shall receive an invoice for CAT Fee 2026–1 for each month thereafter until January 2027.

(B) Consolidated Audit Trail, LLC shall provide each CAT Executing Broker with an invoice for CAT Fee 2026–1 on a monthly basis. Each month, such invoices shall set forth a fee for each transaction in Eligible Securities executed by the CAT Executing Broker in its capacity as a CAT Executing Broker for the Buyer ("CEBB") and/or the CAT Executing Broker for the Seller ("CEBS") (as applicable) from the prior month as set forth in CAT Data. The fee for each such transaction will be calculated by multiplying the number of executed equivalent shares in the transaction by the fee rate of \$0.000001 per executed equivalent share.

(C) Notwithstanding the last invoice date of January 2027 for CAT Fee 2026–1 in paragraph 6(A), CAT Fee 2026–1 shall continue in effect after January 2027, with each CAT Executing Broker receiving an invoice for CAT Fee 2026–1 each month, until a new subsequent CAT Fee is in effect with regard to Industry Members in accordance with Section 19(b) of the Exchange Act. Consolidated Audit Trail, LLC will provide notice when CAT Fee 2026–1 will no longer be in effect.

(D) Each CAT Executing Broker shall be required to pay each invoice for CAT Fee 2026–1 in accordance with paragraph (b).

As noted in the Plan amendment for the CAT Funding Model, "[a]s a practical matter, the fee filing would provide the exact fee per executed equivalent share to be paid for the CAT Fees, by multiplying the Fee Rate by one-third and describing the relevant number of decimal places for the fee."⁹⁹ Accordingly, proposed paragraph (a)(6)(B) of the fee schedule would set forth a fee rate of \$0.000001 per executed equivalent share. This fee rate is calculated by multiplying Fee Rate 2026–1 of \$0.000003799483243631228 by one-third, and rounding the result to

⁹² This projection was calculated by multiplying 5,980,937,549,360.49 executed equivalent shares by 8/12ths.

⁹³ Section 11.3(a)(iii)(B) of the CAT NMS Plan.

⁹⁴ In approving the CAT Funding Model, the Commission stated that "[t]he manner in which the Fee Rate for Prospective CAT Costs will be calculated (*i.e.*, by dividing the CAT costs reasonably budgeted for the upcoming year by the reasonably projected total executed equivalent share volume of all transactions in Eligible Securities for the year) is appropriate." CAT Funding Model Approval Order at 13435.

⁹⁵ See Section 11.3(a)(iii)(B)(A) of the CAT NMS Plan.

⁹⁶ This fee rate of \$0.000001 is calculated by multiplying the Fee Rate of \$0.000003799483243631228 by one-third and rounding this result (which equals \$0.000001266494414543743) to 6 decimal places.

⁹⁷ See proposed paragraph (a)(6)(B) of the fee schedule.

⁹⁸ Section 11.3(a)(iii)(A) of the CAT NMS Plan.

⁹⁹ CAT Funding Model Approval Order at 13445, n.677.

six decimal places.¹⁰⁰ The Operating Committee determined to use six decimal places to balance the accuracy of the calculation with the potential systems and other impracticalities of using additional decimal places in the calculation.

The proposed language in paragraph (a)(6)(A) of the fee schedule would describe when CAT Executing Brokers would receive their first monthly invoice for CAT Fee 2026–1. Specifically, CAT Executing Brokers would receive their first monthly invoice for CAT Fee 2026–1 in June 2026 and the fees set forth in that invoice would be calculated based on transactions executed in May 2026. The payment for the first invoice would be required within 30 days after the receipt of the first invoice (unless a longer period is indicated), as described in paragraph (b)(2) of the fee schedule.

Proposed paragraph (a)(6)(A) of the fee schedule also would describe the monthly cadence of the invoices for CAT Fee 2026–1. Specifically, after the first invoices are provided to CAT Executing Brokers in June 2026, invoices will be sent to CAT Executing Brokers each month thereafter until January 2027.

Proposed paragraph (a)(6)(B) of the fee schedule would describe the invoices for CAT Fee 2026–1. Proposed paragraph (a)(6)(B) of the fee schedule would state that “Consolidated Audit Trail, LLC shall provide each CAT Executing Broker with an invoice for CAT Fee 2026–1 on a monthly basis.” Proposed paragraph (a)(6)(B) of the fee schedule also would describe the fees to be set forth in the invoices for CAT Fee 2026–1. Specifically, it would state that “[e]ach month, such invoices shall set forth a fee for each transaction in Eligible Securities executed by the CAT Executing Broker in its capacity as a CAT Executing Broker for the Buyer (‘CEBB’) and/or the CAT Executing Broker for the Seller (‘CEBS’) (as applicable) from the prior month as set forth in CAT Data. The fee for each such transaction will be calculated by multiplying the number of executed equivalent shares in the transaction by the fee rate of \$0.000001 per executed equivalent share.”

Since CAT Fee 2026–1 is a monthly fee based on actual transaction volume from the prior month, CAT Fee 2026–1 may collect more or less than two-thirds of the Budgeted CAT Costs 2026–1. To the extent that CAT Fee 2026–1 collects

more than two-thirds of the Budgeted CAT Costs 2026–1, any excess money collected will be used to offset future fees and/or to fund the reserve for the CAT. To the extent that CAT Fee 2026–1 collects less than two-thirds of the Budgeted CAT Costs 2026–1, the budget for the CAT in the ensuing months will reflect such shortfall.

Furthermore, proposed paragraph (a)(6)(C) of the fee schedule would describe how long CAT Fee 2026–1 would remain in effect. It would state that “[n]otwithstanding the last invoice date of January 2027 for CAT Fee 2026–1 in paragraph 6(A), CAT Fee 2026–1 shall continue in effect after January 2027, with each CAT Executing Broker receiving an invoice for CAT Fee 2026–1 each month, until a new subsequent CAT Fee is in effect with regard to Industry Members in accordance with Section 19(b) of the Exchange Act. Consolidated Audit Trail, LLC will provide notice when CAT Fee 2026–1 will no longer be in effect.”

Finally, proposed paragraph (a)(6)(D) of the fee schedule would set forth the requirement for the CAT Executing Brokers to pay the invoices for CAT Fee 2026–1. It would state that “[e]ach CAT Executing Broker shall be required to pay each invoice for CAT Fee 2026–1 in accordance with paragraph (b).”

(B) Manner of Payment

Paragraph (b)(1) of the “Consolidated Audit Trail Funding Fees” section of the fee schedule describes the manner of payment of Industry Member CAT fees. It states that “[e]ach CAT Executing Broker shall pay its CAT fees as required pursuant to paragraph (a) each month to the Consolidated Audit Trail, LLC in the manner prescribed by the Consolidated Audit Trail, LLC.” The CAT NMS Plan requires the Operating Committee to establish a system for the collection of CAT fees.¹⁰¹ The Plan Processor has established a billing system for CAT fees.¹⁰² Accordingly, CAT Executing Brokers would be required to pay CAT Fee 2026–1 in accordance with such system.

(C) Failure To Pay CAT Fees

The CAT NMS Plan further states that:

Participants shall require each Industry Member to pay all applicable fees authorized

under this Article XI within thirty (30) days after receipt of an invoice or other notice indicating payment is due (unless a longer payment period is otherwise indicated). If an Industry Member fails to pay any such fee when due (as determined in accordance with the preceding sentence), such Industry Member shall pay interest on the outstanding balance from such due date until such fee is paid at a per annum rate equal to the lesser of: (a) the Prime Rate plus 300 basis points; or (b) the maximum rate permitted by applicable law.¹⁰³

Paragraph (b)(2) of the fee schedule states that:

Each CAT Executing Broker shall pay the CAT fees required pursuant to paragraph (a) within thirty days after receipt of an invoice or other notice indicating payment is due (unless a longer payment period is otherwise indicated). If a CAT Executing Broker fails to pay any such CAT fee when due, such CAT Executing Broker shall pay interest on the outstanding balance from such due date until such fee is paid at a per annum rate equal to the lesser of (i) the Prime Rate plus 300 basis points, or (ii) the maximum rate permitted by applicable law.

The requirements of paragraph (b)(2) would apply to CAT Fee 2026–1.

(5) CAT Fee Details

The CAT NMS Plan states that:

Details regarding the calculation of a Participant or CAT Executing Broker’s CAT Fees will be provided upon request to such Participant or CAT Executing Broker. At a minimum, such details would include each Participant or CAT Executing Broker’s executed equivalent share volume and corresponding fee by (1) Listed Options, NMS Stocks and OTC Equity Securities, (2) by transactions executed on each exchange and transactions executed otherwise than on an exchange, and (3) by buy-side transactions and sell-side transactions.¹⁰⁴

Such information would provide CEBBs and CEBSS with the ability to understand the details regarding the calculation of their CAT Fee.¹⁰⁵ CAT LLC will provide CAT Executing Brokers with these details regarding the calculation of their CAT Fees on their monthly invoice for the CAT Fees.

In addition, CAT LLC will make certain aggregate statistics regarding CAT Fees publicly available. Specifically, the CAT NMS Plan states that, “[f]or each CAT Fee, at a minimum, CAT LLC will make publicly available the aggregate executed

¹⁰³ Section 11.4 of the CAT NMS Plan.

¹⁰⁴ Section 11.3(a)(iv)(A) of the CAT NMS Plan.

¹⁰⁵ In approving the CAT Funding Model, the Commission stated that, “[i]n the Commission’s view, providing CAT Execut[ing] Brokers information regarding the calculation of their CAT Fees will aid in transparency and permit CAT Execut[ing] Brokers to confirm the accuracy of their invoices for CAT Fees.” CAT Funding Model Approval Order at 13454.

¹⁰⁰ This fee rate of \$0.000001 is calculated by multiplying the Fee Rate of \$0.000003799483243631228 by one-third, and rounding this result (which equals \$0.000001266494414543743) to 6 decimal places.

¹⁰¹ Section 11.4 of the CAT NMS Plan.

¹⁰² The billing process and system are described in CAT Alert 2023–02 as well as in the CAT FAQs related to the billing of CAT fees, the Industry Member CAT Reporter Portal User Guide, the FCAT Industry Member Onboarding Guide, the FCAT Connectivity Supplement for Industry Members and the CAT Billing Webinars (dated Sept. 28, 2023 and Nov. 7, 2023), each available on the CAT website.

equivalent share volume and corresponding aggregate fee by (1) Listed Options, NMS Stocks and OTC Equity Securities, (2) by transactions executed on each exchange and transactions executed otherwise than on an exchange, and (3) by buy-side transactions and sell-side transactions.”¹⁰⁶ Such aggregate statistics will be available on the CAT website.

Furthermore, CAT LLC will make publicly available on the CAT website the total amount invoiced each month that CAT Fee 2026–1 is in effect as well as the total amount invoiced for CAT Fee 2026–1 for all months since its commencement. CAT LLC also will make publicly available on the CAT website the total costs to be collected from Industry Members for CAT Fee 2026–1.

(6) Financial Accountability Milestones

The CAT NMS Plan states that “[n]o Participant will make a filing with the SEC pursuant to Section 19(b) of the Exchange Act regarding any CAT Fee related to Prospective CAT Costs until the Financial Accountability Milestone related to Period 4 described in Section 11.6 has been satisfied.”¹⁰⁷ Under Section 1.1 of the CAT NMS Plan, a Financial Accountability Milestone is considered complete as of the date identified in the Participants’ Quarterly Progress Reports. As indicated by the Participants’ Quarterly Progress Report for the second and third quarter of 2024,¹⁰⁸ the Financial Accountability Milestone related to Period 4 was satisfied on July 15, 2024. In addition, the satisfaction of the Financial Accountability Milestone related to Period 4 was described in detail in the fee filing for the first Prospective CAT Fee, CAT Fee 2024–1.¹⁰⁹

(7) Participant Invoices

While CAT Fees charged to Industry Members become effective in accordance with the requirements of Section 19(b) of the Exchange Act,¹¹⁰ CAT fees charged to Participants are implemented via an approval of the CAT fees by the Operating Committee in

accordance with the requirements of the CAT NMS Plan.¹¹¹ On March 31, 2026, the Operating Committee approved the Participant fee related to CAT Fee 2026–1. Specifically, pursuant to the requirements of CAT NMS Plan,¹¹² each Participant would be required to pay a CAT fee calculated using the fee rate of \$0.000001 per executed equivalent share, which is the same fee rate that applies to CEBBs and CEBSSs. Like CEBBs and CEBSSs, each Participant would be invoiced such CAT fees on a monthly basis for eight months, from June 2026 until January 2027, and each Participant’s fee for each month would be calculated based on the transactions in Eligible Securities executed on the applicable exchange (for the Participant exchanges) or otherwise than on an exchange (for FINRA) in the prior month. Accordingly, each Participant will receive its first invoice in June 2026, and would receive an invoice each month thereafter until January 2027. Like with the CAT Fee 2026–1 applicable to CEBBs and CEBSSs as described in proposed paragraph (a)(6)(C) of the fee schedule, notwithstanding the last invoice date of January 2027, Participants will continue to receive invoices for this fee each month until a new subsequent CAT Fee is in effect with regard to Industry Members. Furthermore, Section 11.4 of the CAT NMS Plan states that each Participant is required to pay such invoices as required by Section 3.7(b) of the CAT NMS Plan. Section 3.7(b) states, in part, that

[e]ach Participant shall pay all fees or other amounts required to be paid under this Agreement within thirty (30) days after receipt of an invoice or other notice indicating payment is due (unless a longer payment period is otherwise indicated) (the “Payment Date”). The Participant shall pay interest on the outstanding balance from the Payment Date until such fee or amount is paid at a per annum rate equal to the lesser of: (i) Prime Rate plus 300 basis points; or (ii) the maximum rate permitted by applicable law.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the requirements of the Exchange Act. The Exchange believes that the proposed rule change is consistent with Section 6(b)(5) of the Act,¹¹³ which requires, among other things, that the Exchange’s rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable

principles of trade, and, in general, to protect investors and the public interest, and not designed to permit unfair discrimination between customers, issuers, brokers and dealers. The Exchange also believes that the proposed rule change is consistent with the provisions of Section 6(b)(4) of the Act,¹¹⁴ because it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers. The Exchange further believes that the proposed rule change is consistent with Section 6(b)(8) of the Act,¹¹⁵ which requires that the Exchange’s rules not impose any burden on competition that is not necessary or appropriate in furtherance of the purpose of the Exchange Act. These provisions also require that the Exchange be “so organized and [have] the capacity to be able to carry out the purposes” of the Act and “to comply, and . . . to enforce compliance by its members and persons associated with its members,” with the provisions of the Exchange Act.¹¹⁶ Accordingly, a reasonable reading of the Act indicates that it intended that regulatory funding be sufficient to permit an exchange to fulfill its statutory responsibility under the Act, and contemplated that such funding would be achieved through equitable assessments on the members, issuers, and other users of an exchange’s facilities.

The Exchange believes that this proposal is consistent with the Act because it implements provisions of the Plan and is designed to assist the Exchange in meeting regulatory obligations pursuant to the Plan. In approving the Plan, the SEC noted that the Plan “is necessary and appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanism of a national market system, or is otherwise in furtherance of the purposes of the Act.”¹¹⁷ To the extent that this proposal implements the Plan and applies specific requirements to Industry Members, the Exchange believes that this proposal furthers the objectives of the Plan, as identified by the SEC, and is therefore consistent with the Act.

The Exchange believes that the proposed fees to be paid by the CEBBs

¹⁰⁶ Section 11.3(a)(iv)(B) of the CAT NMS Plan. In approving the CAT Funding Model, the Commission stated that “[t]he publication of the aggregate executed equivalent share volume and aggregate fee is appropriate because it would allow Participants and CAT Executing Brokers a high-level validation of executed volume and fees.” CAT Funding Model Approval Order at 13454.

¹⁰⁷ Section 11.3(a)(iii)(C) of the CAT NMS Plan.

¹⁰⁸ Q2 & Q3 2024 Quarterly Progress Report (July 29, 2024).

¹⁰⁹ See Securities Exchange Act Rel. No. 100871, (Aug. 29, 2024), 89 FR 72669, (Sep. 5, 2024).

¹¹⁰ Section 11.3(a)(i)(A)(I) of the CAT NMS Plan.

¹¹¹ CAT Funding Model Approval Order at 13448.

¹¹² See Section 11.3(a)(ii) and Appendix B of the CAT NMS Plan.

¹¹³ 15 U.S.C. 78f(b)(6).

¹¹⁴ 15 U.S.C. 78f(b)(4).

¹¹⁵ 15 U.S.C. 78f(b)(8).

¹¹⁶ See 15 U.S.C. 78f(b)(1).

¹¹⁷ CAT NMS Plan Approval Order at 84697.

and CEBs are reasonable, equitably allocated and not unfairly discriminatory. First, the CAT Fee 2026–1 fees to be collected are directly associated with the budgeted costs of establishing and maintaining the CAT, where such costs include Plan Processor costs and costs related to technology, legal, consulting, insurance, and professional and administration costs.

The proposed CAT Fee 2026–1 fees would be charged to Industry Members in support of the maintenance of a consolidated audit trail for regulatory purposes. The proposed fees, therefore, are consistent with the Commission's view that regulatory fees be used for regulatory purposes and not to support the Exchange's business operations. The proposed fees would not cover Exchange services unrelated to the CAT. In addition, any surplus would be used as a reserve to offset future fees. Given the direct relationship between CAT fees and CAT costs, the Exchange believes that the proposed fees are reasonable, equitable and not unfairly discriminatory.

As further discussed below, the SEC approved the CAT Funding Model, finding it was reasonable and that it equitably allocates fees among Participants and Industry Members. The Exchange believes that the proposed fees adopted pursuant to the CAT Funding Model approved by the SEC are reasonable, equitably allocated and not unfairly discriminatory.

(1) Implementation of CAT Funding Model in CAT NMS Plan

Section 11.1(b) of the CAT NMS Plan states that “[t]he Participants shall file with the SEC under Section 19(b) of the Exchange Act any such fees on Industry Members that the Operating Committee approves.” Per Section 11.1(b) of the CAT NMS Plan, the Exchange has filed this fee filing to implement the Industry Member CAT fees included in the CAT Funding Model. The Exchange believes that this proposal is consistent with the Exchange Act because it is consistent with, and implements, the CAT Funding Model in the CAT NMS Plan, and is designed to assist the Exchange and its Industry Members in meeting regulatory obligations pursuant to the CAT NMS Plan. In approving the CAT NMS Plan, the SEC noted that the Plan “is necessary and appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanism of a national market system, or is otherwise in furtherance of the purposes of the

Act.”¹¹⁸ Similarly, in approving the CAT Funding Model, the SEC concluded that the CAT Funding Model met this standard.¹¹⁹ As this proposal implements the Plan and the CAT Funding Model described therein, and applies specific requirements to Industry Members in compliance with the Plan, the Exchange believes that this proposal furthers the objectives of the Plan, as identified by the SEC, and is therefore consistent with the Exchange Act.

(2) Calculation of Fee Rate for CAT Fee 2026–1 Is Reasonable

The SEC has determined that the CAT Funding Model satisfies the requirements of the Exchange Act. Specifically, the SEC has concluded that the method for determining CAT Fees as set forth in Section 11.3 of the CAT NMS Plan, including the formula for calculating the Fee Rate, the identification of the parties responsible for payment and the transactions subject to the fee rate for CAT Fees, satisfies the Exchange Act.¹²⁰ In each respect, as discussed above, CAT Fee 2026–1 is calculated, and would be applied, in accordance with the requirements applicable to CAT Fees as set forth in the CAT NMS Plan. Furthermore, as discussed below, the Exchange believes that each of the figures for the variables in the SEC-approved formula for calculating the fee rate for CAT Fee 2026–1 is reasonable and consistent with the Exchange Act. The calculation of Fee Rate 2026–1 for CAT Fee 2026–1 requires the figures for Budgeted CAT Costs 2026–1, the executed equivalent share volume for the prior twelve months, the determination of the CAT Fee 2026–1 Period, and the projection of the executed equivalent share volume for the CAT Fee 2026–1 Period. Each of these variables is reasonable and satisfies the Exchange Act, as discussed throughout this filing.

(A) Budgeted CAT Costs 2026–1

The formula for calculating a Fee Rate requires the amount of Budgeted CAT Costs to be recovered. Specifically, Section 11.3(a)(iii)(B) of the CAT NMS Plan requires a fee filing to provide:

the budget for the upcoming year (or remainder of the year, as applicable), including a brief description of each line item in the budget, including (1) the technology line items of cloud hosting services, operating fees, CAIS operating fees, change request fees, and capitalized developed technology costs, (2) legal, (3) consulting, (4) insurance, (5) professional

and administration, and (6) public relations costs, a reserve and/or such other categories as reasonably determined by the Operating Committee to be included in the budget, and the reason for changes in each such line item from the prior CAT fee filing.

In accordance with this requirement, the Exchange has set forth the amount and type of Budgeted CAT Costs 2026–1 for each of these categories above.

Section 11.3(a)(iii)(B) of the CAT NMS Plan also requires that the fee filing provide “sufficient detail to demonstrate that the budget for the upcoming year, or part of year, as applicable, is reasonable and appropriate.” As discussed below, the Exchange believes that the budget for the CAT Fee 2026–1 Period is “reasonable and appropriate.” Each of the costs included in CAT Fee 2026–1 is reasonable and appropriate because the costs are consistent with standard industry practice, based on the need to comply with the requirements of the CAT NMS Plan, incurred subject to negotiations performed on an arm's length basis, and/or is consistent with the needs of any legal entity, particularly one with no employees.

(i) Technology: Cloud Hosting Services

In approving the CAT Funding Model, the Commission recognized that it is appropriate to recover budgeted costs related to cloud hosting services as a part of CAT Fees.¹²¹ CAT LLC determined that the budgeted costs related to cloud hosting services described in this filing are reasonable and should be included as a part of Budgeted CAT Costs 2026–1. As described above, the cloud hosting services costs reflect, among other things, the breadth of the CAT cloud activities, data volumes far in excess of the original volume estimates, the need for specialized cloud services given the volume and unique nature of the CAT, the processing time requirements of the Plan, and regular efforts to seek to minimize costs where permissible under the Plan. CAT LLC determined that use of cloud hosting services is necessary for implementation of the CAT, particularly given the substantial data volumes associated with the CAT, and that the fees for cloud hosting services negotiated by FCAT were reasonable, taking into consideration a variety of factors, including the expected volume of data and the breadth of services provided and market rates for similar services.¹²² Indeed, the actual costs of

¹²¹ Section 11.3(a)(iii)(B)(1) of the CAT NMS Plan.

¹²² For a discussion of the amount and type of cloud hosting services fees, see Section 3(a)(2)(C)(i) above.

¹¹⁸ *Id.*

¹¹⁹ CAT Funding Model Approval Order at 13481.

¹²⁰ *Id.*

the CAT are far in excess of the original estimated costs of the CAT due to various factors, including the higher volumes and greater complexity of the CAT than anticipated when Rule 613 was originally adopted.

To comply with the requirements of the Plan, the breadth of the cloud activities related to the CAT is substantial. The cloud services not only include the production environment for the CAT, but they also include two industry testing environments, support environments for quality assurance and stress testing and disaster recovery capabilities. Moreover, the cloud storage costs are driven by the requirements of the Plan, which requires the storage of multiple versions of the data, from the original submitted version of the data through various processing steps, to the final version of the data.

Data volume is a significant driver of costs for cloud hosting services. When the Commission adopted the CAT NMS Plan in 2016, it estimated that the CAT would need to receive 58 billion records per day¹²³ and that annual operating costs for the CAT would range from \$36.5 million to \$55 million.¹²⁴ In contrast to the 2016 projections, the actual daily Q3 2025 data volumes averaged 792 billion events per day.

In addition to the effect of the data volume on the cloud hosting costs, the processing timelines set forth in the Plan contribute to the cloud hosting costs. Although CAT LLC has proactively sought to manage cloud hosting costs while complying with the Plan, including through requests to the Commission for exemptive relief and amendments to the CAT NMS Plan to reduce costs, stringent CAT NMS Plan requirements do not allow for any material flexibility in cloud architecture design choices, processing timelines (e.g., the use of non-peak processing windows), or lower-cost storage tiers. As a result, the required CAT processing timelines contribute to the cloud hosting costs of the CAT.

The costs for cloud hosting services also reflect the need for specialized cloud hosting services given the data volume and unique processing needs of the CAT. The data volume as well as the data processing needs of the CAT necessitate the use of cloud hosting services. The equipment, power and services required for an on-premises data model, the alternative to cloud hosting services, would be cost prohibitive. Moreover, as CAT was being developed, there were limited

cloud hosting providers that could satisfy all the necessary CAT requirements, including the operational and security criteria. Over time, more providers offering cloud hosting services that would satisfy these criteria have entered the market. CAT LLC will continue to evaluate alternative cloud hosting services, recognizing that the time and cost to move to an alternative cloud provider would be substantial.

The reasonableness of the cloud hosting services costs is further supported by key cost discipline mechanisms for the CAT—a cost-based funding structure, cost transparency, cost management efforts (including regular efforts to lower compute and storage costs where permitted by the Plan) and oversight. Together, these mechanisms help ensure the ongoing reasonableness of the CAT's costs and the level of fees assessed to support those costs.¹²⁵

(ii) Technology: Operating Fees

In approving the CAT Funding Model, the SEC recognized that it is appropriate to recover budgeted costs related to operating fees as a part of CAT Fees.¹²⁶ CAT LLC determined that the budgeted costs related to operating fees described in this filing are reasonable and should be included as a part of Budgeted CAT Costs 2026–1.

The operating fees would include the negotiated fees paid by CAT LLC to the Plan Processor to operate and maintain the system for order-related information and to perform business operations related to the system, including compliance, security, testing, training, communications with the industry (e.g., management of the FINRA CAT Helpdesk, FAQs, website and webinars) and program management. CAT LLC determined that the selection of FCAT as the Plan Processor was reasonable and appropriate given its expertise with securities regulatory reporting, after a process of considering other potential candidates.¹²⁷ CAT LLC also determined that the fixed price contract, negotiated on an arm's length basis with the goals of managing costs and receiving services required to comply with the CAT NMS Plan and Rule 613, was reasonable and appropriate, taking into consideration a variety of factors, including the breadth of services provided and market rates for similar

types of activity.¹²⁸ The services to be performed by FCAT for CAT Fee 2026–1 Period and the budgeted costs related to such services are described above.¹²⁹

The operating costs also include costs related to the receipt of market data. CAT LLC anticipates receiving certain market data from Algoseek during the CAT Fee 2026–1 Period. CAT LLC anticipates that Algoseek will provide data as set forth in the SIP Data requirements of the CAT NMS Plan and that the fees are reasonable and in line with market rates for market data received.¹³⁰

(iii) Technology: CAIS Operating Fees

In approving the CAT Funding Model, the SEC recognized that it is appropriate to recover budgeted costs related to CAIS operating fees as a part of CAT Fees.¹³¹ CAT LLC determined that the budgeted costs related to CAIS operating fees described in this filing are reasonable and should be included as a part of the Budgeted CAT Costs 2026–1. The CAIS operating fees would include the fees paid to the Plan Processor to operate and maintain the Reference Database and to perform the business operations related to the system, including compliance, security, testing, training, communications with the industry (e.g., management of the FINRA CAT Helpdesk, FAQs, website and webinars) and program management. CAT LLC determined that the fees for FCAT's services related to the Reference Database, negotiated on an arm's length basis with the goals of managing costs and receiving services required to comply with the CAT NMS Plan, taking into consideration a variety of factors, including the services to be provided and market rates for similar types of activity, are reasonable and appropriate.¹³² The services to be performed by FCAT for the CAT Fee 2026–1 Period and the budgeted costs for such services are described above.¹³³

(iv) Technology: Change Request Fees

In approving the CAT Funding Model, the SEC recognized that it is appropriate to recover budgeted costs related to change request fees as a part of CAT Fees.¹³⁴ CAT LLC determined that the budgeted costs related to change request fees described in this filing are reasonable and should be included as a

¹²⁸ *Id.*

¹²⁹ *Id.*

¹³⁰ *Id.*

¹³¹ Section 11.3(a)(iii)(B)(B)(1) of the CAT NMS Plan.

¹³² See Section 3(a)(2)(C)(iii) above.

¹³³ *Id.*

¹³⁴ Section 11.3(a)(iii)(B)(B)(1) of the CAT NMS Plan.

¹²³ Section 1.3 of Appendix D of the CAT NMS Plan at n.262.

¹²⁴ CAT NMS Plan Approval Order at 84801.

¹²⁵ See Securities Exchange Act Rel. No. 97151 (Mar. 15, 2023), 88 FR 17086, 17117 (Mar. 21, 2023) (describing key cost discipline mechanisms for the CAT).

¹²⁶ Section 11.3(a)(iii)(B)(B)(1) of the CAT NMS Plan.

¹²⁷ See Section 3(a)(2)(C)(ii) above.

part of the Budgeted CAT Costs 2026–1. It is common practice to utilize a change request process to address evolving needs in technology projects. This is particularly true for a project like CAT that is the first of its kind, both in substance and in scale. The substance and costs of each of the change requests are evaluated by the Operating Committee and approved in accordance with the requirements for Operating Committee meetings. In each case, CAT LLC forecasts that the change requests will be necessary to implement the CAT. As described above,¹³⁵ CAT LLC determined that it was reasonable not to include any change request fees in the Budgeted CAT Costs 2026–1.

(v) Capitalized Developed Technology Costs

In approving the CAT Funding Model, the SEC recognized that it is appropriate to recover budgeted costs related to capitalized developed technology costs as a part of CAT Fees.¹³⁶ In general, capitalized developed technology costs would include costs related to, for example, certain development costs, costs related to certain modifications, upgrades and other changes to the CAT and license fees. The amount and type of budgeted capitalized developed technology costs for the CAT Fee 2026–1 Period, which relate to the software license fee and technology changes to be implemented by FCAT, are described in more detail above.¹³⁷

(vi) Legal

In approving the CAT Funding Model, the SEC recognized that it is appropriate to recover budgeted costs related to legal fees as a part of CAT Fees.¹³⁸ CAT LLC determined that the budgeted legal costs described in this filing are reasonable and should be included as a part of the Budgeted CAT Costs 2026–1. Given the unique nature of the CAT, the number of parties involved with the CAT (including, for example, the SEC, Participants, Industry Members, and vendors) and the many regulatory, contractual and other issues associated with the CAT, the scope of the necessary legal services is substantial. CAT LLC determined that the scope of the proposed legal services is necessary to implement and maintain the CAT and that the legal rates reflect the specialized services necessary for such a project. CAT LLC determined to hire and continue to use each law firm based

on a variety of factors, including their relevant expertise and fees. In each case, CAT LLC determined that the fee rates were in line with market rates for specialized legal expertise. In addition, CAT LLC determined that the budgeted costs for the legal projects were appropriate given the breadth of the services provided. The services to be performed by each law firm for the CAT Fee 2026–1 Period and the budgeted costs related to such services are described above.¹³⁹

(vii) Consulting

In approving the CAT Funding Model, the SEC recognized that it is appropriate to recover budgeted consulting costs as a part of CAT Fees.¹⁴⁰ CAT LLC determined that the budgeted consulting costs described in this filing are reasonable and should be included as a part of Budgeted CAT Costs 2026–1. Because there are no CAT employees¹⁴¹ and because of the significant number of issues associated with the CAT, the consultants are budgeted to provide assistance in the management of various CAT matters and the processes related to such matters.¹⁴² CAT LLC determined the budgeted consulting costs were appropriate, as the consulting services were to be provided at reasonable market rates that were comparable to the rates charged by other consulting firms for similar work. Moreover, the total budgeted costs for such consulting services were appropriate in light of the breadth of services provided by Deloitte. The services budgeted to be performed by Deloitte and the budgeted costs related to such services are described above.¹⁴³

(viii) Insurance

In approving the CAT Funding Model, the SEC recognized that it is appropriate to recover budgeted insurance costs as a part of CAT Fees.¹⁴⁴ CAT LLC determined that the budgeted insurance costs described in this filing are reasonable and should be included as a part of the Budgeted CAT Costs 2026–1. CAT LLC determined that it is common practice to have directors' and officers' liability insurance, and errors

and omissions liability insurance. CAT LLC further determined that it was important to have cyber security insurance given the nature of the CAT, and such a decision is consistent with the CAT NMS Plan, which states that the cyber incident response plan may include "[i]nsurance against security breaches."¹⁴⁵ As discussed above,¹⁴⁶ CAT LLC determined that the budgeted insurance costs were appropriate given its prior experience with this market and an analysis of the alternative insurance offerings. Based on this analysis, CAT LLC determined that the selected insurance policies provided appropriate coverage at reasonable market rates.¹⁴⁷

(ix) Professional and Administration

In approving the CAT Funding Model, the SEC recognized that it is appropriate to recover budgeted professional and administration costs as a part of CAT Fees.¹⁴⁸ CAT LLC determined that the budgeted professional and administration costs described in this filing are reasonable and should be included as a part of Budgeted CAT Costs 2026–1. Because there are no CAT employees, all required accounting, financial, tax, cash management and treasury functions for CAT LLC have been outsourced at market rates. In addition, the required annual financial statement audit of CAT LLC is included in professional and administration costs, which costs are also at market rates. The services performed by Anchin and Grant Thornton and the costs related to such services are described above.¹⁴⁹

CAT LLC anticipates continuing to make use of Anchin, a financial advisory firm, to assist with financial matters for the CAT. CAT LLC determined that the budgeted costs for Anchin were appropriate, as the financial advisory services were to be provided at reasonable market rates that were comparable to the rates charged by other such firms for similar work. Moreover, the total budgeted costs for such financial advisory services were appropriate in light of the breadth of services provided by Anchin. The services budgeted to be performed by Anchin and the budgeted costs related to such services are described above.¹⁵⁰ CAT LLC anticipates continuing to make use of Grant Thornton, an

¹³⁹ See Section 3(a)(2)(C)(vi) above.

¹⁴⁰ Section 11.3(a)(iii)(B)(B)(3) of the CAT NMS Plan.

¹⁴¹ As stated in the filing of the proposed CAT NMS Plan, "[i]t is the intent of the Participants that the Company have no employees." Securities Exchange Act Rel. No. 77724 (Apr. 27, 2016), 81 FR 30614, 30621 (May 17, 2016).

¹⁴² CAT LLC uses certain third parties to perform tasks that may be performed by administrators for other NMS Plans. See, e.g., CTA Plan and CQ Plan.

¹⁴³ Section 3(a)(2)(C)(vii) above.

¹⁴⁴ Section 11.3(a)(iii)(B)(B)(4) of the CAT NMS Plan.

¹⁴⁵ Section 4.1.5 of Appendix D of the CAT NMS Plan.

¹⁴⁶ See Section 3(a)(2)(C)(viii) above.

¹⁴⁷ *Id.*

¹⁴⁸ Section 11.3(a)(iii)(B)(B)(5) of the CAT NMS Plan.

¹⁴⁹ See Section 3(a)(2)(C)(ix) above.

¹⁵⁰ *Id.*

¹³⁵ See Section 3(a)(2)(C)(iv) above.

¹³⁶ Section 11.3(a)(iii)(B)(B)(1) of the CAT NMS Plan.

¹³⁷ See Section 3(a)(2)(C)(v) above.

¹³⁸ Section 11.3(a)(iii)(B)(B)(2) of the CAT NMS Plan.

independent accounting firm, to complete the audit of CAT LLC's financial statements, in accordance with the requirements of the CAT NMS Plan. CAT LLC determined that the budgeted costs for Grant Thornton were appropriate, as the accounting services were to be provided at reasonable market rates that were comparable to the rates charged by other such firms for similar work. Moreover, the total budgeted costs for such accounting services were appropriate in light of the breadth of services provided by Grant Thornton. The services budgeted to be performed by Grant Thornton and the budgeted costs related to such services are described above.¹⁵¹

(x) Public Relations Costs

In approving the CAT Funding Model, the SEC recognized that it is appropriate to recover budgeted public relations costs as a part of CAT Fees.¹⁵² However, as described above,¹⁵³ CAT LLC determined not to include any public relations costs in Budgeted CAT Costs 2026–1. CAT LLC determined that it was reasonable not to include any public relations costs in the Budgeted CAT Costs 2026–1.

(xi) Interest Income

Section 11.1(a) of the CAT NMS Plan requires the CAT budget to include “the sources of all revenues to cover costs.” Accordingly, the Updated 2026 CAT Budget includes a line item for interest income. Specifically, the Updated 2026 CAT Budget includes \$1,453,382 in interest income for the CAT Fee 2026–1 Period.¹⁵⁴ CAT LLC determined that using interest income to reduce the amount to be collected via CAT Fees is reasonable and should be included as a part of the Budgeted CAT Costs 2026–1.

(xii) Reserve

In approving the CAT Funding Model, the SEC recognized that it is appropriate to recover budgeted reserve costs as a part of CAT Fees.¹⁵⁵ CAT LLC determined that the reserve in the amount of 25% of the Updated 2026 CAT Budget (other than the reserve) complies with the requirements of the CAT NMS Plan related to a reserve, is a reasonable amount, and, therefore,

should be included as a part of the Updated 2026 CAT Budget.

In its approval order for the CAT Funding Model, the Commission stated that it would be appropriate for the annual operating budget for the CAT to “include a reserve of not more than 25% of the annual budget.”¹⁵⁶ In making this statement, the Commission noted the following:

Because the CAT is a critical regulatory tool/system, the CAT needs to have a stable funding source to build financial stability to support the Company as a going concern. Funding for the CAT, as noted in Section 11.1(b), is the responsibility of the Participants and the industry. Because CAT fees are charged based on the budget, which is based on anticipated volume, it is appropriate to have a reserve on hand to prevent a shortfall in the event there is an unexpectedly high volume in a given year. A reserve would help to assure that the CAT has sufficient resources to cover costs should there be unanticipated costs or costs that are higher than expected.¹⁵⁷

The SEC also recognized that a reserve would help address the difficulty in predicting certain variable CAT costs, like trading volume.¹⁵⁸ The SEC also recognized that CAT fees will be collected approximately three months after trading activity on which a CAT fee is based, or 25% of the year, and that the reserve would be available to address funding needs related to this three-month delay.¹⁵⁹ The inclusion of the proposed reserve in the Updated 2026 CAT Budget would provide each of these benefits to the CAT. The reserve is discussed further above.¹⁶⁰

As discussed further below,¹⁶¹ however, a surplus reserve balance in excess of the budgeted 25% reserve has been collected as of the beginning of the year of 2026. Accordingly, the Updated 2026 CAT Budget indicates that this surplus would be used to offset a portion of CAT costs for the CAT Fee 2026–1 Period, thereby reducing the fee rate for CAT Fee 2026–1 (\$0.000001 per executed equivalent share). If the fee rate for CAT Fee 2026–1 were calculated solely based on the reasonably budgeted costs for CAT for May–December 2026, excluding the reduction in that amount due to the surplus reserve offset, the fee rate would be \$0.000010 per executed equivalent share.

(B) Reconciliation of Budget to the Collected Fees

The CAT NMS Plan also requires fee filings for Prospective CAT Fees to include “a discussion of how the budget is reconciled to the collected fees.”¹⁶² As discussed above,¹⁶³ this reserve balance of \$102,391,135 collected via prior CAT Fees would be used to offset a portion of CAT costs for CAT Fee Period 2026–1, thereby reducing the fee rate to be paid for CAT Fee 2026–1. Specifically, the total costs (including the 25% reserve) for CAT Fee 2026–1 of \$117,540,783 would be reduced by the \$102,391,135 in reserve. Therefore, the Total Budgeted CAT Costs 2026–1 would be \$15,149,648. Such surplus reserve balance would be used to reduce the fee rate for CAT Fee 2026–1 (\$0.000001 per executed equivalent share).

(C) Total Executed Equivalent Share Volume for the Prior 12 Months

The total executed equivalent share volume of transactions in Eligible Securities for the period from March 2025 through February 2026 was 5,980,937,549,360.49 executed equivalent shares. CAT LLC determined the total executed equivalent share volume for the prior twelve months by counting executed equivalent shares in the same manner as it counts executed equivalent shares for CAT billing purposes.¹⁶⁴

(D) Projected Executed Equivalent Share Volume for the CAT Fee 2026–1 Period

CAT LLC has determined that the projected total executed equivalent share volume for the eight months of the CAT Fee 2026–1 Period by multiplying by 8/12ths the executed equivalent share volume for the prior twelve months: 8/12 times 5,980,937,549,360.49 executed equivalent shares.¹⁶⁵ The Operating Committee determined that such an approach was reasonable as the CAT's annual executed equivalent share volume has increased from prior years (e.g., the executed equivalent share volume for 2024 was 4,295,884,600,069.41), and the Operating Committee believes that it is reasonable to conclude that the annual executed equivalent share volume will remain at the higher level.

¹⁵¹ *Id.*

¹⁵² Section 11.3(a)(iii)(B)(B)(6) of the CAT NMS Plan.

¹⁵³ See Section 3(a)(2)(C)(x) above.

¹⁵⁴ See chart entitled “Budgeted CAT Costs 2026–1” in Section 3(a)(2)(C) above.

¹⁵⁵ Section 11.3(a)(iii)(B)(B) of the CAT NMS Plan.

¹⁵⁶ CAT Funding Model Approval Order at 13444.

¹⁵⁷ *Id.*

¹⁵⁸ *Id.*

¹⁵⁹ *Id.*

¹⁶⁰ See Section 3(a)(2)(C)(xii) above.

¹⁶¹ See Section 3(b)(2)(B) below.

¹⁶² Section 11.3(a)(iii)(B)(C) of the CAT NMS Plan.

¹⁶³ See Section 3(a)(2)(C)(xii) above.

¹⁶⁴ See Section 3(a)(2)(D) above.

¹⁶⁵ *Id.*

(E) Actual Fee Rate for CAT Fee 2026–1

(i) Decimal Places

As noted in the approval order for the CAT Funding Model, as a practical matter, the fee filing for a CAT Fee would provide the exact fee per executed equivalent share to be paid for each CAT Fee, by multiplying the Fee Rate by one-third and describing the relevant number of decimal places for the fee rate.¹⁶⁶ Accordingly, proposed paragraph (a)(6)(B) of the fee schedule would set forth a fee rate of \$0.000001 per executed equivalent share. This fee rate is calculated by multiplying Fee Rate 2026–1 by one-third and rounding the result to six decimal places. CAT LLC determined that the use of six decimal places is reasonable as it balances the accuracy of the calculation with the potential systems and other impracticalities of using additional decimal places in the calculation.¹⁶⁷

(ii) Reasonable Fee Level

The Exchange believes that charging CAT Fee 2026–1 with a fee rate of \$0.000001 per executed equivalent share is reasonable because it provides for a revenue stream for the Company that is aligned with the Budgeted CAT Costs 2026–1. Moreover, the Exchange believes that the level of the fee rate is reasonable, as it is less than CAT Fee 2025–2 and is comparable to other transaction-based fees, including fees assessed pursuant to Section 31.¹⁶⁸ As a result, the magnitude of CAT Fee 2026–1 is small, and therefore will mitigate any potential adverse economic effects or inefficiencies.¹⁶⁹

(3) CAT Fee 2026–1 Provides for an Equitable Allocation of Fees

CAT Fee 2026–1 provides for an equitable allocation of fees, as it equitably allocates CAT costs between and among the Participants and Industry Members. The SEC approved the CAT Funding Model, finding that each aspect of the CAT Funding Model satisfied the requirements of the Exchange Act, including the formula for calculating CAT Fees as well as the Industry Members to be charged the CAT Fees.¹⁷⁰ In approving the CAT Funding Model, the SEC stated that “[t]he Participants have sufficiently

demonstrated that the proposed allocation of fees is appropriate and meets the Rule 608(b) approval standard.”¹⁷¹ Accordingly, the CAT Funding Model sets forth the requirements for allocating fees related to Budgeted CAT Costs among Participants and Industry Members, and the fee filings for CAT Fees must comply with those requirements.

CAT Fee 2026–1 provides for an equitable allocation of fees as it complies with the requirements regarding the calculation of CAT Fees as set forth in the CAT NMS Plan. For example, as described above, the calculation of CAT Fee 2026–1 complies with the formula set forth in Section 11.3(a) of the CAT NMS Plan. In addition, CAT Fee 2026–1 would be charged to CEBBs and CEBSSs in accordance with Section 11.3(a) of the CAT NMS Plan. Furthermore, the Participants would be charged for their designated share of the Budgeted CAT Costs 2026–1 through a fee implemented via the CAT NMS Plan, which would have the same fee rate as CAT Fee 2026–1.

In addition, as discussed above, each of the inputs into the calculation of CAT Fee 2026–1—the Budgeted CAT Costs 2026–1, the count for the executed equivalent share volume for the prior 12 months, and the projected executed equivalent share volume for the CAT Fee 2026–1 Period—is reasonable. Moreover, these inputs lead to a reasonable fee rate for CAT Fee 2026–1 that is lower than other fee rates for transaction-based fees. A reasonable fee rate allocated in accordance with the requirements of the CAT Funding Model provides for an equitable allocation of fees.

(4) CAT Fee 2026–1 is Not Unfairly Discriminatory

CAT Fee 2026–1 is not an unfairly discriminatory fee. The SEC approved the CAT Funding Model, finding that each aspect of the CAT Funding Model satisfies the requirements of the Exchange Act. In reaching this conclusion, the SEC analyzed the potential effect of CAT Fees calculated pursuant to the CAT Funding Model on affected categories of market participants, including Participants (including exchanges and FINRA), Industry Members (including subcategories of Industry Members, such as alternative trading systems, CAT Executing Brokers and market makers), and investors generally, and considered market effects related to equities and options, among other things. CAT Fee

2026–1 complies with the requirements regarding the calculation of CAT Fees as set forth in the CAT NMS Plan. In addition, as discussed above, each of the inputs into the calculation of CAT Fee 2026–1 and the resulting fee rate for CAT Fee 2026–1 is reasonable.

Therefore, CAT Fee 2026–1 does not impose an unfairly discriminatory fee on Industry Members.

The Exchange believes the proposed fees established pursuant to the CAT Funding Model promote just and equitable principles of trade, and, in general, protect investors and the public interest, and are provided in a transparent manner and with specificity in the fee schedule. The Exchange also believes that the proposed fees are reasonable because they would provide ease of calculation, ease of billing and other administrative functions, and predictability of a fee based on fixed rate per executed equivalent share. Such factors are crucial to estimating a reliable revenue stream for CAT LLC and for permitting Exchange members to reasonably predict their payment obligations for budgeting purposes.

B. Self-Regulatory Organization's Statement on Burden on Competition

Section 6(b)(8) of the Act¹⁷² requires that the Exchange's rules not impose any burden on competition that is not necessary or appropriate in furtherance of the purpose of the Exchange Act. The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange notes that CAT Fee 2026–1 implements provisions of the CAT NMS Plan that were approved by the Commission and is designed to assist the Exchange in meeting its regulatory obligations pursuant to the Plan.

In addition, all Participants (including exchanges and FINRA) are proposing to introduce CAT Fee 2026–1 on behalf of CAT LLC to implement the requirements of the CAT NMS Plan. Therefore, this is not a competitive fee filing, and, therefore, it does not raise competition issues between and among the Participants.

Furthermore, in approving the CAT Funding Model, the SEC analyzed the potential competitive impact of the CAT Funding Model, including competitive issues related to market services, trading services and regulatory services, efficiency concerns, and capital formation.¹⁷³ The SEC also analyzed the

¹⁶⁶ CAT Funding Model Approval Order at 13445, n.677.

¹⁶⁷ See Section 3(a)(5)(A) above.

¹⁶⁸ For example, as the SEC noted in the CAT Funding Model Approval Order, recent Section 31 fees ranged from \$0.00007 per share to \$0.00072 per share. CAT Funding Model Approval Order at 13469.

¹⁶⁹ *Id.*

¹⁷⁰ See Section 11.3(a) of the CAT NMS Plan.

¹⁷¹ CAT Funding Model Approval Order at 13412.

¹⁷² 15 U.S.C. 78f(b)(8).

¹⁷³ CAT Funding Model Approval Order at 13457–81.

potential effect of CAT fees calculated pursuant to the CAT Funding Model on affected categories of market participants, including Participants (including exchanges and FINRA), Industry Members (including subcategories of Industry Members, such as alternative trading systems, CAT Executing Brokers and market makers), and investors generally, and considered market effects related to equities and options, among other things. Based on this analysis, the SEC approved the CAT Funding Model as compliant with the Exchange Act. CAT Fee 2026–1 is calculated and implemented in accordance with the CAT Funding Model as approved by the SEC.

As discussed above, each of the inputs into the calculation of CAT Fee 2026–1 is reasonable and the resulting fee rate for CAT Fee 2026–1 calculated in accordance with the CAT Funding Model is reasonable. Therefore, CAT Fee 2026–1 would not impose any burden on competition that is not necessary or appropriate in furtherance of the purpose of the Exchange Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.¹⁷⁴

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR–NASDAQ–2026–040 on the subject line.

Paper Comments

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

All submissions should refer to file number SR–NASDAQ–2026–040. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<https://www.sec.gov/rules/sro.shtml>). Copies of the filing will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–NASDAQ–2026–040 and should be submitted on or before June 4, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁷⁵

J. Matthew DeLesDernier,
Deputy Secretary.

[FR Doc. 2026–09599 Filed 5–13–26; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 36146; File No. 812–16010]

AQR Delphi Long-Short Fund and AQR Capital Management, LLC

May 11, 2026.

AGENCY: Securities and Exchange Commission (“Commission” or “SEC”).

ACTION: Notice.

Notice of an application under section 6(c) of the Investment Company Act of 1940 (the “Act”) for an exemption from sections 18(a)(2), 18(c) and 18(i) of the Act, under sections 6(c) and 23(c) of the Act for an exemption from rule 23c–3 under the Act, and for an order pursuant

to section 17(d) of the Act and rule 17d–1 under the Act.

SUMMARY OF APPLICATION: Applicants request an order to permit certain registered closed-end investment companies to issue multiple classes of shares and to impose asset-based distribution and/or service fees and early withdrawal charges.

APPLICANTS: AQR Delphi Long-Short Fund and AQR Capital Management, LLC.

FILING DATES: The application was filed on March 27, 2026.

HEARING OR NOTIFICATION OF HEARING:

An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing on any application by emailing the SEC's Secretary at Secretaries-Office@sec.gov and serving the Applicants with a copy of the request by email, if an email address is listed for the relevant Applicant below, or personally or by mail, if a physical address is listed for the relevant Applicant below. The email should include the file number referenced above. Hearing requests should be received by the Commission by 5:30 p.m., Eastern time, on June 5, 2026, and should be accompanied by proof of service on the Applicants, in the form of an affidavit or, for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by emailing the Commission's Secretary.

ADDRESSES:

The Commission:
Secretaries-Office@sec.gov. Applicants:
H.J. Willcox, One Greenwich Plaza, Suite 130, Greenwich, CT 06830 with copies to Ryan P. Brizek, Esq., Simpson Thacher & Bartlett LLP, ryan.brizek@stblaw.com and Bissie K. Bonner, Esq., Simpson Thacher & Bartlett LLP, bissie.bonner@stblaw.com.

FOR FURTHER INFORMATION CONTACT:

Trace W. Rakestraw, Senior Special Counsel, at (202) 551–6825 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: For Applicants' representations, legal analysis, and conditions, please refer to Applicants' application, dated March 27, 2026, which may be obtained via the Commission's website by searching for the file number at the top of this document, or for an Applicant using the Company name search field, on the SEC's EDGAR system. The SEC's

¹⁷⁴ 15 U.S.C. 78s(b)(3)(A)(ii).

¹⁷⁵ 17 CFR 200.30–3(a)(12).

EDGAR system may be searched at <https://www.sec.gov/search-filings>. You may also call the SEC's Office of Investor Education and Assistance at (202) 551-8090.

For the Commission, by the Division of Investment Management, under delegated authority.

Vanessa A. Countryman,
Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-105436; File No. SR-CboeBYX-2026-014]

Self-Regulatory Organizations; Cboe BYX Exchange, Inc.; Notice of Filing of a Proposed Rule Change To Amend Rule 11.25 To Introduce an Optional, Contingent Instruction Applicable to Periodic Auction Only Orders, Introduce a Time-in-Force of Auction or Cancel, and Make Conforming Changes to Its Periodic Auction Processing Behavior To Support the Proposed Contingent Instruction

May 11, 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 April 28, 2026, Cboe BYX Exchange, Inc. (the "Exchange" or "BYX") filed with the Securities and Exchange Commission ("Commission") a proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe BYX Exchange, Inc. (the "Exchange" or "BYX") proposes to amend Rule 11.25 to introduce an optional, Contingent Instruction applicable to Periodic Auction Only Orders, introduce a time-in-force of Auction or Cancel, and make conforming changes to its Periodic Auction processing behavior to support the proposed Contingent Instruction. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Commission's website (<https://www.sec.gov/rules/sro.shtml>), the Exchange's website

(https://www.cboe.com/us/equities/regulation/rule_filings/bzx/) [sic], and at the principal office of the Exchange.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Rule 11.25 ("Periodic Auctions") to introduce an optional, Contingent Instruction (discussed in detail, *infra*) applicable to Periodic Auction Only Orders.³ The Exchange also seeks to introduce a time-in-force of Auction or Cancel and make conforming changes to its Periodic Auction processing behavior to support the proposed Contingent Instruction. By way of background, a Periodic Auction is an intraday price forming auction that the Exchange developed as a way to provide an additional price discovery function to investors seeking liquidity in U.S. equity securities, including block-size liquidity, during the course of the trading day.⁴ Periodic Auctions do not interrupt trading in the continuous market and execute at the price level that maximizes the total number of shares in both the Periodic Auction Book⁵ and the Continuous Book.⁶

³ See Rule 11.25(b)(1). A "Periodic Auction Only Order" is a non-displayed limit order entered with an instruction to participate solely in Periodic Auctions pursuant to Rule 11.25. Periodic Auction Only Orders are not eligible for execution on the Continuous Book.

⁴ See Securities Exchange Act Release No. 91423 (March 26, 2021), 86 FR 17230 (April 1, 2021), SR-CboeBYX-2020-021 ("Periodic Auction Approval Order").

⁵ See Rule 11.25(a)(6). The term "Periodic Auction Book" shall mean the System's electronic file of such Periodic Auction Orders. The term "Periodic Auction Order" shall mean a "Periodic Auction Order" or a "Periodic Auction Eligible Order".

⁶ See Rule 11.25(a)(2). The term "Continuous Book" shall mean the System's file of such Continuous Book Orders. The term "Continuous Book Order" shall mean an order on the BYX Book that is not a Periodic Auction Order.

Periodic Auctions are available in all securities traded on the Exchange.

Periodic Auctions were designed, in part, to improve market quality in thinly-traded securities that suffer from diminished market quality as compared to their more actively-traded counterparts.⁷ Periodic Auctions are intended to facilitate the sourcing of larger blocks of liquidity that may not be available in continuous trading.⁸ Specifically, Periodic Auction Orders are required to have a size of 100 shares or more in securities priced below \$500.00 based on the consolidated last sale price as one way to attract larger blocks of liquidity.⁹ Additionally, the Exchange permits market participants seeking to execute larger orders to include a minimum execution quantity instruction that would allow the Periodic Auction Order to execute in a Periodic Auction only if the minimum size specified can be executed against one or more contra-side Periodic Auction Orders or Continuous Book Orders.¹⁰ While the Exchange believed that these optional order instructions would attract significant order flow to Periodic Auctions, current data suggests that enhancements to Periodic Auctions are needed to make this offering more attractive to potential Users. Exchange data indicates that between July 2025–December 2025 (the "Reference Period"), there were a total of 411,557,479 Periodic Auction Orders (this includes both Periodic Auction Only Orders and Periodic Auction Eligible Orders) received by the Exchange. However, during this same period only 2,259,916 Periodic Auction Orders were filled by the Exchange, representing approximately 0.55% of Periodic Auction Orders received by the Exchange.

User¹¹ feedback has indicated that additional functionality is needed in order to encourage additional Users to submit Periodic Auction Orders. Particularly, the current Users of Periodic Auctions have told the Exchange that it is difficult to send large block-size orders to the Exchange without a reasonable expectation that sufficient contra-side liquidity exists. As such, the Exchange now proposes to introduce an optional, Contingent Instruction that would be applicable only to Periodic Auction Only Orders as a way to encourage additional

⁷ See Periodic Auction Approval Order at 17231.

⁸ *Id.* at 17232.

⁹ See Rule 11.23(b).

¹⁰ See Rule 11.25(b)(1)(B).

¹¹ See Rule 1.5(cc). The term "User" shall mean any Member or Sponsored Participant who is authorized to obtain access to the System pursuant to Rule 11.3.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

participation in Periodic Auctions. As discussed further, *infra*, the proposed Contingent Instruction would provide a way for Users to indicate to other market participants that they have liquidity available to participate in a Periodic Auction without being required to confirm the size and price of such liquidity until a Periodic Auction begins. The Exchange proposes various amendments to Rule 11.25, as discussed below, to properly describe the application of its proposed Contingent Instruction.

Definitions

The Exchange proposes to amend various provisions of Rule 11.25(a), which currently provides various definitions associated with Periodic Auctions. First, the Exchange proposes to introduce Rule 11.25(a)(10) to define the term “Contingent Instruction.” The term Contingent Instruction shall mean an optional order instruction that may be appended to a Periodic Auction Only Order. A Contingent Instruction is an instruction that renders a Periodic Auction Only Order non-binding upon entry. A Periodic Auction Only Order containing a Contingent Instruction will only become binding after: (i) matching with contra-side liquidity; and (ii) the sender of the Periodic Auction Only Order containing a Contingent Instruction confirming its intent to trade as described in proposed Rule 11.25(h). A Contingent Instruction may not be appended to a Periodic Auction Eligible Order or a Continuous Book Order. To participate in a Periodic Auction, a Periodic Auction Only Order containing a Contingent Instruction must initiate a Periodic Auction or be resting on the BYX Book¹² when a Periodic Auction is initiated. A Periodic Auction Only Order containing a Contingent Instruction (a “PAOC”) will not be eligible to participate in a Periodic Auction that is already in progress if it is received by the Exchange after the Periodic Auction Period has begun.

Next, the Exchange proposes to amend Rule 11.25(a)(8) to revise the Periodic Auction Period.¹³ Currently, the Periodic Auction Period is a fixed time period of 100 milliseconds.¹⁴ The Exchange proposes to amend the Periodic Auction Period from a fixed time of 100 milliseconds to a fixed time of 70 milliseconds plus a random time period of 0–30 milliseconds immediately following the fixed time

period of 70 milliseconds. The effect of this proposed change is that a Periodic Auction Period would be a minimum of 70 milliseconds in length, but no longer than 100 milliseconds in length. As discussed further, *infra*, the Exchange also proposes to amend Rule 11.25(c) to revise when a Periodic Auction Message is sent to market participants upon the initiation of a Periodic Auction. In addition to revising the time period of the Periodic Auction Period, the Exchange also proposes to amend Rule 11.25(a)(8) to include language regarding the initiation and length of subsequent Periodic Auctions that immediately follow the conclusion of a Periodic Auction Period. Specifically, the Exchange proposes that a subsequent Periodic Auction Period may begin immediately following the conclusion of a Periodic Auction (a “Subsequent Auction”). A Subsequent Auction would occur for a fixed time period of 70 milliseconds for conducting a Periodic Auction. There is no limit to the number of Subsequent Auctions that may occur.

The Exchange also proposes a non-substantive change to Rule 11.25(a)(2) in order to add the word “the” ahead of the word “System’s” as this word was inadvertently left out of the sentence upon drafting.

Order Entry and Cancellation

Current Rule 11.25(b) describes the manner in which Users may enter Periodic Auction Orders and Continuous Book Orders on the Exchange to participate in a Periodic Auction. The Exchange proposes to amend Rule 11.25(b)(1) to include a new time-in-force of Auction-or-Cancel (“AOC”) that may be appended to a Periodic Auction Only Order. A Periodic Auction Order with a time-in-force of AOC is to be executed in whole or in part at the end of the Periodic Auction Period immediately following receipt of such order.¹⁵ A Periodic Auction Only Order with a time-in-force of AOC may join a Periodic Auction that is already in progress when the order is received by the Exchange. A Periodic Auction Only Order with a time-in-force of AOC is not eligible for routing to another trading center. The portion of a Periodic Auction Only Order not immediately executed in a Periodic Auction is treated as cancelled and is

not posted to the Continuous Book. Additionally, the Exchange proposes to introduce subparagraph (i) to Rule 11.25(b)(1) to note that a Periodic Auction Only Order containing a Contingent Instruction and a time-in-force of AOC will not be permitted to join a Periodic Auction that is already in progress when the order is received by the Exchange. The Exchange also proposes to amend Rule 11.25(b)(1) by introducing subparagraph (D), which would provide that a User may include a Contingent Instruction on its Periodic Auction Only Order.

In addition, the Exchange proposes to amend Rule 11.25(b)(2)(A) to make clear that a Periodic Auction Eligible Order may not be entered with a time-in-force of AOC.

Initiation and Publication of Periodic Auction Information

Existing Rule 11.25(c) describes the manner in which a Periodic Auction may be initiated and the messaging sent out by the Exchange upon the initiation of a Periodic Auction. The Exchange does not propose to change how a Periodic Auction may be initiated—namely, that when one or more Periodic Auction Orders to buy become executable against one or more Periodic Auction Orders to sell, a Periodic Auction will be initiated. The Exchange proposes to amend Rule 11.25(c) in order to describe the timing of the initial Periodic Auction Message that will be disseminated by the Exchange. Currently, a Periodic Auction Message is sent at a randomized time in one millisecond intervals after a Periodic Auction has been initiated and before the end of the Periodic Auction. As proposed, a Periodic Auction Message would be sent immediately following the initiation of a Periodic Auction rather than at a randomized time following the initiation of a Periodic Auction and before the end of the Periodic Auction. The initial Periodic Auction Message would continue to include the Periodic Auction Book Price¹⁶ and the total number of shares of Periodic Auction Orders that are matched at the Periodic Auction Book Price. The revised Periodic Auction Message would continue to be disseminated in five millisecond intervals for the remaining duration of the Periodic Auction.

The Exchange also proposes to introduce subparagraph (1) to Rule 11.25(c) to describe the proposed

¹² See Rule 1.5(e). The term “BYX Book” shall mean the System’s electronic file of orders.

¹³ See Rule 11.25(a)(8). The term “Periodic Auction Period” is the time period for conducting a Periodic Auction.

¹⁴ See Rule 11.25(a)(8).

¹⁵ The proposed AOC time-in-force is intended to be substantially similar to an order containing a time-in-force of Immediate-or-Cancel (“IOC”), with the only difference being that the order is not immediately executable on the Continuous Book but rather only immediately executable if it initiates a Periodic Auction or is received by the Exchange while a Periodic Auction is in progress.

¹⁶ See Rule 11.25(a)(5). The term “Periodic Auction Book Price” shall mean the price within the Collar Price Range at which the most shares from the Periodic Auction Book would match.

Contingent Instruction's impact to the Periodic Auction Message. Proposed Rule 11.25(c)(1) would state that if one or both sides of the orders initiating a Periodic Auction contain a Contingent Instruction, the Periodic Auction Message will include the matched quantity executable at the Periodic Auction Book Price of any order(s) containing a Contingent Instruction that matched with a contra-side Periodic Auction Order and where a confirmation request has been sent.¹⁷ The Periodic Auction Message would also indicate that at least one order participating in the Periodic Auction contains a Contingent Instruction.

Priority and Execution of Orders

Rule 11.25(e) describes the order priority of orders that are executable at the end of the Periodic Auction Period. No changes to order priority and execution of orders will occur as a result of the introduction of the optional Contingent Instruction. At the end of a Periodic Auction, any displayed Continuous Book Orders executable at the Periodic Auction Price will continue to be executed in price/time priority, any Periodic Auction Orders executable at the Periodic Auction Price will continue to be executed in size/time priority, and any non-displayed Continuous Book Orders that are executable at the Periodic Auction Price will continue to be executed as provided in Rule 11.12(a)(2)(B).¹⁸ The Exchange proposes to amend Rule 11.25(e) to further provide that size and time priority for a PAOC is based on receipt of the Confirmation Order and not the size of or time that the PAOC is received by the System.¹⁹

¹⁷ The Exchange notes that there would be no change to the content of the Periodic Auction Message (*i.e.*, the Periodic Auction Message would continue to include the Periodic Auction Book Price and the total number of shares of Periodic Auction Orders that are matched at the Periodic Auction Book Price). Subparagraph (1) is included only to note that the full quantity and price of orders containing a Contingent Instruction would be included in the Periodic Auction Message.

¹⁸ The Exchange notes that the current rule text incorrectly states that non-displayed Continuous Book Orders executable at the Periodic Auction Price are executed as provided in Rule 11.9(a)(2)(B). As part of this proposal the Exchange will amend the rule reference to Rule 11.12(a)(2)(B), which describes order priority.

¹⁹ As discussed *infra*, a Periodic Auction Only Order containing a Contingent Instruction is automatically cancelled when the System-generated request for confirmation is sent to the sender of the order containing the Contingent Instruction. As such, time priority for an order containing a Contingent Instruction shall be based on receipt of the Confirmation Order.

Confirmation of Orders Containing a Contingent Instruction

The Exchange proposes to introduce Rule 11.25(h), which will describe the process for the sender of a PAOC to confirm its intent to trade after the initiation of a Periodic Auction. When a Periodic Auction is initiated and one or both sides of the initiating orders contain a Contingent Instruction, the sender(s) of the orders containing a Contingent Instruction shall be required to confirm their intent to trade before the order(s) containing a Contingent Instruction may participate in the Periodic Auction. Users shall confirm their intent to trade by responding to the System-generated confirmation request with a Periodic Auction Only Order (the "Confirmation Order").²⁰ The PAOC will be cancelled as soon as the System-generated confirmation request is sent. A Confirmation Order may be submitted for any size and any price, and does not have to match the size and/or price of the order containing a Contingent Instruction.

Scoring Measurements for Sending of Orders With Contingent Instructions

Under the Interpretations and Policies section of Rule 11.25 the Exchange proposes to introduce subparagraph .05, which would contain rule text that describes the scoring measurements that will be utilized by the Exchange to track confirmation responses by senders of orders containing a Contingent Instruction following the initiation of a Periodic Auction. The scoring measurements will be calculated by the System daily, on a per symbol basis. A User's scoring measurement shall be used: (i) to determine priority of receiving a confirmation request when multiple orders containing Contingent Instructions are able to match with a contra-side Periodic Auction Order; and (ii) to determine whether a User is prohibited from submitting additional orders containing a Contingent Instruction. The following components will be tracked by the System: (i) confirmation response rate; (ii) confirmation response size; and (iii) confirmation response price. The weighting of each individual component of a User's scoring measurement shall be made publicly available on the Exchange's website. Any changes to the weighting or components comprising a User's scoring measurement shall be communicated to Users at least 30 days in advance by a Trade Desk Notice. The System will calculate and track a User's score at the MPID level. Scoring will be

²⁰ The Confirmation Order may contain either a time-in-force of AOC or a time-in-force of RHO.

based on the current trading day's activity only and will be tracked at the individual symbol level. A minimum of 10 confirmation requests are required before a score may be assigned to an MPID and Users will automatically be placed in the top scoring band until 10 confirmation requests have been sent for a given symbol.

The Exchange believes that the confirmation response rate, confirmation response size, and confirmation response price are the elements of a Confirmation Order that are most relevant in determining the order in which confirmation requests are sent to Users in the event that multiple orders containing a Contingent Instruction can match with a contra-side Periodic Auction Order and in determining whether a User is prohibited from submitting additional orders containing a Contingent Instruction on a given trading day. By tracking a User's confirmation response rate, the Exchange is seeking to identify how many times a User responds to a confirmation request with a Confirmation Order. However, the Exchange believes that tracking a User's response rate alone does not provide an adequate view of whether that particular User is confirming its intent to trade and as such, also proposes to track the User's confirmation response size and confirmation response price.

By also tracking size, the Exchange is seeking to determine whether a User is responding with a Confirmation Order that is at least equal to the size of the PAOC's matched quantity. While Users are free to respond with any size, if a User responds with a size that is less than its matched size, its score will be lower as compared to a User who responds with a size that is equal to or greater than the size of its matched size. Similarly, by tracking the price of the Confirmation Order, the Exchange is seeking to determine whether a User is responding to a confirmation request with a Confirmation Order that is priced equal to or better than the less aggressive of the Periodic Auction Book Price at the time the confirmation request was sent to the User or the NBBO midpoint at the time the Confirmation Order is received. Just as with size, a User is free to respond to a confirmation request with any price, but if a User chooses to respond with a price that is lower than (for buy Confirmation Orders) or higher than (for sell Confirmation Orders) the less aggressive of the Periodic Auction Book Price at the time the confirmation request was sent to the User or the NBBO midpoint at the time the Confirmation Order is received, its score

in the price category will be lower as compared to a User who responds with a price that is equal to or higher than (for buy Confirmation Orders) or lower than (for sell Confirmation Orders) the less aggressive of the Periodic Auction Book Price at the time the confirmation request was sent to the User or the NBBO midpoint at the time the Confirmation Order is received.

At the outset, the Exchange proposes that a User's overall scoring measurement shall be composed of the three components identified above (*i.e.*, response rate, response size, and response price). As discussed *infra*, Users responding to confirmation requests will be ranked within different scoring bands and the scoring bands shall be used to determine the order in which confirmation requests are sent to Users in the event that multiple orders containing a Contingent Instruction match with a contra-side Periodic Auction Order. The scoring measurement components and weighting shall be made publicly available on the Exchange's website. Any changes to the weighting or components comprising a User's scoring measurement shall be communicated to Users at least 30 days in advance by a Trade Desk Notice.

To determine the score for each User, the System will assign a value based on a User's Confirmation Order (or lack of response). To determine a score for the response rate metric, a User that provides any Confirmation Order would receive a value of 1, regardless of whether the response size and response price satisfies the criteria set forth by the Exchange. On the contrary, a User that does not submit a Confirmation Order would receive a value of 0. To determine a score for the response price metric, a User that provides a Confirmation Order price that is priced equal to or better than the less aggressive of the Periodic Auction Book Price at the time the confirmation request was sent to the User or the NBBO midpoint at the time the Confirmation Order is received would receive a value of 1, while a User that provides a Confirmation Order price that is priced worse than the less aggressive of the Periodic Auction Book Price at the time the confirmation request was sent to the User or the NBBO midpoint at the time the Confirmation Order is received would receive a value of 0. To determine a score for the response size metric, a User that provides a Confirmation Order size that is at least equal to the matched size would receive a value of 1. However, a User that provides a Confirmation Order size that is lower

than the size of its matched quantity would receive a value based on the size provided in the Confirmation Order as a percentage of the matched quantity. For example, assume the matched quantity was 500 shares. A User that responds with a Confirmation Order size of 500 shares receives a value of 1, whereas a User that responds with a Confirmation Order size of 250 shares receives a value of .5 (250 shares is 50% of the matched quantity of 500 shares, thus earning 50% of the value of 1). Any User that does not provide a Confirmation Order would receive a 0 for the response rate metric and would not receive a score for either the response price metric or the response size metric. Once a User has received 10 confirmation requests, the System will calculate a separate average for each of the three scoring measurements (*i.e.*, confirmation response rate, confirmation response size, and confirmation response price). The average of each scoring measurement is then multiplied by the respective weight assigned to each scoring measurement. The three resulting values are then added together to determine a User's score.²¹

The combination of response rate, response size, and response price provides the Exchange with a holistic view of how a User is responding to confirmation requests sent by the System. The Exchange believes that by requiring a minimum of 10 confirmation requests in an individual symbol before calculating a score is appropriate in that it would provide for an adequate number of requests before a User could potentially be ranked lower than its peers should it choose to not respond to confirmation requests or should it choose to provide responses to confirmation requests with Confirmation Orders that have a size or price that do not match the scoring measurements as discussed *supra*. Additionally, the Exchange believes it is appropriate to track a User's confirmation responses at the individual symbol level rather than across all symbols because volume in individual symbols can vary widely. As such, the Exchange does not believe it is appropriate to attribute a User's

²¹ For example, assume that the three scoring measurements are equal-weighted (*i.e.*, 33.33%, 33.33%, and 33.34%). User 1 has an average response rate of 80%, an average response size of 60%, and an average response price of 90%. The average scoring measurements multiplied by the weight of each scoring measurement results in a value of 26.66% for the User's average response rate (80% × 33.33%), a value of 19.99% for the User's average response size (60% × 33.33%), and a value of 30% for the User's average response price. User 1's score is therefore 76.65% (26.66 + 19.99 + 30).

performance in one symbol that has a limited number of Periodic Auctions throughout the trading day to other symbols that may have a much higher volume of Periodic Auctions and vice versa.

Scoring Based Confirmation Request Priority

The Exchange proposes to introduce subparagraph .06 to Rule 11.25, Interpretations and Policies in order to describe the scoring bands that will be utilized to determine the order in which confirmation requests are sent to Users in the event that multiple orders containing a Contingent Instruction can match with a contra-side Periodic Auction Order. In the event that there are multiple Users within the same scoring band that can match with a contra-side Periodic Auction Order, size/time priority will be used to determine the order in which confirmation requests are sent to Users. Scoring bands shall be made publicly available on the Exchange's website. Any changes to the scoring bands shall be communicated at least 30 days in advance by a Trade Desk Notice.

The Exchange believes it is appropriate to have different scoring bands in order to encourage Users to submit responses to confirmation requests in a timely manner that also align with the size of the original order containing a Contingent Instruction and the Periodic Auction Book Price. Attaining a higher score based on the scoring measurement components described above will allow a User to be ranked higher in terms of how the Exchange prioritizes when the User is sent a confirmation request when an order containing a Contingent Instruction matches with a contra-side Periodic Auction Order and initiates a Periodic Auction as compared to Users with lower scores. For example, if there are three scoring bands, all Users in band one would be sent confirmation requests before any User in band two is sent a confirmation request, and all Users in band two would be sent confirmation requests before any User in band three is sent a confirmation request. If there are multiple Users within each band that have matched with the contra-side Periodic Auction Order, the Exchange will then utilize size/time priority of the PAOC to determine the order in which confirmation requests are sent to those Users.

Scoring Based Automated Lock-Out

The Exchange also proposes to introduce subparagraph .07 to the Interpretations and Policies section of

Rule 11.25, which would describe the proposed lock-out of Users that fall below a certain scoring measurement. Proposed subparagraph .07 would provide that a User that submits Periodic Auction Only Orders containing a Contingent Instruction shall be prohibited from submitting additional Periodic Auction Only Orders containing a Contingent Instruction in a given symbol if the User's intraday score at the MPID level falls below the lock-out threshold determined by the Exchange. The lock-out shall apply for the remainder of the trading day and is applicable only in the symbol(s) where the User's score is below the applicable lock-out threshold. Users would only be prohibited from submitting additional Periodic Auction Only Orders containing a Contingent Instruction and would be permitted to submit orders without a Contingent Instruction to the Exchange. The applicable lock-out threshold shall be made publicly available on the Exchange's website and any changes to the lock-out threshold shall be communicated at least 30 days in advance by a Trade Desk Notice.

The proposed lock-out would be controlled at the System-level and would utilize the same scoring measurements described above that are utilized to determine the order in which confirmation requests are sent to Users in the event that multiple Periodic Auction Only Orders containing a Contingent Instruction match with a contra-side Periodic Auction Order. As described above, the System will not assign a score to an MPID until a minimum of 10 confirmation requests have been sent to the individual MPID. Each MPID will begin the trading day with a score of 100% and will keep that score of 100% until the MPID reaches 10 confirmation requests.

In order to show how the proposed Periodic Auction Only Order with a Contingent Instruction would operate, the Exchange has included the following examples:²²

Example 1

This example is intended to demonstrate the process of an incoming PAOC matching with a resting Periodic Auction Order.

- NBBO for security ABC is \$10.00 × \$10.05.
- User 1 enters a Periodic Auction Only Order with a Midpoint Peg

instruction to buy 200 shares of ABC at \$10.03.

- User 1's order is posted and ranked at \$10.025.

- User 2 enters a PAOC with a Midpoint Peg instruction to sell 100 shares of ABC at \$10.02.

- User 2's order immediately initiates a Periodic Auction with User 1's order for 100 shares at \$10.025.

- A confirmation request is sent to User 2. User 2's order is cancelled and a placeholder is kept in the System awaiting a response from User 2. The confirmation request would indicate a matched size of 100; total auction matched size of 100, and an indicative auction price of \$10.025.

- Simultaneously with the sending of the confirmation request to User 2, a Periodic Auction Message is sent over the Exchange's market data feed. The message indicates 100 shares have matched at a price of \$10.025 and has an indicator that at least one side of the order contains an order with a Contingent Instruction.

- User 2 sends a Periodic Auction Only Order with a Midpoint Peg instruction and a time-in-force of RHO as its Confirmation Order before the end of the Periodic Auction Period to sell 200 shares of ABC at \$10.02. User 2 increases the size of its order from 100 shares to 200 shares, as permitted under proposed Rule 11.25(h).

- The next Periodic Auction Message sent out indicates a matched quantity of 200 shares at a price of \$10.025.

- *Result:* At the end of the Periodic Auction Period, User 1 and User 2's orders execute in a Periodic Auction for 200 shares at a price of \$10.025. Since User 2 sent a Confirmation Order for 200 shares, User 1 was able to have its entire order filled at a price of \$10.025 at the conclusion of the Periodic Auction Period.

Example 2

This example is intended to demonstrate the process when a Periodic Auction Only Order containing a Contingent Instruction and a resting Periodic Auction Order match with an incoming, contra-side Periodic Auction Order.

- NBBO for security ABC is \$10.00 × \$10.05.

- User 1 enters a Periodic Auction Only Order with a Midpoint Peg instruction to buy 200 shares of ABC at \$10.03.

- User 1's order is posted and ranked at \$10.025.

- User 2 enters a Periodic Auction Only Order containing a Contingent Instruction and a Midpoint Peg

instruction to buy 300 shares of ABC at \$10.03.

- User 2's order is posted and ranked at \$10.025.

- User 3 enters a Periodic Auction Eligible Order with a Midpoint Peg instruction to sell 600 shares of ABC at \$10.02.

- User 3's order immediately initiates a Periodic Auction with User 1 and User 2's orders for 500 shares at \$10.025.

- A confirmation request is sent to User 2. User 2's order is cancelled and a placeholder is kept in the System awaiting a response from User 2. The confirmation request would indicate a matched size of 300 shares; total auction matched size of 500 shares, and an indicative auction price of \$10.025.

- Simultaneously with the sending of the confirmation request to User 2, a Periodic Auction Message is sent over the Exchange's market data feed. The message indicates 500 shares have matched at a price of \$10.025 and has an indicator that at least one side of the order contains an order with a Contingent Instruction.

- User 2 sends a Periodic Auction Only Order with a Midpoint Peg instruction and a time-in-force of RHO as its Confirmation Order before the end of the Periodic Auction Period to sell 100 shares of ABC at \$10.03. User 2 decreases the size of its order from 300 shares to 100 shares, as permitted under proposed Rule 11.25(h).

- The next Periodic Auction Message sent out indicates a matched quantity of 300 shares at a price of \$10.025.

- *Result:* At the end of the Periodic Auction Period, User 1's order executes against User 3's order for 200 shares and User 2's order executes against User 3's order for 100 shares in the Periodic Auction at a price of \$10.025. Since User 2 sent a Confirmation Order for 100 shares, which was lower than its original order containing 300 shares, the amount of matched shares in the Periodic Auction decreased from 500 shares to 300 shares. The remaining 300 shares of User 3's Periodic Auction Eligible Order post to the BYX Book at a price of \$10.025 (assuming the NBBO remains at \$10.00 × \$10.05).

Example 3

This example is intended to demonstrate what occurs when a Periodic Auction Only Order containing a Contingent Instruction matches with a resting Periodic Auction Order for a partial amount of the size of the order containing the Contingent Instruction.

- NBBO for security ABC is \$10.00 × \$10.05.

- User 1 enters a Periodic Auction Only Order with a Midpoint Peg

²² Unless otherwise indicated, the Periodic Auction Period described in the examples would last for a minimum of 70 milliseconds but no longer than 100 milliseconds, with no subsequent auction being triggered.

instruction to buy 100 shares of ABC at \$10.03.

- User 1's order is posted and ranked at \$10.025.

- User 2 enters a Periodic Auction Only Order containing a Contingent Instruction and a Midpoint Peg instruction to sell 200 shares of ABC at \$10.02.

- User 2's order immediately initiates a Periodic Auction with User 1's order for 100 shares at \$10.025.

- A confirmation request is sent to User 2. User 2's order is cancelled and a placeholder is kept in the System awaiting a response from User 2. The confirmation request would indicate a matched size of 100; total auction matched size of 100, and an indicative auction price of \$10.025.

- Simultaneously with the sending of the confirmation request to User 2, a Periodic Auction Message is sent over the Exchange's market data feed. The message indicates 100 shares have matched at a price of \$10.025 and has an indicator that one side of the order contains an order with a Contingent Instruction.

- User 2 sends a Periodic Auction Only Order with a Midpoint Peg instruction and a time-in-force of RHO as its Confirmation Order before the end of the Periodic Auction Period to sell 100 shares of ABC at \$10.02. User 2 decreases the size of its order from 200 shares to 100 shares, as permitted under proposed Rule 11.25(h).

- The next Periodic Auction Message sent out indicates a matched quantity of 100 shares at a price of \$10.025.

- *Result:* At the end of the Periodic Auction Period, User 1 and User 2's orders execute in a Periodic Auction for 100 shares at a price of \$10.025.

Example 4

This example is intended to demonstrate the process when two PAOCs match and initiate a Periodic Auction.

- NBBO for security ABC is \$10.00 × \$10.05.

- User 1 enters a PAOC with a Midpoint Peg instruction to buy 100 shares of ABC at \$10.03.

- User 1's order is posted and ranked at \$10.025.

- User 2 enters a PAOC with a Midpoint Peg instruction to sell 100 shares of ABC at \$10.02.

- User 2's order immediately initiates a Periodic Auction with User 1's order for 100 shares at \$10.025.

- A confirmation request is sent to User 1. User 1's PAOC is cancelled and a placeholder is kept in the System awaiting a response from User 1. The confirmation request would indicate a

matched size of 100; total auction matched size of 100, and an indicative auction price of \$10.025.

- Simultaneously, a confirmation request is sent to User 2. User 2's PAOC is cancelled and a placeholder is kept in the System awaiting a response from User 2. The confirmation request would indicate a matched size of 100; total auction matched size of 100, and an indicative auction price of \$10.025.

- Simultaneously with the sending of the confirmation request to User 1 and User 2, a Periodic Auction Message is sent over the Exchange's market data feed. The message indicates 100 shares have matched at a price of \$10.025 and has an indicator that at least one side of the order contains an order with a Contingent Instruction.

- User 1 sends a Periodic Auction Only Order with a Midpoint Peg instruction as its Confirmation Order to buy 100 shares of ABC at a price of \$10.03 prior to the expiration of the Periodic Auction Period.

- User 2 sends a Periodic Auction Only Order with a Midpoint Peg instruction as its Confirmation Order and a time-in-force of RHO to sell 100 shares of ABC at a price of \$10.02 prior to the expiration of the Periodic Auction Period.

- *Result:* At the conclusion of the Periodic Auction Period, User 1 and User 2 trade 100 shares at \$10.025.

Example 5

This example is intended to demonstrate the outcome when a User submits a Periodic Auction Only Confirmation Order that would have a remaining quantity after the conclusion of the Periodic Auction.

- NBBO for security ABC is \$10.00 × \$10.05.

- User 1 enters a Periodic Auction Only Order with a Midpoint Peg instruction to buy 100 shares of ABC at \$10.03.

- User 1's order is posted and ranked at \$10.025.

- User 2 enters a PAOC with a Midpoint Peg instruction to sell 200 shares of ABC at \$10.02.

- User 2's order immediately initiates a Periodic Auction with User 1's order for 100 shares at \$10.025.

- A confirmation request is sent to User 2. User 2's PAOC is cancelled and a placeholder is kept in the System awaiting a response from User 2. The confirmation request would indicate a matched size of 100; total auction matched size of 100, and an indicative auction price of \$10.025.

- Simultaneously with the sending of the confirmation request to User 2, a Periodic Auction Message is sent over

the Exchange's market data feed. The message indicates 100 shares have matched at a price of \$10.025 and has an indicator that at least one side of the order contains an order with a Contingent Instruction.

- User 2 sends a Periodic Auction Only Order with a Midpoint Peg instruction and a time-in-force of RHO as its Confirmation Order before the end of the Periodic Auction Period to sell 200 shares of ABC at \$10.02.

- *Result:* At the conclusion of the Periodic Auction Period, User 1 and User 2 trade 100 shares at \$10.025 in the Periodic Auction. User 2's remaining 100 shares from its Periodic Auction Only Confirmation Order are posted on the BYX Periodic Auction Book as a traditional Periodic Auction Only Order with a Midpoint Peg instruction (and would not contain a Contingent Instruction).

Example 6

This example is intended to demonstrate the outcome when a User submits an Auction or Cancel Confirmation Order that would have a remaining quantity after the conclusion of the Periodic Auction.

- NBBO for security ABC is \$10.00 × \$10.05.

- User 1 enters a Periodic Auction Only Order with a Midpoint Peg instruction to buy 100 shares of ABC at \$10.03.

- User 1's order is posted and ranked at \$10.025.

- User 2 enters a PAOC with a Midpoint Peg instruction to sell 200 shares of ABC at \$10.02.

- User 2's order immediately initiates a Periodic Auction with User 1's order for 100 shares at \$10.025.

- A confirmation request is sent to User 2. User 2's PAOC is cancelled and a placeholder is kept in the System awaiting a response from User 2. The confirmation request would indicate a matched size of 100; total auction matched size of 100, and an indicative auction price of \$10.025.

- Simultaneously with the sending of the confirmation request to User 2, a Periodic Auction Message is sent over the Exchange's market data feed. The message indicates 100 shares have matched at a price of \$10.025 and has an indicator that at least one side of the order contains an order with a Contingent Instruction.

- User 2 sends a Confirmation Order with a Midpoint Peg instruction and a time-in-force of AOC before the end of the Periodic Auction Period to sell 200 shares of ABC at \$10.02.

- *Result:* At the conclusion of the Periodic Auction Period, User 1 and

User 2 trade 100 shares at \$10.025 in the Periodic Auction. User 2's remaining 100 shares from its Confirmation Order are immediately cancelled pursuant to proposed Rule 11.25(b)(1) as the remainder of a Periodic Auction Only Order with a time-in-force of AOC not executed in a Periodic Auction is treated as cancelled and is not posted to the Continuous Book.

Example 7

This example is intended to show how confirmation requests will be sent when multiple orders containing a Contingent Instruction match with a contra-side Periodic Auction Order.

For this example, assume that the following scoring bands are in effect:

Band 1: 80% and above.

Band 2: Below 80% to 70%.

Band 3: Below 70%.

- NBBO for security ABC is \$10.00 × \$10.05.

- User 1 enters a PAOC with a Midpoint Peg instruction to buy 200 shares of ABC at \$10.03.

- User 1's order is posted and ranked at \$10.025.

- Assume User 1 has an intraday scoring measurement of 70%.

- User 2 enters a PAOC with a Midpoint Peg instruction to buy 100 shares of ABC at \$10.03.

- User 2's order is posted and ranked at \$10.025.

- Assume User 2 has an intraday scoring measurement of 81%.

- User 3 enters a PAOC with a Midpoint Peg instruction to buy 100 shares of ABC at \$10.03.

- User 3's order is posted and ranked at \$10.025.

- Assume User 3 has an intraday scoring measurement of 75%.

- User 4 enters a Periodic Auction Only Order with a Midpoint Peg instruction to sell 200 shares of ABC at \$10.02.

- **Result:** User 4's Periodic Auction Only Order immediately initiates a Periodic Auction with User 2's PAOC and User 1's PAOC. User 2's PAOC is included in the initiation of the Periodic Auction because it has the highest intraday scoring measurement (for this example, it is the only order in scoring band 1). User 1's PAOC is included in the initiation of the Periodic Auction because it has size priority over User 3's order (both User 1 and User 3 are in scoring band 2). User 3 will not participate in this Periodic Auction but will remain on the BYX Periodic Auction Book to participate in later Periodic Auctions. A confirmation request is immediately sent to both User 2 and User 1 showing a matched size of 100 shares, a total auction matched size

of 200 shares, and a Periodic Auction Book Price of \$10.025. Concurrently with the sending of the confirmation requests to User 2 and User 1, User 2 and User 1's PAOCs are cancelled and a placeholder is kept in the System awaiting a response from each User. Simultaneously with the sending of the confirmation requests, a Periodic Auction Message is sent over the Exchange's market data feed. The message indicates 200 shares have matched at a price of \$10.025 and has an indicator that at least one side of the auction contains an order with a Contingent Instruction. User 2 and User 1 both send a Periodic Auction Only Order with a Midpoint Peg instruction and a time-in-force of RHO as its respective Confirmation Order to buy 100 shares of ABC at a price of \$10.03 prior to the end of the Periodic Auction Period. At the end of the Periodic Auction Period, User 1 and User 2 each trade 100 shares at \$10.025 with User 4 in the Periodic Auction.

Example 8

This example is intended to show how confirmation requests will be sent when multiple orders containing a Contingent Instruction match with a contra-side Periodic Auction Order.

For this example, assume that the following scoring bands are in effect:

Band 1: 80% and above.

Band 2: Below 80% to 70%.

Band 3: Below 70%.

- NBBO for security ABC is \$10.00 × \$10.05.

- User 1 enters a PAOC with a Midpoint Peg instruction to buy 500 shares of ABC at \$10.03.

- User 1's order is posted and ranked at \$10.025.

- Assume User 1 has an intraday scoring measurement of 75%.

- User 2 enters a PAOC with a Midpoint Peg instruction to buy 100 shares of ABC at \$10.03.

- User 2's order is posted and ranked at \$10.025.

- Assume User 2 has an intraday scoring measurement of 80%.

- User 3 enters a Periodic Auction Only Order with a Midpoint Peg instruction to sell 200 shares of ABC at \$10.02.

- **Result:** User 3's Periodic Auction Only Order immediately initiates a Periodic Auction with User 2's PAOC and User 1's PAOC. A confirmation request is immediately sent to both User 2 and User 1 showing a matched size of 100 shares, a total auction matched size of 200 shares, and an indicative auction price of \$10.025. Concurrently with the sending of the confirmation requests to User 2 and User 1, User 2 and User 1's

PAOCs are cancelled and a placeholder is kept in the System awaiting a response from each User.

Simultaneously with the sending of the confirmation requests, a Periodic Auction Message is sent over the Exchange's market data feed. The message indicates 200 shares have matched at a price of \$10.025 and has an indicator that at least one side of the order contains an order with a Contingent Instruction. User 2 sends a Periodic Auction Only Order containing a Midpoint Peg instruction and a time-in-force of RHO as its Confirmation Order to buy 100 shares of ABC at a price of \$10.03 prior to the end of the Periodic Auction Period. User 1 sends a Periodic Auction Only Order containing a Midpoint Peg instruction and a time-in-force of RHO as its Confirmation Order to buy 200 shares (an increase in quantity from its original 100 share order) of ABC at a price of \$10.03 prior to the end of the Periodic Auction Period. At the end of the Periodic Auction Period, User 1 trades 200 shares at \$10.025 with User 4 in the Periodic Auction due to having size priority at the final auction price over User 2.

Regulatory Considerations

The Exchange notes that its existing Regulatory obligations as described in the Interpretations and Policies section of Rule 11.25 would continue to apply should the proposed Contingent Instruction be approved. These existing rules describe how Periodic Auctions are processed consistent with certain other regulatory obligations, including obligations related to member conduct, or otherwise to ensure transparent handling in certain specified circumstances and provide transparency to members and investors with respect to how the Exchange processes Periodic Auctions consistent with relevant obligations under the Exchange Act, or as otherwise necessary or appropriate to maintain a fair and orderly market on the Exchange. The Exchange does not propose to amend existing Interpretations and Policies .01–.03 of Rule 11.25. The Exchange proposes to amend existing Interpretations and Policies .04 as described *infra* and proposes to introduce additional Interpretations and Policies related to the automated scoring mechanism described above.

The Exchange proposes to amend Interpretations and Policies .04 (Member Conduct) to add language that provides that a pattern or practice of failing to respond to a confirmation request will be deemed conduct inconsistent with just and equitable principles of trade. Just as the Exchange

currently makes Members aware that certain conduct (*i.e.*, a pattern or practice of entering and immediately cancelling Periodic Auction Orders) will be deemed conduct inconsistent with just and equitable principles of trade, the Exchange believes it is necessary to notify Members that a pattern or practice of failing to respond to a confirmation request similarly will be deemed conduct inconsistent with just and equitable principles of trade. However, the Exchange also proposes to add language to Interpretations and Policies .04 to codify that there may be a legitimate business reason that a Member may engage in a pattern or practice of entering and immediately cancelling Periodic Auction Orders and a legitimate business reason that a Member may engage in a pattern or practice of failing to respond to a confirmation request. The addition of the “legitimate business reason” language is necessary to make clear that should a Member provide sufficient documentation that its behavior of entering and immediately cancelling Periodic Auction Orders or failing to respond to confirmation requests is, in fact, related to legitimate business activities, its conduct in question would not be deemed inconsistent with just and equitable principles of trade.

Proposed Interpretations and Policies .05–.07 to Rule 11.25 describe the automated scoring mechanism used for senders of PAOCs. As described above, a User’s scoring mechanism is used (i) to determine priority of receiving a confirmation request when multiple orders containing Contingent Instructions match with a contra-side Periodic Auction Order; and (ii) to determine whether a User is prohibited from submitting additional orders containing a Contingent Instruction. The User’s score will be automatically calculated and tracked by the System at the individual symbol level and will automatically place a User in the appropriate scoring band once the minimum amount of confirmation requests have been sent to the User. The User would also automatically be prohibited from sending additional PAOCs to the Exchange in a given symbol for the remainder of a trading day should its score fall below the designated threshold.

The use of a PAOC is entirely voluntary and is not required for participation in Periodic Auctions. Users who choose to utilize the proposed Contingent Instruction do so with the understanding that they are choosing to subject themselves to the automated scoring mechanism and that they may be prohibited from submitting

additional PAOCs in a particular symbol on a given trading day should they fall below the designated threshold. The applicable scoring bands and designated threshold shall be made publicly available by the Exchange and would require a minimum 30-day notice to customers in advance of any proposed changes to the scoring bands, designated threshold, or components and/or weighting of the scoring mechanism.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the “Act”) and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.²³ Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)²⁴ requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)²⁵ requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

I. Proposal

As discussed in the Purpose section, Periodic Auctions were originally designed to facilitate the sourcing of larger blocks of liquidity that may not be available in continuous trading. The Exchange’s experience, however, indicates that additional functionality is needed to encourage additional Users to submit Periodic Auction Orders. Particularly, the current Users of Periodic Auctions have told the Exchange that it is difficult to send large block-size orders to the Exchange without a reasonable expectation that sufficient contra-side liquidity exists. As such, the Exchange believes that the proposed enhancements to this product may therefore contribute to a free and open market and national market system. Specifically, the proposed optional Contingent Instruction

applicable to Periodic Auction Only Orders would provide investors trading on a national securities exchange with a mechanism that is currently available only in off-exchange trading venues. This optional functionality would provide Users an additional venue to which a non-firm order could be sent, and would be the first-of-its kind order instruction on a national securities exchange. The proposed PAOC order instruction would provide additional price improvement opportunities and allow market participants to reduce risks that may be associated with placing large orders on a traditional limit order book. As such, PAOCs may improve market quality in U.S. equity securities traded on the Exchange, and these benefits may be even more pronounced in securities that currently trade with diminished market quality. The paragraphs that follow address each aspect of the proposed Contingent Instruction applicable to Periodic Auction Only Orders in turn.

In addition to contributing to a free and open market and national market system, the Exchange believes its proposal promotes just and equitable principles of trade by bringing a concept that is well-established in off-exchange trading venues to a national securities exchange, which, if approved, could help drive volume back to regulated, national securities exchanges rather than continuing the trend of ever-growing off-exchange trading volumes. Former Commission Chair Gary Gensler noted in a June 2022 speech that “[R]ight now, there isn’t a level playing field among different parts of the market: wholesalers, dark pools, and lit exchanges. Further, the markets have become increasingly hidden from view.”²⁶ The Exchange submits its proposal with the intent of offering a non-firm order instruction that market participants are already familiar with on a regulated, national securities exchange to narrow the gap between national securities exchanges and off-exchange venues. While the proposed Contingent Instruction is not necessarily innovative in that it is already utilized across off-exchange venues today, seeking to utilize the proposed Contingent Instruction on a national securities exchange is innovative and promotes just and equitable principles of trade. Current Commission Chairman Paul Atkins has explicitly encouraged a regulatory approach that supports

²⁶ See “Market Structure and the Retail Investor:” Remarks Before the Piper Sandler Global Exchange Conference (June 8, 2022), available at: <https://www.sec.gov/newsroom/speeches-statements/gensler-remarks-piper-sandler-global-exchange-conference-060822>.

²³ 15 U.S.C. 78f(b).

²⁴ 15 U.S.C. 78f(b)(5).

²⁵ *Id.*

innovation across U.S. markets, stating “[T]he SEC should not fear innovation. Rather, it should embrace and champion it.”²⁷ Similarly, the Commission’s Director of Trading and Markets, Jamie Selway, has also indicated that he would work with Chairman Atkins to encourage innovation by stating “[C]hairman Atkins is bringing about a ‘new day’ at the SEC. . . . Together, we will promote the SEC’s mission and enable innovation, to the benefit of our nation’s investors.”²⁸ The Exchange is committed to innovation that improves the quality of the equities markets and believes that the proposed addition of the Contingent Instruction may increase the attractiveness of the Exchange for the execution of large, institutional orders that may otherwise seek to be executed on off-exchange venues.

The Exchange believes that introducing a Contingent Instruction applicable to Periodic Auction Only Orders to enhance its existing Periodic Auction functionality contributes to a free and open market and national market system. Use of the Contingent Instruction would be strictly voluntary, and market participants would be able to determine whether and how the proposed Contingent Instruction fits into their existing workflows. Specifically, the proposed Contingent Instruction would be eligible to be appended only to Periodic Auction Only Orders and if included on a User’s Periodic Auction Only Order would render the Periodic Auction Only Order non-binding upon entry. The Exchange believes it is appropriate to offer Users the ability to enter Periodic Auction Only Orders as binding or non-binding upon entry so that Users can decide whether to use Periodic Auctions as the sole means of sourcing liquidity (in the event that the User elects to use the Periodic Auction Only Order without a Contingent Instruction) or as part of a strategy where the User posts non-binding orders across multiple venues in an attempt to secure an execution while minimizing the risk of displaying orders in the public market (by utilizing the proposed Contingent Instruction appended to a Periodic Auction Only Order).

The Exchange does not propose to make any changes to the current operation of a Periodic Auction Only

Order in conjunction with the introduction of its proposed Contingent Instruction. All existing instructions that are currently applicable to Periodic Auction Only Orders, such as minimum execution quantity instruction and pegging instructions, will continue to be accepted if the User elects to append a Contingent Instruction to its Periodic Auction Only Order. The Exchange believes that it is important to continue to offer existing Periodic Auction Only Order functionality without change and allow a User to merely supplement its Periodic Auction Only Orders with an optional, Contingent Instruction should the User decide that the Contingent Instruction is appropriate in its workflow. Offering additional, optional functionality to enhance the Exchange’s Periodic Auction process without changing the foundation upon which Periodic Auctions were built is consistent with the maintenance of a fair and orderly market and will promote just and equitable principles of trade.

The Exchange proposes to introduce a time-in-force of Auction or Cancel to Rule 11.25(b)(1) that would be available to all Periodic Auction Only Orders, including PAOCs. As described in the Purpose section, a Periodic Auction Only Order containing a time-in-force of AOC is to be executed in whole or in part at the end of the Periodic Auction Period immediately following receipt of such order. A Periodic Auction Only order containing a time-in-force of AOC may be used to attempt to initiate a Periodic Auction or as a response to a System-generated request to confirm the sender of a PAOC’s intent to trade. The introduction of the proposed AOC time-in-force provides an alternative option for Users of PAOCs to confirm their intent to trade and submit a binding order for participation in a Periodic Auction that will immediately cancel upon the conclusion of the Periodic Auction if the order is not filled. Users of PAOCs have elected to use a non-binding order instruction rather than a traditional Periodic Auction Only Order as part of a broader trading strategy and the proposed AOC time-in-force further perpetuates that strategy by limiting any potential execution to a single Periodic Auction. If, instead, a User were forced to respond to a confirmation request with a Continuous Book Order or a Periodic Auction Only Order containing a time-in-force of RHO, the User’s order could then persist beyond the Periodic Auction in progress and deviate from the User’s intended strategy. As such, the Exchange believes that the introduction of the AOC time-in-force

would facilitate the operation of a fair and orderly market and promotes just and equitable principles of trade.

The Exchange believes the addition of the time-in-force of AOC is not unfairly discriminatory because all Users of Periodic Auction Only Orders may utilize a time-in-force of AOC and the use case is not limited to senders of PAOCs who are responding to confirmation requests. Additionally, the Exchange does not believe that it is unfairly discriminatory to not allow Users of Periodic Auction Eligible Orders to use the AOC time-in-force as the purpose of a Periodic Auction Eligible Order is to interact with both the Periodic Auction Book and the Continuous Book. Should a User of a Periodic Auction Eligible Order have the option to include a time-in-force of AOC, then any remainder of a Periodic Auction Eligible Order that does not immediately initiate a Periodic Auction upon receipt of the order by the Exchange would be cancelled and would not have the opportunity to post to the Continuous Book. Further, use of the AOC time-in-force is completely voluntary and Users are free to utilize other times-in-force as appropriate for the order type which they are sending to the Exchange. Periodic Auctions are also voluntary, and no User is required to participate in Periodic Auctions nor submit Periodic Auction Orders to the Exchange.

The Exchange believes it is consistent with just and equitable principles to trade to limit the ability of a PAOC to become binding subject to certain requirements. The proposed Periodic Auction Only Order containing a Contingent Instruction would only become binding after i) matching with contra-side liquidity; and ii) the sender of the PAOC confirming its intent to trade as described in proposed Rule 11.25(h). Without requiring a sender of a PAOC to confirm its intent to trade upon matching with contra-side liquidity, the PAOC would not be “contingent” and would instead function as a traditional, binding order. Just as with Periodic Auction Only Orders entered today, a PAOC would not be eligible to match with a Continuous Book Order and would only be eligible to match with contra-side Periodic Auction Orders (which include Periodic Auction Only Orders, and Periodic Auction Eligible Orders)). Additionally, to participate in a Periodic Auction, a PAOC must either initiate a Periodic Auction or be resting on the BYX Book when a Periodic Auction is initiated and will not be permitted to join a Periodic Auction that is already in progress. The proposed limitations on

²⁷ See “Prepared Remarks Before SEC Speaks” (May 19, 2025), available at: <https://www.sec.gov/newsroom/speeches-statements/atkins-prepared-remarks-sec-speaks-051925>.

²⁸ See “SEC Names Jamie Selway as Director of Trading and Markets” (June 13, 2025), available at: <https://www.sec.gov/newsroom/press-releases/2025-87-sec-names-jamie-selway-director-trading-markets>.

PAOCs becoming binding and participating in a Periodic Auction are consistent with just and equitable principles of trade because they are designed to ensure that an order containing a Contingent Instruction does not introduce any additional delay to the Periodic Auction process by executing against Continuous Book Orders that are not participating in a Periodic Auction, or joining a Periodic Auction already in progress.

As part of the proposed introduction of the Contingent Instruction, the Exchange proposes to amend certain aspects of timing related to the Periodic Auction process that are currently in place. First, the Exchange proposes to amend the Periodic Auction Period from a fixed time period of 100 milliseconds to a combination of a fixed time period of 70 milliseconds plus a random time period of 0–30 milliseconds immediately following the fixed time period of 70 milliseconds. The Exchange also proposes to make clear that any Subsequent Auction shall have a fixed time period of 70 milliseconds. Next, the Exchange proposes to update the timing with which the initial message containing Periodic Auction Information is disseminated over the Exchange's market data feed. Currently, an initial Periodic Auction Information message is sent at a randomized time in one millisecond intervals. The Exchange proposes to now send the initiate Periodic Auction Information message immediately after a Periodic Auction has been initiated to minimize any advantage that the sender of a PAOC would have otherwise received should the Exchange send a confirmation request prior to the initial Periodic Auction Information message.

The Exchange believes these changes would facilitate the operation of a fair and orderly market. Functionally, the Exchange's proposal changes the length of a Periodic Auction from 100 milliseconds to a fixed time of at least 70 milliseconds but with an end time between 70 and 100 milliseconds. Practically speaking, however, Users currently do not have the full 100 milliseconds to join a Periodic Auction due to the randomization of the initial Periodic Auction Message that is sent out by the Exchange. By standardizing the initial Periodic Auction Message and randomizing the end time of the Periodic Auction, the Exchange would be able to promptly process and execute a Periodic Auction while continuing to provide time for interested market participants to enter order to participate in the auction, including those Users who have submitted an order with a Contingent Instruction.

A User that elects to utilize the Contingent Instruction will be required to confirm its intent to trade before the PAOC is a binding order and as such, the Exchange proposes to send a System-generated request to the sender of a PAOC immediately upon a PAOC matching with a contra-side order. This confirmation request will be sent to the sender of a PAOC at the same time that the initial Periodic Auction Information message is sent out on the Exchange's market data feed. To ensure that all Users were receiving the same information at the same time, the Exchange needed to align the timing of three related pieces of a Periodic Auction: (i) the Periodic Auction Period; (ii) the sending of the initial Periodic Auction Information message; and (iii) and the System-generated confirmation request. The Exchange believes the proposed changes to standardize the timing of (i) the Periodic Auction Period; (ii) the sending of the initial Periodic Auction Information message; and (iii) and the System-generated confirmation request is not unfairly discriminatory because the Exchange is seeking to provide access to information to all participants at the same time and is not seeking to favor those participants that choose to submit PAOCs or those who choose to participate in Periodic Auctions using binding order types by either sending different messages on the market data feed or sending messages only after a Confirmation Order has been received. Recipients of Exchange market data will receive an initial Periodic Auction Information message at the same time that the sender of a PAOC receives a confirmation request to confirm its intent to trade. Additionally, if one or both sides of the orders initiating a Periodic Auction contain a Contingent Instruction, the initial Periodic Auction Information message will indicate that at least one order participating in the Periodic Auction contains a Contingent Instruction. Further, the initial Periodic Auction Message will include the full quantity and price of any order(s) containing a Contingent Instruction. By providing all participants with the same information at the same time, the Exchange would not preference one side of the Periodic Auction over another and would not preference the non-firm order instruction over a binding order type. All participants would have access to the same Periodic Auction Message information, with the only difference being that the sender of a PAOC would receive a confirmation request in addition to the initial Periodic Auction Message.

The Exchange believes the confirmation request sent to the sender of a PAOC that has matched against a contra-side order in a Periodic Auction is not unfairly discriminatory as it is necessary to allow the sender of a PAOC to confirm its intent to trade. The confirmation request would provide the same information that is contained in the initial Periodic Auction Message but would also contain the quantity of the PAOC that matched with a contra-side order in the Periodic Auction. This additional piece of information in the confirmation request is essential to the sender of the PAOC so that it may (i) confirm its intent to trade in the Periodic Auction; and (ii) if necessary, update or cancel any other non-firm orders that may exist on other venues. Since senders of non-firm orders generally submit non-firm orders across multiple venues at the same time to maximize the odds that an order will match against contra-side liquidity, the sender of the non-firm order must act quickly to confirm its intent to trade and simultaneously update or cancel other non-firm orders on other venues to reflect the confirmation and subsequent execution of its matched order. The utility of providing this additional piece of information regarding the matched size of the PAOC is not discriminatory, but rather necessary to offer identical functionality for non-firm orders that exists on off-exchange venues today.

The Exchange notes that its existing Regulatory obligations as described in the Interpretations and Policies section of Rule 11.25 would continue to apply should the proposed Contingent Instruction be approved. These existing rules describe how Periodic Auctions are processed consistent with certain other regulatory obligations, including obligations related to member conduct, or otherwise to ensure transparent handling in certain specified circumstances and provide transparency to members and investors with respect to how the Exchange processes Periodic Auctions consistent with relevant obligations under the Exchange Act, or as otherwise necessary or appropriate to maintain a fair and orderly market on the Exchange. The proposed amendments to existing Interpretations and Policies .04 of Rule 11.25 continue to promote just and equitable principles of trade and are consistent with the protection of investors and the public interest because the amendments provide notice of additional behavior (*i.e.*, a pattern or practice of failing to respond to confirmation requests) that would be deemed conduct inconsistent with just and equitable principles of

trade while also recognizing that there may be legitimate business reasons for why a User of a Periodic Auction Order may engage in the conduct described in proposed Interpretations and Policies .04. Indeed, allowing for Users to provide sufficient evidence of legitimate business reasons for certain conduct in question further promotes just and equitable principles of trade by clarifying that not all conduct as described in proposed Interpretations and Policies .04 to Rule 11.25 would result in a User violating an Exchange Rule. Further, the proposed addition of the “legitimate business reason” language is consistent with the protection of investors and the public interest because conduct in question that does not have a legitimate business reason will continue to be deemed conduct inconsistent with just and equitable principles of trade, and only conduct where the Exchange determines there is sufficient evidence of a legitimate business reason may be permitted.

The Exchange also proposes to introduce subparagraphs .05—.07 to the Interpretations and Policies section associated with Rule 11.25. The proposed subparagraphs will describe the automated scoring measurements that the Exchange will introduce as part of its proposed Contingent Instruction. The scoring measurements promote just and equitable principles of trade and are consistent with the protection of investors and the public interest because the proposed measurements serve to deter senders of PAOCs from initiating a Periodic Auction and then subsequently failing to respond to confirmation requests from the Exchange in an attempt to discover information about available contra-side liquidity. First, the Exchange proposes to introduce subparagraph .05, which will describe the use case for the scoring measurement and the components that comprise the scoring measurement. A User's scoring measurement shall have two purposes: first, to determine the priority in which a confirmation request is sent to a User when multiple PAOCs match with a contra-side Periodic Auction Order; and second, the determine whether a User is prohibited from submitting additional orders containing a Contingent Instruction for the remainder of a trading day in a given symbol. The following components will make up the scoring measurement: (i) confirmation response rate; (ii) confirmation response size; and (iii) confirmation response price. All scoring measurements will be tracked and

calculated automatically by the System at the MPID level.

The Exchange believes that tracking confirmation response rate, confirmation response size, and confirmation response price promotes just and equitable principles of trade and is consistent with the protection of investors and the public interest because it encourages Users of PAOCs to respond to confirmation requests within a timely manner (*e.g.*, before the expiration of the Periodic Auction Period) at a price that is marketable and for a size that is equal to or greater than the original matched quantity. While a User is free to respond to a confirmation request with any price and any size, its score will be higher should it respond with a size that is at least equal to its matched quantity (as compared to a User who responds with a size that is less than its matched quantity). Similarly, a User's score will be higher should it respond with a price that is higher than (for buy Confirmation Orders) or lower than (for sell Confirmation Orders) the less aggressive of the Periodic Auction Book Price at the time the confirmation request was sent to the User or the NBBO midpoint at the time the Confirmation Order is received (as compared to a User who responds with prices that are lower (higher) than the less aggressive of the Periodic Auction Book Price at the time the confirmation request was sent to the User or the NBBO midpoint at the time the Confirmation Order is received).

Providing a higher score for Users that respond to confirmation requests with orders that are competitively-priced and orders with a size that is equal to or greater than the original matched quantity is also not unfairly discriminatory. Senders of PAOCs that respond to confirmation requests with Confirmation Orders that are competitively priced and contain sufficient size to execute against the matched size of the contra-side orders should benefit from higher scores because these market participants are providing liquidity that would support the quality of price discovery, offer additional cost savings, deepen the Exchange's liquidity pool, and generally improve market quality for all investors participating in Periodic Auctions. Rewarding those participants that are routinely providing marketable Confirmation Orders may encourage other market participants utilizing PAOCs to respond with more competitively priced and sufficiently sized orders to earn the ability to receive a confirmation request prior to other senders of PAOCs, thus enhancing Periodic Auctions generally. Use of the

Contingent Instruction is strictly optional, and is not required for any User. The Exchange will also publicize the components that make up the scoring measurements on its website and will not make any changes to either the components or the weightings of each component as part of the total scoring measurement without advance notice to Users. While optional, the proposed Contingent Instruction is available to all Users, and all Users will be subject to the same scoring measurements regardless of the frequency with which they submit a PAOC or the size or price of PAOCs submitted to the Exchange. All scoring measurements occur at the System-level and all Users will have a perfect score until a User has received 10 confirmation requests in a given symbol. The Exchange also believes that applying the scoring measurement on a symbol-by-symbol level as opposed to cumulatively is not unfairly discriminatory as Users may have different strategies across different symbols and therefore volume in individual symbols can vary widely. As such, the Exchange believes it is appropriate to not attribute a User's performance in one symbol that has a limited number of Periodic Auctions throughout the trading day to other symbols that may have a much higher volume of Periodic Auctions and vice versa.

Next, the Exchange proposes to introduce subparagraph .06 to the Interpretations and Policies section of Rule 11.25, which would describe the scoring-based confirmation request priority. As described in the Purpose section, one of the use cases of the scoring measurement is to determine the order in which confirmation requests are sent to senders of PAOCs if multiple PAOCs can match with a contra-side Periodic Auction Order. If there are multiple Users within the same scoring band that can match with a contra-side Periodic Auction Order, size/time priority will be used to determine the order in which confirmation requests are sent to Users. The Exchange proposes to make the scoring bands publicly available on the Exchange's website and any changes to the scoring bands shall be communicated at least 30 days in advance by a Trade Desk Notice.

The Exchange believes that scoring bands promote just and equitable principles of trade and are consistent with the protection of investors and the public interest because the scoring bands will encourage Users to respond to confirmation requests: i) in a timely manner; and ii) at sizes and prices that align with the size of the PAOC and the

Periodic Auction Book Price or NBBO midpoint. Attaining a higher score based on the scoring measurement components described above will allow a User to be ranked higher in terms of how quickly the User is sent a confirmation request when a PAOC matches with a contra-side Periodic Auction Order and initiates a Periodic Auction. For example, if there are three scoring bands, all Users in band one would be sent confirmation requests before any User in band two is sent a confirmation request, and all Users in band two would be sent confirmation requests before any User in band three is sent a confirmation request. If there are multiple Users within each band that have matched with the contra-side Periodic Auction Order, the Exchange will then utilize size/time priority to determine the order in which confirmation requests are sent to those Users.

The proposed scoring bands are also not unfairly discriminatory. While the scoring bands are used to segment Users that submit PAOCs to determine the order in which confirmation requests are allocated, the Exchange believes this segmentation is consistent with Section 6(b)(5) of the Act, as it does not permit *unfair* discrimination. All Users will be aware of the applicable scoring bands as the Exchange will publish the scoring bands on its website. Further, the Exchange will not make any changes to its scoring bands without providing at least 30 days' notice to Users. Additionally, all Users ultimately can control which scoring band to which they fall based on their response rate, size, and price. A User who chooses not to respond to a confirmation request, or who chooses to respond with a size or price that is not marketable, will have a lower score and thus, could potentially be in a lower scoring band, than a User who responds in a timely manner with a marketable Confirmation Order. Users are not scored against one another, but rather only each User's own responses. The Exchange further believes that it is not unfairly discriminatory to allocate confirmation requests within each scoring band based on size/time priority if there are multiple Users within the same scoring band that match with a contra-side Periodic Auction Order. Given that Periodic Auctions were established to provide intraday price-forming auctions to Users seeking to execute large volumes, the decision to prioritize larger orders within a scoring band may ultimately contribute to greater depth in Periodic Auctions as Users would submit larger orders knowing that

confirmation request priority is determined, in part, by the size of their orders.

Finally, the Exchange proposes to introduce subparagraph .07 to the Interpretations and Policies section of Rule 11.25. Subparagraph .07 would describe the scoring-based automated lock-out applicable to Users that submit PAOCs. The Exchange believes that the scoring-based automated lock-out promotes just and equitable principles of trade and is consistent with the protection of investors and the public interest because the lock-out would serve to minimize the chance that a User would utilize PAOCs to initiate Periodic Auctions and then fail to participate in the Periodic Auction. To this point, a User that submits PAOCs shall be prohibited from submitting additional PAOCs in a given symbol if the User's intraday score at the MPID level falls below the lock-out threshold determined by the Exchange. The lock-out shall apply for the remainder of the trading day and is applicable only in the symbol(s) where the User's score is below the applicable lock-out threshold. The applicable lock-out threshold shall be made publicly available on the Exchange's website and any changes to the lock-out threshold shall be communicated at least 30 days in advance by the Trade Desk Notice.

The Exchange does not believe that the lock-out restriction is unfairly discriminatory because it applies only at the individual symbol level and does not prohibit a User from submitting other order types on the Exchange. A locked-out User is only prohibited from submitting additional PAOCs to the Exchange. As PAOCs are entirely optional, Users would be free to continue to trade on the Exchange utilizing other order types and would be permitted to participate in Periodic Auctions using a Periodic Auction Order that does not contain a Contingent Instruction. Additionally, the lock-out threshold would apply to all Users of PAOCs equally, in that all Users would be aware of the lock-out threshold and would be subject to the same scoring measurements to determine whether the threshold has been reached.

In total, the Exchange believes that the proposed scoring measurements and proposed scoring-based automated lock-out promote just and equitable principles of trade and are not unfairly discriminatory because they provide an additional mechanism for the Exchange to dissuade Users from attempting to gain an advantage over others by submitting PAOCs without an intent to execute in the Periodic Auction. The

proposed scoring measurements and automated lock-out would provide additional protections to investors than those already found in the Exchange's Interpretation and Policy .04 to Rule 11.25. Currently, a User that initiates a Periodic Auction and then immediately cancels its Periodic Auction Order is subject only to the following limitation: "[a] pattern or practice of submitting orders for the purpose of disrupting or manipulating Periodic Auctions, including entering and immediately cancelling Periodic Auction Orders, will be deemed conduct inconsistent with just and equitable principles of trade."²⁹ The Exchange views the failure of the sender of a PAOC to respond to a confirmation request as no different than the behavior of the User who initiates a Periodic Auction and then cancels its Periodic Auction Order prior to the end of the Periodic Auction Period. However, the Exchange believes it will be furthering just and equitable principles of trade by requiring senders of PAOCs to be subject to the proposed scoring measurements and proposed scoring-based automated lock-out as these requirements are based on similar requirements that exist on off-exchange venues and are reasonably designed to encourage senders of PAOCs to respond to confirmation requests in a reasonable amount of time with firm orders that will execute at the end of the Periodic Auction Period.

Further, the proposed scoring measurements and proposed scoring-based automated lock-out are not unfairly discriminatory as they will apply to all senders of PAOCs equally. Applying more stringent requirements to senders of PAOCs as compared to those market participants who choose not to submit PAOCs is also not *unfairly* discriminatory. The proposed Contingent Instruction is completely voluntary and Users are not required to utilize the Contingent Instruction in order to participate in Periodic Auctions. All Users shall have equal access to the applicable scoring measurements and scoring-based automated lock-out threshold on a publicly available Exchange website, and may choose whether to submit PAOCs as part of their broader investing strategy. A User is free to determine whether the proposed scoring measurements and proposed scoring-based automated lock-out are incompatible with its trading strategy and, if so, is not required to utilize the Contingent Instruction on its Periodic Auction Only Orders nor participate in Periodic Auctions. The Exchange

²⁹ See Rule 11.25, Interpretations and Policy .04.

proposes to offer the Contingent Instruction simply to provide a regulated, transparent venue as an additional option to which Users may submit non-firm orders and would not require any User to utilize the proposed functionality.

II. Compliance With Other Regulatory Requirements

As discussed in more detail below, the Exchange believes that Periodic Auctions continue to be consistent with other regulatory requirements, including the Order Protection Rule, the LULD Plan, and Rule 602 of Regulation NMS (*i.e.*, the “Quote Rule”).

First, with respect to compliance with the Order Protection Rule, the Exchange will continue to provide auction collars designed to limit trades to prices that are within the Protected NBBO. As discussed in the Periodic Auction Approval Order, the Order Protection Rule applies to transactions executed during Regular Trading Hours. Although opening and closing auctions are generally exempt from these requirements,³⁰ there are currently no exceptions that would apply to Periodic Auctions that perform a similar role in facilitating price discovery. The Exchange does not execute Periodic Auctions at prices that are inconsistent with the requirements of that rule and this proposal would not change the current behavior of Periodic Auctions. Generally, the Order Protection Rule requires trading centers to establish, maintain, and enforce written policies and procedures that are reasonably designed to prevent trade-throughs on that trading center of protected quotations in NMS stocks, unless an exception applies. A “trade-through” is defined in Rule 600(b)(81) of Regulation NMS as the purchase or sale of an NMS stock during regular trading hours, either as principal or agent, at a price that is lower than a protected bid or higher than a protected offer. The relevant auction collars will continue to be applied at the time of execution, and therefore will prevent trades from occurring at prices that would constitute a trade-through at the time the Periodic Auction is processed, consistent with the requirements of the Order Protection Rule.

Similarly, with respect to compliance with the LULD Plan, the Exchange’s auction collars will continue to limit trades to prices that are within the

LULD Price Bands established pursuant to that national market system plan. As is the case with the Exchange’s utilization of the Protected NBBO in setting applicable auction collars, the LULD Price Bands will continue to be used as an additional collar on Periodic Auctions, and would ensure that all transactions that result from a Periodic Auction would be executed within the applicable LULD Price Bands at the time the Periodic Auction is processed. The Exchange does not execute Periodic Auctions at prices that are inconsistent with the LULD Plan and the proposal would not change how the Exchange executes Periodic Auctions.

The Exchange also believes that the proposed rule change is consistent with the Quote Rule. Generally, the firm quote provisions of the Quote Rule require each responsible broker or dealer to execute an order presented to it, other than an odd lot order, at a price at least as favorable as its published bid or published offer, in any amount up to its published quotation size. The proposed Contingent Instruction applicable to a Periodic Auction Only Order would at all times be non-displayed, and therefore would not trigger the firm quote requirements of the Quote Rule. That is, there would be no “published bid” or “published offer” displayed to market participants that would be required to be “firm” under the Quote Rule.

Similarly, the proposal does not amend how Periodic Auctions function alongside trading on the Continuous Book and therefore would not result in violations of the Quote Rule. Continuous Book Orders entered to trade with the Exchange’s published quotation will continue to be able to do so in the same manner that they do today, notwithstanding the occurrence of Periodic Auctions conducted throughout the course of the trading day. The Exchange has designed its system for trading Periodic Auctions to minimize unnecessary latency, and does not believe that the introduction of PAOCs to the existing Periodic Auction functionality would impair the ability of the Exchange to execute incoming orders entered on the Continuous Book against its published bids or offers. The proposed Contingent Instruction will not extend the length of the Periodic Auction Period. The Exchange will continue to monitor system performance and latency after the introduction of PAOCs and related functionality to ensure that it is able to process both Periodic Auctions and Continuous Book Orders efficiently and without undue latency.

In addition, the Exchange would continue to handle events processed by the matching engine in sequence, and a Continuous Book Order that is included in the Exchange’s published bid or offer would continue to trade with incoming Continuous Book Orders unless the Periodic Auction is processed prior to the matching engine’s receipt of the incoming Continuous Book Order. Such executions would not run afoul of the firm quote requirements of the Quote Rule as Rule 602(b)(3) of Regulation NMS contains an explicit exemption from these requirements for broker-dealers that are in the process of effecting a transaction in that security at the time the incoming order is “presented” to the broker-dealer for potential execution.

Finally, the Exchange’s published quotations would continue to be considered “automated quotations” as defined in Rule 600(b)(4) of Regulation NMS. As discussed with respect to compliance with the Quote Rule, the Exchange has designed its system for trading Periodic Auctions to minimize unnecessary latency, and therefore does not believe that the introduction of any functionality related to the proposed Contingent Instruction would impair the ability of the Exchange to execute incoming orders entered on the Continuous Book against its published bids or offers. In this regard, the Exchange represents that any additional latency on the Continuous Book that may result from the proposed introduction of functionality related to the proposed Contingent Instruction would not be material from the perspective of compliance with the Order Protection Rule. Under Regulation NMS, an “automated” quotation is one that, among other things, can be executed “immediately and automatically” against an incoming immediate-or-cancel order. Although the Commission’s recent guidance related to automated quotations has focused on the introduction of intentional delay mechanisms or “speed bumps,”³¹ which present different and more complex issues under Regulation NMS, the Exchange believes that its proposed enhancement to Periodic Auctions would not frustrate the purposes of the Order Protection Rule by “impairing fair and efficient access” to the Exchange’s quotations. In this regard, the Exchange notes that it has engaged in substantial testing of its Periodic Auction product containing the proposed functionality related to

³⁰ Rule 611(b)(3) of Regulation NMS provides an exception to the requirements of the Order Protection Rule where the transaction that constituted the trade-through was a single-priced opening, reopening, or closing transaction by the trading center.

³¹ See Securities Exchange Act Release No. 78102 (June 17, 2016), 81 FR 40785 (June 23, 2017) (File No. S7-03-16) (“Commission Interpretation”).

Contingent Instructions and, based on that testing, believes that any additional latency that may be experienced on the Continuous Book as a result of the proposal would be minimal and *de minimis* from the perspective of the Order Protection Rule.³²

III. Conclusion

Chairman Atkins has expressed the importance of innovation by stating, “. . . we are getting back to our roots of promoting, rather than stifling, innovation. The markets innovate, and the SEC should not be in the business of telling them to stand still.”³³ The proposed Contingent Instruction is a prime example of a place where the Commission can promote, rather than stifle, innovation. The proposed Contingent Instruction, while novel to the Exchange and to the Commission in a proposed rulemaking, is not, in fact, a novel concept in the equities markets. For years, market participants have been able to utilize a non-binding order instruction to post block-size liquidity across multiple off-exchange venues at the same time. This order instruction is particularly useful when sourcing block-size liquidity because it allows for large, non-binding orders to be entered in a non-displayed capacity across multiple venues yet only execute on a single venue when a match is received and the market participant confirms its intent to trade. Once a non-binding order instruction is confirmed on one venue, the market participant is able to modify or cancel its remaining non-binding order instructions across the remaining venues. This non-binding characteristic of the order is attractive to market participants because it allows for market participants to post liquidity on multiple venues in search of the most favorable execution. The Exchange’s proposed PAOC would simply provide an additional regulated, transparent venue to which market participants could direct non-binding order flow in

search of block-size liquidity and does not seek to introduce functionality with which market participants are not already familiar.

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. Rather, the proposed rule change is designed to increase competition by introducing an additional mechanism for equities market participants seeking to execute bulk-size liquidity during the course of the trading day on a national securities exchange. Indeed, the proposed introduction of the Contingent Instruction is a pro-competitive means of seeking to attract liquidity back to a regulated, transparent venue. The proposal, which seeks to introduce the Contingent Instruction as part of its existing Periodic Auction process, would allow competition, rather than regulatory intervention designed to limit competition and innovation, to improve market quality for thinly-traded and other securities.

The introduction of PAOCs is designed to provide an on-exchange opportunity for investors sourcing liquidity during the trading day using a non-binding instruction, and, in particular, those that are actively placing non-binding instructions across multiple venues in an attempt to source the most favorable execution. Providing an additional mechanism for non-binding orders to be executed would promote competition between venues that seek to execute this order flow, and provide market participants and investors with greater choice with respect to how they choose to source liquidity. The equities industry is fiercely competitive as the Exchange must compete with other equities exchanges and off-exchange venues for order flow. The proposal is both evidence of this competition, and would further enable the Exchange to compete effectively in this market.

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

Within 45 days of the date of publication of this notice in the **Federal**

Register or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

- A. by order approve or disapprove such proposed rule change, or
- B. institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission’s internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR–CboeBYX–2026–014 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–CboeBYX–2026–014. 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–CboeBYX–2026–014 and should be submitted on or before June 4, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.³⁴

J. Matthew DeLesDernier,
Deputy Secretary.

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BILLING CODE 8011–01–P

³² Although the Commission refused to enumerate a numeric latency threshold for an intentional delay that is sufficiently *de minimis* for the purposes of the Order Protection Rule, the Staff of the Division of Trading and Markets has issued guidance stating the Staff’s belief that delays of less than one millisecond would qualify as *de minimis*. See Staff Guidance on Automated Quotations under Regulation NMS (June 17, 2016), available at <https://www.sec.gov/divisions/marketreg/automated-quotations-under-regulation-nms.htm>. While the Exchange’s proposal would not introduce an intentional delay, the Exchange’s testing indicates that any additional latency that may result from the proposed introduction of the Contingent Instruction within Periodic Auctions would be well within this threshold.

³³ See “Prepared Remarks Before SEC Speaks,” (May 19, 2025), available at: <https://www.sec.gov/newsroom/speeches-statements/atkins-prepared-remarks-sec-speaks-051925>.

³⁴ 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–105442; File No. SR–NYSETEX–2026–14]

Self-Regulatory Organizations; NYSE Texas, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Rule 7.37

May 11, 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 May 4, 2026, the NYSE Texas, Inc. (“NYSE Texas” 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 to amend Rule 7.37 to specify the Exchange’s source of data feeds from Texas Stock Exchange (“TXSE”) for purposes of order handling, order execution, order routing, and regulatory compliance. The proposed rule change is available on the Exchange’s website at www.nyse.com and at the principal office of the Exchange.

II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization’s Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to update and amend the use of data feeds table in

Rule 7.37(d), which sets forth on a market-by-market basis the specific securities information processor (“SIP”) and proprietary data feeds that the Exchange utilizes for the handling, execution, and routing of orders, and for performing the regulatory compliance checks related to each of those functions. Specifically, in light of the fact that Texas Stock Exchange (“TXSE”) has announced that it will launch operations in July 2026,⁴ the Exchange proposes to amend the table in Rule 7.37(d) to specify that the Exchange will use the SIP Data Feed as its primary source of data for order handling, order execution, order routing, and regulatory compliance.

The Exchange proposes to make this change operative on the date that TXSE launches operations.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act,⁵ in general, and furthers the objectives of Section 6(b)(5),⁶ in particular, because 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. Additionally, the Exchange believes that the proposed rule change is consistent with the Section 6(b)(5) requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes its proposal to add TXSE to the table in Rule 7.37(d) will ensure that the Rule correctly identifies and publicly states on a market-by-market basis all of the specific SIP and proprietary data feeds that the Exchange utilizes for the handling, execution, and routing of orders, and for performing the regulatory compliance checks for each of those functions. The proposed rule change also removes impediments to and perfects the mechanism of a free and open market and protects investors and the public interest by providing additional specificity, clarity, and transparency in the Exchange’s rules.

B. Self-Regulatory Organization’s Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Rather, the Exchange believes that the proposal will enhance competition because providing the public and market participants with up-to-date information about the data feeds the Exchange will use for the handling, execution, and routing of orders, as well as for regulatory compliance would enhance transparency and enable investors to better assess the quality of the Exchange’s execution and routing services. In addition, the proposed rule change would not impact competition between market participants because it will affect all market participants equally.

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 Act⁷ and Rule 19b–4(f)(6) thereunder.⁸ Because the proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.⁹

A proposed rule change filed under Rule 19b–4(f)(6)¹⁰ normally does not become operative prior to 30 days after the date of the filing. However, pursuant

⁷ 15 U.S.C. 78s(b)(3)(A)(iii).

⁸ 17 CFR 240.19b–4(f)(6).

⁹ 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, 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.

¹⁰ 17 CFR 240.19b–4(f)(6).

⁴ See TXSE announcement at <https://www.txse.com/trading-membership/member-readiness-and-launch-guide>.

⁵ 15 U.S.C. 78f(b).

⁶ 15 U.S.C. 78f(b)(5).

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b–4.

to Rule 19b4(f)(6)(iii),¹¹ the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest.

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)¹² 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-NYSETEX-2026-14 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.
- All submissions should refer to file number SR-NYSETEX-2026-14. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<https://www.sec.gov/rules/sro.shtml>). Copies of the filing will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection.

All submissions should refer to file number SR-NYSETEX-2026-14 and should be submitted on or before June 4, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹³

J. Matthew DeLesDernier,

Deputy Secretary.

[FR Doc. 2026-09602 Filed 5-13-26; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-105440; File No. SR-PHLX-2026-24]

Self-Regulatory Organizations; Nasdaq PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Establish Fees for Industry Members Related to Reasonably Budgeted CAT Costs of the National Market System Plan Governing the Consolidated Audit Trail for May 1, 2026 Through December 31, 2026

May 11, 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 April 27, 2026, Nasdaq PHLX LLC ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to establish fees for Industry Members³ related to reasonably budgeted CAT costs of the National Market System Plan Governing the Consolidated Audit Trail (the "CAT NMS Plan" or "Plan") for the period from May 1, 2026 through December 31, 2026. These fees would be payable to Consolidated Audit Trail, LLC ("CAT LLC" or the "Company") and referred to as CAT Fee 2026-1, and would be described in a section of the Exchange's fee schedule entitled "Consolidated Audit Trail Funding Fees." The fee rate

¹³ 17 CFR 200.30-3(a)(12).

¹⁵ U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ An "Industry Member" is defined as "a member of a national securities exchange or a member of a national securities association." See Rule General 7, Section 1. See also Section 1.1 of the CAT NMS Plan. Unless otherwise specified, capitalized terms used in this rule filing are defined as set forth in the CAT NMS Plan and/or the CAT Compliance Rule. See Rule General 7 (Consolidated Audit Trail Compliance).

for CAT Fee 2026-1 would be \$0.000001 per executed equivalent share. CAT Executing Brokers will receive their first monthly invoice for CAT Fee 2026-1 in June 2026 calculated based on their transactions as CAT Executing Brokers for the Buyer ("CEBB") and/or CAT Executing Brokers for the Seller ("CEBS") in May 2026. As described further below, CAT Fee 2026-1 is anticipated to be in place for eight months, and is anticipated to recover approximately two-thirds of the costs set forth in the reasonably budgeted CAT costs for 2026.

The text of the proposed rule change is available on the Exchange's website at <https://listingcenter.nasdaq.com/rulebook/phlx/rulefilings>, and at the principal office of the Exchange.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On July 11, 2012, the Commission adopted Rule 613 of Regulation NMS, which required the self-regulatory organizations ("SROs") to submit a national market system ("NMS") plan to create, implement and maintain a consolidated audit trail that would capture customer and order event information for orders in NMS securities across all markets, from the time of order inception through routing, cancellation, modification or execution.⁴ On November 15, 2016, the Commission approved the CAT NMS Plan.⁵ Under the CAT NMS Plan, the Operating Committee has the discretion to establish funding for CAT LLC to operate the CAT, including establishing fees for Industry Members to be assessed by CAT LLC that would be implemented

⁴ Securities Exchange Act Rel. No. 67457 (July 18, 2012), 77 FR 45722 (Aug. 1, 2012).

⁵ Securities Exchange Act Rel. No. 79318 (Nov. 15, 2016), 81 FR 84696 (Nov. 23, 2016) ("CAT NMS Plan Approval Order").

¹¹ 17 CFR 240.19b-4(f)(6)(iii).

¹² 15 U.S.C. 78s(b)(2)(B).

on behalf of CAT LLC by the Participants.⁶ The Operating Committee adopted a revised funding model to fund the CAT (“CAT Funding Model”). On March 16, 2026, the Commission approved the CAT Funding Model after concluding that the model satisfied the requirements of Section 11A of the Exchange Act and Rule 608 thereunder.⁷

The CAT Funding Model provides a framework for the recovery of the costs to create, develop and maintain the CAT, including providing a method for allocating costs to fund the CAT among Participants and Industry Members. The CAT Funding Model establishes two categories of fees: (1) CAT fees assessed by CAT LLC and payable by certain Industry Members to recover a portion of historical CAT costs previously paid by the Participants (“Historical CAT Assessment” fees); and (2) CAT fees assessed by CAT LLC and payable by Participants and Industry Members to fund prospective CAT costs (“CAT Fees”).⁸

Under the CAT Funding Model, Participants, CEBBs and CEBs are subject to fees designed to cover the ongoing budgeted costs of the CAT, as determined by the Operating Committee. “The Operating Committee will establish fees (‘CAT Fees’) to be payable by Participants and Industry Members with regard to CAT costs not previously paid by the Participants (‘Prospective CAT Costs’).”⁹ In establishing a CAT Fee, the Operating Committee will calculate a “Fee Rate” for the relevant period. Then, for each month in which a CAT Fee is in effect, each CEBB and CEBs would be required to pay the fee for each transaction in Eligible Securities executed by the CEBB or CEBs from the prior month as set forth in CAT Data, where the fee for each transaction will be calculated by multiplying the number of executed equivalent shares in the transaction by one-third and by the Fee Rate.

The CAT Fees to be paid by CEBBs and CEBs are designed to contribute toward the recovery of two-thirds of the budgeted CAT costs for the relevant period.¹⁰ The CAT Funding Model is designed to require that the Participants contribute to the recovery of the remaining one-third of the budgeted CAT costs.¹¹ Participants would be subject to the same Fee Rate as CEBBs and CEBs.¹² While CAT Fees charged to Industry Members become effective in accordance with the requirements of Section 19(b) of the Exchange Act,¹³ CAT fees charged to Participants are implemented via an approval of the CAT fees by the Operating Committee in accordance with the requirements of the CAT NMS Plan.¹⁴ Accordingly, this filing does not address Participant CAT fees as they are described in the CAT NMS Plan.¹⁵

CAT LLC proposes to charge CEBBs and CEBs (as described in more detail below) CAT Fee 2026–1 to recover the reasonably budgeted CAT costs for the period from May 1, 2026 through December 31, 2026 in accordance with the CAT Funding Model. To implement this fee on behalf of CAT LLC, the CAT NMS Plan requires the Participants to “file with the SEC under Section 19(b) of the Exchange Act any such fees on Industry Members that the Operating Committee approves, and such fees shall be labeled as ‘Consolidated Audit Trail Funding Fees.’”¹⁶ The Plan further states that “[o]nce the Operating Committee has approved such Fee Rate, the Participants shall be required to file with the SEC pursuant to Section 19(b) of the Exchange Act CAT Fees to be charged to Industry Members calculated using such Fee Rate.”¹⁷ Accordingly, the purpose of this filing is to implement a CAT Fee on behalf of CAT LLC for Industry Members, referred to as CAT Fee 2026–1, in accordance with the CAT NMS Plan.

(1) CAT Executing Brokers

CAT Fee 2026–1 will be charged to each CEBB and CEBs for each applicable transaction in Eligible Securities.¹⁸ The CAT NMS Plan defines a “CAT Executing Broker” to mean:

(a) with respect to a transaction in an Eligible Security that is executed on an exchange, the Industry Member identified as the Industry Member responsible for the order on the buy-side of the transaction and the Industry Member responsible for the sell-side of the transaction in the equity order trade event and option trade event in the CAT Data submitted to the CAT by the relevant exchange pursuant to the Participant Technical Specifications; and (b) with respect to a transaction in an Eligible Security that is executed otherwise than on an exchange and required to be reported to an equity trade reporting facility of a registered national securities association, the Industry Member identified as the executing broker and the Industry Member identified as the contra-side executing broker in the TRF/ORF/ADF transaction data event in the CAT Data submitted to the CAT by FINRA pursuant to the Participant Technical Specifications; provided, however, in those circumstances where there is a non-Industry Member identified as the contra-side executing broker in the TRF/ORF/ADF transaction data event or no contra-side executing broker is identified in the TRF/ORF/ADF transaction data event, then the Industry Member identified as the executing broker in the TRF/ORF/ADF transaction data event would be treated as CAT Executing Broker for the Buyer and for the Seller.¹⁹

The following fields of the Participant Technical Specifications indicate the CAT Executing Brokers for the transactions executed on an exchange:

⁶ Section 11.1(b) of the CAT NMS Plan.

⁷ Securities Exchange Act Rel. No. 105003 (Mar. 16, 2026), 91 FR 13410 (Mar. 19, 2026) (“CAT Funding Model Approval Order”). This CAT Funding Model replaced the prior funding model that was approved by the Commission on September 6, 2023. Securities Exchange Act Rel. No. 98290 (Sept. 6, 2023), 88 FR 62628 (Sept. 12, 2023).

⁸ Under the CAT Funding Model, the Operating Committee may establish CAT Fees related to CAT costs going forward. Section 11.3(a) of the CAT NMS Plan. This filing only establishes CAT Fee 2026–1 related to reasonably budgeted CAT costs for the period from May 1, 2026 through December 31, 2026 as described herein; it does not address any other potential CAT Fees related to CAT costs. Any such other CAT Fee will be subject to a separate fee filing. In addition, under the CAT

Funding Model, the Operating Committee may establish one or more Historical CAT Assessments. Section 11.3(b) of the CAT NMS Plan. This filing does not address any Historical CAT Assessments.

⁹ Section 11.3(a) of the CAT NMS Plan.

¹⁰ Section 11.3(a)(iii)(A) of the CAT NMS Plan.

¹¹ Section 11.3(a)(ii)(A) of the CAT NMS Plan.

¹² Section 11.3(a)(ii) of the CAT NMS Plan.

¹³ Section 11.3(a)(i)(A)(I) of the CAT NMS Plan.

¹⁴ CAT Funding Model Approval Order at 13448.

¹⁵ See Section 11.3(a)(ii) and Appendix B of the CAT NMS Plan.

¹⁶ Section 11.1(b) of the CAT NMS Plan.

¹⁷ Section 11.3(a)(i)(A)(I) of the CAT NMS Plan.

¹⁸ In its approval of the CAT Funding Model, the Commission determined that charging CAT fees to CAT Executing Brokers was appropriate. In reaching this conclusion, the Commission noted

that the use of CAT Executing Brokers is appropriate because the CAT Funding Model is based upon the calculation of *executed* equivalent shares, and, therefore, charging CAT Executing Brokers would reflect their executing role in each transaction. Furthermore, the Commission noted that, because CAT Executing Brokers are already identified in transaction reports from the exchanges and FINRA’s equity trade reporting facilities recorded in CAT Data, charging CAT Executing Brokers could streamline the billing process. CAT Funding Model Approval Order at 13413.

¹⁹ Section 1.1 of the CAT NMS Plan. In its approval order for the CAT Funding Model, the Commission “recognize[d] that Industry Members may pass-through CAT fees for customer executed volume.” See CAT Funding Model Approval Order at 13424.

EQUITY ORDER TRADE (EOT)²⁰

No.	Field name	Data type	Description	Include key
12.n.8/13.n.8	member	Member Alias	The identifier for the member firm that is responsible for the order on this side of the trade. Not required if there is no order for the side as indicated by the NOBUYID/NOSELLID instruction. This must be provided if orderID is provided.	C

OPTION TRADE (OT)²¹

No.	Field name	Data type	Description	Include key
16.n.13/17.n.13	member	Member Alias	The identifier for the member firm that is responsible for the order.	R

In addition, the following fields of the Participant Technical Specifications would indicate the CAT Executing Brokers for the transactions executed otherwise than on an exchange:

TRF/ORF/ADF TRANSACTION DATA EVENT (TRF)²²

No.	Field name	Data type	Description	Include key
26	reportingExecutingMpid	Member Alias	MPID of the executing party	R
28	contraExecutingMpid	Member Alias	MPID of the contra-side executing party	C

(2) Calculation of Fee Rate 2026–1

The Operating Committee determined the Fee Rate to be used in calculating CAT Fee 2026–1 (“Fee Rate 2026–1”) by dividing the reasonably budgeted CAT costs (“Budgeted CAT Costs 2026–1”) for the period from May 1, 2026 through December 31, 2026 (“CAT Fee 2026–1 Period”) by the reasonably projected total executed share volume of all transactions in Eligible Securities for the eight-month recovery period, as discussed in detail below.²³ Based on this calculation, the Operating Committee has determined that Fee Rate 2026–1 would be \$0.000003799483243631228 per executed equivalent share. This rate is then divided by three and rounded to determine the fee rate of \$0.000001 per executed equivalent share that will be assessed to CEBBs and CEBs, as also discussed in detail below.

(A) CAT Fee 2026–1 Period

CAT LLC proposes to implement CAT Fee 2026–1. CAT LLC proposes to commence CAT Fee 2026–1 during the year, rather than at the beginning of the year. Accordingly, CAT Fee 2026–1 “would be calculated as described in paragraph (II)” of Section 11.3(a)(i)(A) of the CAT NMS Plan,²⁴ which states that “[d]uring each year, the Operating Committee will calculate a new Fee Rate by dividing the reasonably budgeted CAT costs for the remainder of the year by the reasonably projected total executed equivalent share volume of all transactions in Eligible Securities for the remainder of the year.”²⁵ For CAT Fee 2026–1, the reasonably budgeted CAT costs for “the remainder of the year” are the reasonably budgeted CAT costs from May 1, 2026 through December 31, 2026 as set forth in the updated annual budget for 2026 for CAT LLC approved by the Operating Committee on March

31, 2026 (“Updated 2026 CAT Budget”).²⁶

(B) Executed Equivalent Shares for Transactions in Eligible Securities

Under the CAT NMS Plan, for purposes of calculating CAT Fees, executed equivalent shares in a transaction in Eligible Securities will be reasonably counted as follows: (1) each executed share for a transaction in NMS Stocks will be counted as one executed equivalent share; (2) each executed contract for a transaction in Listed Options will be counted based on the multiplier applicable to the specific Listed Options (*i.e.*, 100 executed equivalent shares or such other applicable multiplier); and (3) each executed share for a transaction in OTC Equity Securities will be counted as 0.01 executed equivalent share.²⁷

(C) Budgeted CAT Costs 2026–1

The CAT NMS Plan states that “[t]he budgeted CAT costs for the year shall be

²⁰ See Table 23, Section 4.7 (Order Trade Event) of the CAT Reporting Technical Specifications for Plan Participants, Version 4.2.0-r2 (Feb. 24, 2026), https://www.catnmsplan.com/sites/default/files/2026-02/02.24.2026-CAT_Reporting_Technical_Specifications_for_Participants_4.2.0-r2.pdf (“CAT Reporting Technical Specifications for Plan Participants”).

²¹ See Table 52, Section 5.2.5.1 (Simple Option Trade Event) of the CAT Reporting Technical Specifications for Plan Participants.

²² See Table 62, Section 6.1 (TRF/ORF/ADF Transaction Data Event) of the CAT Reporting Technical Specifications for Plan Participants.

²³ Section 11.3(a)(i) of the CAT NMS Plan.

²⁴ Section 11.3(a)(i)(A)(IV) of the CAT NMS Plan.

²⁵ Section 11.3(a)(i)(A)(II) of the CAT NMS Plan.

²⁶ The Updated 2026 CAT Budget is available on the CAT website (<https://www.catnmsplan.com/sites/default/files/2026-04/03.31.26-CAT-2026-Budget.pdf>).

²⁷ Section 11.3(a)(i)(B) of the CAT NMS Plan. In approving the CAT Funding Model, the Commission concluded that “the use of executed equivalent share volume provides an appropriate basis for the calculation of CAT fees.” CAT Funding Model Approval Order at 13413.

comprised of all reasonable fees, costs and expenses reasonably budgeted to be incurred by or for the Company in connection with the development, implementation and operation of the CAT as set forth in the annual operating budget approved by the Operating Committee pursuant to Section 11.1(a) of the CAT NMS Plan, or as adjusted during the year by the Operating Committee.”²⁸ Section 11.1(a) of the CAT NMS Plan describes the requirement for the Operating Committee to approve an operating budget for CAT LLC on an annual basis. It requires the budget to “include the projected costs of the Company, including the costs of developing and operating the CAT for the upcoming year, and the sources of all revenues to cover such costs, as well as the funding of any reserve that the Operating Committee reasonably deems appropriate for the prudent operation of the Company.” Section 11.1(a)(i) of the CAT NMS Plan further states that:

[w]ithout limiting the foregoing, the reasonably budgeted CAT costs shall include technology (including cloud hosting services, operating fees, CAIS operating fees, change request fees and capitalized developed technology costs), legal, consulting, insurance, professional and administration, and public relations costs, a reserve and

such other cost categories as reasonably determined by the Operating Committee to be included in the budget.

In accordance with the requirements under the CAT NMS Plan, the Operating Committee approved an annual budget for 2026 for CAT LLC (“Original 2026 CAT Budget”) on December 11, 2025.²⁹ On March 31, 2026, the Operating Committee approved an updated budget for 2026, referred to as the Updated 2026 CAT Budget. The Updated 2026 CAT Budget includes actual costs for each category for January and February 2026, with updated estimated costs for the remainder of the year. The updated costs for May through December as included in the Updated 2026 CAT Budget (*i.e.*, Budgeted CAT Costs 2026–1) are the costs used in calculating CAT Fee 2026–1.³⁰ The 2026 CAT budgets, both the Original 2026 CAT Budget and the Updated 2026 CAT Budget, were prepared on the accrual basis of accounting.³¹

As described in detail below, the Budgeted CAT Costs 2026–1 would be \$15,149,648. CEBBs collectively will be responsible for one-third of the Budgeted CAT Costs 2026–1 (which is \$5,049,882.67), and CEBBs collectively will be responsible for one-third of the Budgeted CAT Costs 2026–1 (which is \$5,049,882.67).

The following describes in detail the Budgeted CAT Costs 2026–1 for CAT

Fee 2026–1. The following cost details are provided in accordance with the requirement in the CAT NMS Plan to provide in the fee filing the following:

the budget for the upcoming year (or remainder of the year, as applicable), including a brief description of each line item in the budget, including (1) technology line items of cloud hosting services, operating fees, CAIS operating fees, change request fees and capitalized developed technology costs, (2) legal, (3) consulting, (4) insurance, (5) professional and administration, and (6) public relations costs, a reserve and/or such other categories as reasonably determined by the Operating Committee to be included in the budget, and the reason for changes in each such line item from the prior CAT fee filing.³²

Each of the costs described below is reasonable, appropriate and necessary for the creation, implementation and maintenance of CAT.

The following table breaks down the Budgeted CAT Costs 2026–1 into the categories set forth in Section 11.3(a)(iii)(B) of the CAT NMS Plan.³³ The Budgeted CAT Costs 2026–1 reflect the costs for May through December as included in the Updated 2026 CAT Budget. The Budgeted CAT Costs 2026–1 are the costs used in calculating CAT Fee 2026–1.

BUDGETED CAT COSTS 2026–1

Budget category	Budgeted CAT costs 2026–1 ^b (<i>i.e.</i> , costs for May–December 2026)
Capitalized Developed Technology Costs ^a	^c \$3,450,000
Technology Costs	83,737,680
Cloud Hosting Services	^d 49,866,667
Operating Fees	^e 19,691,953
CAIS Operating Fees	^f 14,179,060
Change Request Fees	^g 0
Legal	^h 5,670,452
Consulting	ⁱ 1,025,957
Insurance	^j 852,768
Professional and administration	^k 749,151
Public relations	^l 0
Interest Income	^m (1,453,382)
Total Costs	94,032,626
Reserve (25% of Total Costs)	23,508,157
Total Costs and Reserve	117,540,783
Use of Existing Reserve	ⁿ (102,391,135)

²⁸ Section 11.3(a)(i)(C) of the CAT NMS Plan.

²⁹ The Original 2026 CAT Budget is available on the CAT website (https://www.catnmsplan.com/sites/default/files/2025-12/12.08.25-CAT-LLC-2026-Financial_and_Operating_Budget.pdf).

³⁰ The version of the Updated 2026 CAT Budget set forth on the CAT website is presented on a quarterly basis, but is prepared based on more granular detail. The costs for May and June are estimated based on two-thirds of costs for Q2 where the budgeted monthly amounts are consistent. For

those cases in which the costs for a category vary from month to month in Q2, the specific budgeted amounts for May and June are noted.

³¹ CAT budgets for periods prior to 2025 were prepared on the cash basis of accounting, as such budgets were primarily used to determine the dollar amount of promissory notes from the Participants that were required to fund the ongoing operations of the CAT. Commencing in 2025, with the contemplated recovery of costs from Industry Members and the Participants via CAT Fees, the Original 2025 CAT Budget was prepared on the

accrual basis of accounting to properly match projected revenues with estimated expenses incurred. A cash basis budget reflects expenditures when paid, while an accrual basis budget reflects expenditures when incurred. In moving from a cash basis budget to an accrual basis budget, there is no double counting of expenses.

³² Section 11.3(a)(iii)(B) of the CAT NMS Plan.

³³ Note that costs and related cost calculations provided in this filing may reflect minor variations from the budgeted costs due to rounding.

BUDGETED CAT COSTS 2026–1—Continued

Budget category	Budgeted CAT costs 2026–1 ^b (i.e., costs for May–December 2026)
Total Budgeted CAT Costs 2026–1	15,149,648

^a The non-cash amortization of these capitalized developed technology costs to be incurred during the CAT Fee 2026–1 Period have been appropriately excluded from the above table.³⁴

^b Budgeted CAT Costs 2026–1 described in this table of costs were determined based on an analysis of a variety of factors, including historical costs/invoices, estimated costs from respective vendors/service providers, contractual terms with vendors/service providers, anticipated service levels and needs, and discussions with vendors and Participants.

^c This cost number for capitalized developed technology costs reflects (1) capitalized developed technology costs of \$3,450,000 for May, \$0 for June and \$0 for the third and fourth quarters of 2026 as included in the Updated 2026 CAT Budget; and (2) \$0 for the Software License Fee 2026 for the second, third, and fourth quarters of 2026 as included in the Updated 2026 CAT Budget: (\$3,450,000 + \$0 + \$0 + \$0) + (\$0 + \$0 + \$0) = \$3,450,000.

^d This cost number for cloud hosting services reflects two-thirds of the cloud hosting services costs for the second quarter and the cloud hosting services for the third and fourth quarters of 2026 as included in the Updated 2026 CAT Budget: ($\frac{2}{3} \times \$18,700,000$) + \$18,700,000 + \$18,700,000 = \$49,866,667.

^e This cost number for operating fees reflects (1) two-thirds of the Non-CAIS fixed operating fees for the second quarter and the Non-CAIS fixed operating fees for the third and fourth quarters of 2026 as included in the Updated 2026 CAT Budget and (2) two-thirds of the market data vendor fees for the second quarter and the market data vendor fees for the third and fourth quarter of 2026 as included in the Updated 2026 CAT Budget: ($\frac{2}{3} \times \$7,191,853$) + \$7,191,853 + \$7,191,853 + ($\frac{2}{3} \times \$192,630$) + \$192,630 + \$192,630 = \$19,691,953.

^f This cost number for CAIS operating fees reflects two-thirds of the CAIS fixed operating fees for the second quarter and the CAIS fixed operating fees for the third and fourth quarters of 2026 as included in the Updated 2026 CAT Budget: ($\frac{2}{3} \times \$5,317,147$) + \$5,317,147 + \$5,317,147 = \$14,179,060.

^g This \$0 cost number for change requests reflects the fact that there were no change request fees set forth in the Updated 2026 CAT Budget.

^h This cost number for legal services reflects two-thirds of the legal costs for the second quarter and the legal costs for the third and fourth quarters of 2026 as included in the Updated 2026 CAT Budget: ($\frac{2}{3} \times \$2,145,170$) + \$2,125,170 + \$2,115,170 = \$5,670,452.

ⁱ This cost number for consulting services reflects two-thirds of the consulting costs for the second quarter and the consulting costs for the third and fourth quarters of 2026 as included in the Updated 2026 CAT Budget: ($\frac{2}{3} \times \$384,734$) + \$384,734 + \$384,734 = \$1,025,957.

^j This cost number for insurance reflects two-thirds of the insurance costs for the second quarter and the insurance costs for the third and fourth quarters of 2026 as included in the Updated 2026 CAT Budget: ($\frac{2}{3} \times \$300,977$) + \$321,042 + \$331,074 = \$852,768.

^k This cost number for professional and administration services reflects two-thirds of the professional and administration costs for the second quarter and the professional and administration costs for the third and fourth quarters of 2026 as included in the Updated 2026 CAT Budget: ($\frac{2}{3} \times \$280,932$) + \$280,932 + \$280,932 = \$749,151.

^l This \$0 cost number of change requests reflects the fact that there were no change request fees set forth in the Updated 2026 CAT Budget.

^m This interest income reflects interest income (net of bank fees) of \$517,208 for May and June and interest income (net of bank fees) for the third and fourth quarters of 2026 as included in the Updated 2026 CAT Budget: \$517,208 + \$571,010 + \$365,164 = \$1,453,382. Note that interest income for May and June 2026 of \$517,208 is slightly less than two-thirds of \$809,598 (which is \$539,732) for the second quarter as the amount of interest income varies from month to month.

ⁿ This amount for the use of the existing reserve is calculated by subtracting from the Accrued Liquidity Reserve Balance as of the Beginning of the Year in the Updated 2026 CAT Budget the 25% Incremental Liquidity Reserve Accrued during 2026 for the first quarter and for April of 2026 as included in the Updated 2026 CAT Budget: \$155,403,378 – (\$41,800,153 + \$11,212,091) = \$102,391,135. Note that the 25% Incremental Liquidity Reserved Accrued during 2026 for April 2026 of \$11,212,091 is slightly more than one-third of \$33,366,432 (which is \$11,122,144) for the second quarter as the amount of the 25% Incremental Liquidity Reserved Accrued during 2026 varies from month to month.

To the extent that CAT LLC enters into notes with Participants or others to pay costs incurred during the period in which CAT Fee 2026–1 is in effect, CAT LLC will use the proceeds from CAT Fee 2026–1 and the related Participant CAT fees to repay such notes.

The following table compares the annual budgeted CAT costs as set forth in the updated annual CAT budget for

2025 approved by the Operating Committee in May 2025 (“May Updated 2025 CAT Budget”),³⁵ the updated annual CAT budget for 2025 approved by the Operating Committee in November 2025 (“November Updated 2025 CAT Budget”),³⁶ the Original 2026 CAT Budget and the Updated 2026 CAT Budget, and is provided for

informational purposes. In each case, the costs provided reflect the costs for the entire year for each of the budgets; this differs from the above chart which focuses on budgeted costs for the period from May 1, 2026 through December 31, 2026, which, as noted, are the costs that are used in the calculation of the fee rate in this fee filing.

COMPARISON OF FULL YEAR BUDGETED COSTS

Budget category	Full year of 2025 budgeted CAT costs from updated 2025 CAT budget (May 2025)	Full year of 2025 budgeted CAT costs from updated 2025 budget (Nov. 2025)	Full year of 2026 budgeted CAT costs from original 2026 CAT budget	Full year of 2026 budgeted CAT costs from updated 2026 CAT budget
Capitalized Developed Technology Costs ^a	\$4,871,962	\$5,163,991	\$8,228,827	\$8,378,964
Technology Costs	211,548,472	173,091,660	137,514,003	128,643,476
Cloud Hosting Services	159,230,937	122,084,811	81,900,006	77,529,362
Operating Fees ^b	30,817,686	29,932,001	34,345,413	29,845,524

³⁴ With respect to certain costs that were “appropriately excluded,” such excluded costs relate to the amortization of capitalized technology costs, which are amortized over the life of the Plan Processor Agreement. As such costs have already been otherwise reflected in the filing, their inclusion would double count the capitalized

technology costs. In addition, amortization is a non-cash expense.

³⁵ The May Updated 2025 CAT Budget is available on the CAT website (https://www.catnmsplan.com/sites/default/files/2025-05/05.19.25-CAT-LLC-2025-Financial_and_Operating-Budget.pdf).

³⁶ The November Updated 2025 CAT Budget is available on the CAT website (https://www.catnmsplan.com/sites/default/files/2025-12/12.22.25_CAT-LLC-2025-Finacial_and_Operating-Budget.pdf).

COMPARISON OF FULL YEAR BUDGETED COSTS—Continued

Budget category	Full year of 2025 budgeted CAT costs from updated 2025 CAT budget (May 2025)	Full year of 2025 budgeted CAT costs from updated 2025 budget (Nov. 2025)	Full year of 2026 budgeted CAT costs from original 2026 CAT budget	Full year of 2026 budgeted CAT costs from updated 2026 CAT budget
CAIS Operating Fees	20,749,848	20,749,848	21,268,584	21,268,590
Change Request Fees	750,000	325,000	0	0
Legal	7,370,002	7,312,547	8,485,000	8,939,184
Consulting	1,749,998	1,750,000	1,550,000	1,550,000
Insurance	1,594,452	1,368,750	1,505,625	1,254,070
Professional and administration	1,193,090	1,392,679	1,145,500	1,085,500
Public relations	6,575	6,575	0	0
Interest Income	0	(2,510,223)	(1,995,958)	(2,806,325)
Total Annual CAT Costs ^c	228,334,551	187,575,979	156,432,998	147,044,869

^a This cost number is calculated by adding together the Capitalized Developed Technology Costs and the Software License Fee for each budget.

^b This cost number is calculated by adding together the Operating fees, the Cyber Insurance Premium Adjustment (if any) and market data vendor fees (if any separate fees) for each budget.

^c This total cost number does not include an amount for a reserve.

In addition, the following table compares the budgeted costs for January and February 2026 that were used in drafting the Original 2026 CAT Budget with the actual costs for January and February 2026 that were used in

drafting the Updated 2026 CAT Budget. The Original 2026 CAT Budget includes budgeted costs for January and February 2026, whereas the Updated 2026 CAT Budget includes actual costs for January and February 2026. The variance from

the budgeted costs for January and February 2026 to the actual costs for January and February 2026 are used in this filing in supporting the reasonableness of the estimates for each category of costs.

COMPARISON OF BUDGETED AND ACTUAL COSTS FOR JANUARY & FEBRUARY 2026

Budget category	Budgeted costs for January & February 2026 (as used in drafting the original 2026 CAT budget)	Actual costs for January & February 2026 (as used in drafting the updated 2026 CAT budget)	Variance from budgeted costs for January & February 2026 to actual costs for January & February of 2026
Capitalized Developed Technology Costs ^a	\$671,472	\$4,145,430	Increase by \$3,473,958. ^b
Technology Costs	25,894,000	21,501,183	
Cloud Hosting Services	17,200,000	12,829,362	Decrease by \$4,370,638. ^c
Operating Fees	5,149,236	5,127,057	Decrease by \$22,179.
CAIS Operating Fees	3,544,764	3,544,764	No change.
Change Request Fees	0	0	No change.
Legal	1,424,166	1,838,617	Increase by \$414,451. ^d
Consulting	258,334	267,554	Increase by \$9,220.
Insurance	250,938	200,652	Decrease by \$50,286.
Professional and administration	190,916	149,061	Decrease by \$41,855.
Public relations	0	0	No change.
Interest Income	(758,343)	(757,527)	Decrease by \$816.
Total	27,931,483	27,344,970	Decrease by \$586,513.

^a This cost number for capitalized developed technology costs is calculated by adding together the capitalized developed technology costs and the software license fee for each budget.

^b The variance for capitalized developed technology costs is the result of costs related to the software license fee in accordance with the Plan Processor Agreement with FCAT.

^c This variance is attributable to lower than forecasted market volumes and the impact of lower processing costs due to shutting down certain functionalities.

^d The variance in legal costs is attributable to unanticipated issues that required additional legal efforts on behalf of CAT LLC that developed after the budget was created.

(i) Technology Costs—Cloud Hosting Services

(a) Description of Cloud Hosting Services Costs

Section 11.3(a)(iii)(B)(B)(1) of the CAT NMS Plan requires the fee filing for a Prospective CAT Fee to provide a brief description of the cloud hosting services

costs set forth in the budget. The Operating Committee approved an operating budget for the CAT pursuant to Section 11.1(a) of the CAT NMS Plan that included \$49,866,667 in technology costs for cloud hosting services for the CAT Fee 2026–1 Period. The technology costs for cloud hosting services represent costs reasonably budgeted to

be incurred for services provided by the cloud services provider for the CAT, Amazon Web Services, Inc. (“AWS”) during the CAT Fee 2026–1 Period.

In the agreement between CAT LLC and the Plan Processor for the CAT (“Plan Processor Agreement”), FINRA CAT, LLC (“FCAT”), AWS was named as the subcontractor to provide cloud

hosting services. Under the Plan Processor Agreement, CAT LLC is required to pay FCAT the fees incurred by the Plan Processor for cloud hosting services provided by AWS as FCAT's subcontractor on a monthly basis for the cloud hosting services, and FCAT, in turn, pays such fees to AWS. The fees for cloud hosting services were negotiated by FCAT on an arm's length basis with the goals of managing costs and receiving services required to comply with the CAT NMS Plan and Rule 613, taking into consideration a variety of factors, including the expected volume of data, the breadth of services provided and market rates for similar services. Services provided by AWS include storage services, databases, compute services and other services (such as networking, management tools and DevOps tools), as well as various environments for CAT, such as development, performance testing, test, and production environments. FCAT utilizes such cloud hosting services for a broad array of services for the CAT, such as data ingestion, data management, and analytic tools for the CAT. AWS performs cloud hosting services for both the CAT transaction database as well as the Reference Database (previously referred to as the Customer and Account Information System, or "CAIS").³⁷ It is anticipated that such cloud hosting services will continue during the CAT Fee 2026–1 Period.

The cost for AWS cloud services for the CAT is a function of the volume of CAT Data, largely as a result of the processing and storage of the CAT Data.³⁸ The greater the amount of CAT Data, the greater the cost of AWS services to CAT LLC. During the CAT Fee 2026–1 Period, it is expected that AWS would provide cloud hosting services for volumes of CAT Data far in excess of the volume predictions set forth in the CAT NMS Plan. The CAT NMS Plan states, when all CAT

Reporters are submitting their data to the CAT, it "must be sized to receive[,] process and load more than 58 billion records per day,"³⁹ and that "[i]t is expected that the Central Repository will grow to more than 29 petabytes of raw, uncompressed data."⁴⁰ In contrast with those estimates, the Q3 2025 data volumes averaged 792 billion events per day. The highest peak data volume to date of 1.45 trillion events was recorded on April 7, 2025. The top five peak days were recorded in April 2025.

CAT LLC estimates that the budget for cloud hosting services costs during the CAT Fee 2026–1 Period will be approximately \$49,866,667.⁴¹ The budget for cloud hosting services costs during the CAT Fee 2026–1 Period is calculated based on the Updated 2026 CAT Budget. Specifically, this estimate was calculated by adding two-thirds of the cloud hosting services costs for the second quarter and the cloud hosting services for the third and fourth quarters of 2026 as included in the Updated 2026 CAT Budget.⁴²

CAT LLC estimated the budget for the cost for cloud hosting services for the CAT Fee 2026–1 Period based on an assumption of 35% annual year-over-year volume growth for the transaction database and an assumption of 5% annual year-over-year volume growth for the Reference Database. CAT LLC determined these growth assumptions in coordination with FCAT.⁴³

This process for estimating the budget for cloud hosting services costs for the CAT Fee 2026–1 Period is the same process by which CAT LLC estimated the cloud hosting services costs for the Original 2026 CAT Budget.

The Original 2026 CAT Budget estimated a budget for cloud hosting services of \$17,200,000 for January and February 2026. The actual costs for cloud hosting services for January and February 2026, which are set forth in the Updated 2026 CAT Budget, were \$12,829,362. Therefore, the variance

between budgeted and actual cloud hosting services costs for January and February 2026 was an approximate decrease of \$4,370,638 as a result of lower volumes and a change in functionality.⁴⁴ Accordingly, CAT LLC believes that the process for estimating the budgeted cloud hosting services costs for the CAT Fee 2026–1 Period is reasonable.

(b) Changes From Prior Fee Filing

Section 11.3(a)(iii)(B)(B) of the CAT NMS Plan requires the fee filing for a Prospective CAT Fee to describe the reason for changes in the line item for cloud hosting services costs from the prior CAT Fee filing. As this is the first Prospective CAT Fee filing under this CAT Funding Model, this filing describes the changes in the cloud hosting services costs from the Original 2026 Budget.⁴⁵ Specifically, the following describes the differences in the costs for cloud hosting services included in the Original 2026 CAT Budget versus the Updated 2026 CAT Budget, and the reasons for any changes.

The annual 2026 budgeted costs for cloud hosting services included in the Original 2026 CAT Budget were \$81,900,006, and the annual 2026 budgeted costs for cloud hosting services included in the Updated 2026 CAT Budget are \$77,529,362. Accordingly, budgeted annual costs for cloud hosting services decreased by \$4,370,644 from the Original 2026 CAT Budget to the Updated 2026 CAT Budget, which is an approximate 5% reduction in cloud hosting services costs for the full year of 2026.⁴⁶ The budgeted decrease in costs for cloud hosting services reflects lower costs for January and February 2026 due to lower than forecasted market volumes in January and the impact of lower processing costs due to shutting down certain functionalities.

(ii) Technology Costs—Operating Fees

(a) Description of Operating Fees

Section 11.3(a)(iii)(B)(B)(1) of the CAT NMS Plan requires the fee filing for a Prospective CAT Fee to provide a brief

³⁷ On January 13, 2026, the SEC approved an amendment to the CAT NMS Plan relating to the Customer and Account Information System (referred to as "CAIS"). Effective with this amendment, CAIS has been renamed as the "Reference Database." Securities Exchange Act Rel. No. 104586 (Jan. 13, 2026), 91 FR 2164 (Jan. 16, 2026) ("CAIS Amendment"). The SEC subsequently approved another amendment to the CAT NMS Plan to implement various cost savings measures that made further changes to the Reference Database. Securities Exchange Act Rel. No. 105107 (Mar. 27, 2026), 91 FR 16284 (Mar. 27, 2026) ("Cost Savings Amendment").

³⁸ In addition to the effect of the data volume on the cloud hosting costs, the processing timelines set forth in the Plan contribute to the cloud hosting costs. For further discussion of the effect of processing timelines on cloud hosting costs, see Section 3(b)(2)(A)(i) below.

³⁹ Section 1.3 of Appendix D of the CAT NMS Plan, n.262.

⁴⁰ Section 1.3 of Appendix D of the CAT NMS Plan.

⁴¹ See chart entitled "Budgeted CAT Costs 2026–1" in Section 3(a)(2)(C) above.

⁴² This calculation is $(\frac{2}{3} \times \$18,700,000) + \$18,700,000 + \$18,700,000 = \$49,866,667$.

⁴³ Note that these growth rates are based on events processed and stored in the CAT. Executed transactions are a small subset of such events. As a result, the number of transactions in the CAT, and, hence, the number of executed equivalent shares, is not directly correlated with the number of events processed in the CAT or the costs of cloud hosting services for the CAT. Accordingly, the number of executed equivalent shares may stay relatively constant from year to year while the number of events processed and stored in the CAT may grow significantly.

⁴⁴ See chart entitled "Comparison of Budgeted and Actual Costs for January & February 2026" in Section 3(a)(2)(C) above.

⁴⁵ The last Prospective CAT Fee, CAT Fee 2025–2, was implemented pursuant to the prior CAT funding model. Moreover, the final invoice for CAT Fee 2025–2 was sent in December 2025, and, therefore, there is a six-month gap between the final invoice for CAT Fee 2025–2 and the first invoice for CAT Fee 2026–1, which would be in June 2026. Accordingly, this filing describes the changes in the cloud hosting services costs from the Original 2026 Budget.

⁴⁶ See chart entitled "Comparison of Full Year Budgeted Costs" in Section 3(a)(2)(C) above.

description of the operating fees set forth in the budget. The Operating Committee approved an operating budget for the CAT pursuant to Section 11.1(a) of the CAT NMS Plan that included \$19,691,953 in technology costs for operating fees for the CAT Fee 2026–1 Period. Operating fees are those fees paid by CAT LLC to FCAT as the Plan Processor to operate and maintain the CAT and to perform business operations related to the system, including compliance, security, testing, training, communications with the industry (e.g., management of the FINRA CAT Helpdesk, FAQs, website and webinars) and program management as required by the CAT NMS Plan. Operating fees also include market data provider costs, as discussed below.

Plan Processor: FCAT. Under the Plan Processor Agreement with FCAT, CAT LLC is required to pay FCAT a negotiated monthly fixed price for the operation of the CAT. This fixed price contract was negotiated on an arm's length basis with the goals of managing costs and receiving services required to comply with the CAT NMS Plan and Rule 613, taking into consideration a variety of factors, including the breadth of services provided and market rates for similar types of activity. It is anticipated that FCAT will provide a variety of services to the CAT during the CAT Fee 2026–1 Period, including the following:

- Provide the CAT-related functions and services as the Plan Processor as required by SEC Rule 613 and the CAT NMS Plan in connection with the operation and maintenance of the CAT;
- Address compliance items, including drafting CAT policies and procedures, and addressing Regulation SCI requirements;
- Provide support to the Operating Committee, the Compliance Subcommittee and CAT working groups;
- Assist with interpretive efforts, exemptive requests and amendments regarding the CAT NMS Plan;
- Oversee the security of the CAT;
- Monitor the operation of the CAT, including with regard to Participant and Industry Member reporting;
- Provide support to subcontractors under the Plan Processor Agreement;
- Provide support in discussions with the Participants and the SEC and its staff;
- Operate the FINRA CAT Helpdesk;
- Facilitate communications with the industry, including via FAQs, CAT Alerts, meetings, presentations and webinars;

- Administer the CAT website and all of its content;
- Maintain cyber security insurance related to the CAT;
- Assist with billing, collection and other CAT fee-related activity; and
- Provide technical support and assistance with connectivity, data access, and user support, including the use of CAT Data and query tools, for Participants and the SEC staff.

CAT LLC calculated the budget for the FCAT technology costs for operating fees for the CAT Fee 2026–1 Period based on the recurring monthly operating fees under the Plan Processor Agreement.

Market Data Provider: Algoseek. It is anticipated that the operating fees costs for the CAT Fee 2026–1 Period will include costs related to the receipt of certain market data for the CAT pursuant to an agreement between FCAT and Algoseek, LLC (“Algoseek”). CAT LLC determined that Algoseek would provide market data that included data elements set forth in Section 6.5(a)(ii) of the CAT NMS Plan, and that the fees were reasonable and in line with market rates for the market data received. All costs under the contract would be treated as a direct pass through cost to CAT LLC. CAT LLC estimated the budget for the costs for Algoseek for the CAT Fee 2026–1 Period based on the monthly rate set forth in the agreement between Algoseek and FCAT.

Operating Fee Estimates. CAT LLC estimates that the budget for operating fees during the CAT Fee 2026–1 Period will be approximately \$19,691,953.⁴⁷ The budget for operating fees during the CAT Fee 2026–1 Period is calculated based on the Updated 2026 CAT Budget. Specifically, this estimate was calculated by adding (1) two-thirds of the Non-CAIS fixed operating fees for the second quarter and the Non-CAIS fixed operating fees for the third and fourth quarters of 2026 included in the Updated 2026 CAT Budget and (2) two-thirds of the market data vendor fees for the second quarter and the market data vendor fees for the third and fourth quarter of 2026 included in the Updated 2026 CAT Budget.⁴⁸

As discussed above, CAT LLC estimated the budget for the operating fees during the CAT Fee 2026–1 Period based on monthly rates set forth in the Plan Processor Agreement and the agreement with Algoseek. CAT LLC also

recognized that the operating fees are generally consistent throughout the year. This process for estimating the budget for the operating fees for the CAT Fee 2026–1 Period is the same process by which CAT LLC estimated the operating fees for the Original 2026 CAT Budget. The Original 2026 CAT Budget estimated a budget for operating fees of \$5,149,236 for January and February 2026, and the actual costs for operating fees for January and February 2026 were \$5,127,057. Therefore, the variance between budgeted and actual operating fees for this period was small—\$22,179.⁴⁹ Accordingly, CAT LLC believes that the process for estimating the budgeted operating fees for the CAT Fee 2026–1 Period is reasonable.

(b) Changes From Prior Fee Filing

Section 11.3(a)(iii)(B)(B) of the CAT NMS Plan requires the fee filing for a Prospective CAT Fee to describe the reason for changes in the line item for operating fees from the prior CAT Fee filing. As this is the first Prospective CAT Fee filing under this CAT Funding Model, this filing describes the changes in the operating fees from the Original 2026 Budget. Specifically, the following describes the differences in the costs for operating fees included in the Original 2026 CAT Budget versus the Updated 2026 CAT Budget, and the reasons for any changes.

The annual 2026 budgeted costs for operating fees included in the Original 2026 CAT Budget were \$34,345,413, and the annual 2026 budgeted costs for operating fees included in the Updated 2026 CAT Budget are \$29,845,524. Accordingly, budgeted annual costs for operating fees decreased by \$4,499,889 from the Original 2026 CAT Budget to the Updated 2026 CAT Budget, which is an approximate 13% reduction in operating fees for the full year of 2026.⁵⁰ The budgeted decrease in costs for operating fees reflects the proposed amendments to the Plan Processor Agreement related to the recent cost savings amendments to the CAT NMS Plan.⁵¹

(iii) Technology Costs—CAIS Operating Fees

(a) Description of CAIS Operating Fees

Section 11.3(a)(iii)(B)(B)(1) of the CAT NMS Plan requires the fee filing for a Prospective CAT Fee to provide a brief

⁴⁹ See chart entitled “Comparison of Budgeted and Actual Costs for January & February 2026” in Section 3(a)(2)(C) above.

⁵⁰ See chart entitled “Comparison of Full Year Budgeted Costs” in Section 3(a)(2)(C) above.

⁵¹ See CAIS Amendment and Cost Savings Amendment.

⁴⁷ See chart entitled “Budgeted CAT Costs 2026–1” in Section 3(a)(2)(C) above.

⁴⁸ This calculation is $(\frac{2}{3} \times \$7,191,853) + \$7,191,853 + (\frac{2}{3} \times \$192,630) + \$192,630 + \$192,630 = \$19,691,953$.

description of the CAIS operating fees set forth in the budget. The Operating Committee approved an operating budget for the CAT pursuant to Section 11.1(a) of the CAT NMS Plan that included \$14,179,060 in technology costs for CAIS operating fees for the CAT Fee 2026–1 Period. CAIS operating fees represent the fees paid to FCAT for services provided with regard to the operation and maintenance of the Reference Database (previously referred to as CAIS), and to perform the business operations related to the system, including compliance, security, testing, training, communications with the industry (e.g., management of the FINRA CAT Helpdesk, FAQs, website and webinars) and program management. The CAT is required under the CAT NMS Plan to capture and store Reference Data in the Reference Database and to create a CAT-Customer-ID for each Customer.⁵²

During the CAT Fee 2026–1 Period, it is anticipated that FCAT will provide services related to the Reference Database. Under the Plan Processor Agreement with FCAT, CAT LLC is required to pay FCAT for services related to the Reference Database provided by FCAT on a monthly basis. CAT LLC negotiated the fees for FCAT's services related to the Reference Database on an arm's length basis with the goals of managing costs and receiving services required to comply with the CAT NMS Plan, taking into consideration a variety of factors, including the services to be provided and market rates for similar types of activity. During the CAT Fee 2026–1 Period, it is anticipated that FCAT will continue to provide services relating to the ongoing operation, maintenance and support of the Reference Database.

CAT LLC estimates that the budget for CAIS operating fees during the CAT Fee 2026–1 Period will be approximately \$14,179,060.⁵³ The budget for CAIS operating fees during the CAT Fee 2026–1 Period is calculated based on the Updated 2026 CAT Budget. Specifically, this estimate was calculated by adding two-thirds of the CAIS fixed operating fees for the second quarter and the CAIS fixed operating fees for the third and fourth quarters of 2026 included in the Updated 2026 CAT Budget.⁵⁴

CAT LLC calculated the budget for FCAT's services related to the Reference Database for the CAT Fee 2026–1 Period

based on the recurring monthly CAIS operating fees under the Plan Processor Agreement. This process for estimating the budget for the CAIS operating fees for the CAT Fee 2026–1 Period is the same process by which CAT LLC estimated the CAIS operating fees for the Original 2026 CAT Budget. The Original 2026 CAT Budget estimated a budget of \$3,544,764 for CAIS operating fees for January and February of 2026. The actual costs for CAIS operating fees for January and February of 2026, which are included in the Updated 2026 CAT Budget, were \$3,544,764. There was no variance between budgeted and actual CAIS operating fees for the first two months of 2026.⁵⁵ Accordingly, CAT LLC believes that the process for estimating the budgeted CAIS operating fees for the CAT Fee 2026–1 Period is reasonable.

(b) Changes From Prior Fee Filing

Section 11.3(a)(iii)(B)(B) of the CAT NMS Plan requires the fee filing for a Prospective CAT Fee to describe the reason for changes in the line item for CAIS operating fees from the prior CAT Fee filing. As this is the first Prospective CAT Fee filing under this CAT Funding Model, this filing describes the changes in the CAIS operating fees from the Original 2026 Budget. Specifically, the following describes the differences in the costs for CAIS operating fees included in the Original 2026 CAT Budget versus the Updated 2026 CAT Budget, and the reasons for any changes.

CAIS operating fees are based on a recurring monthly rate payable to FCAT and are unchanged from the Original 2026 CAT Budget to the Updated 2026 CAT Budget. The annual 2026 budgeted costs for CAIS operating fees included in the Original 2026 CAT Budget were \$21,268,584, and the annual 2026 budgeted costs for CAIS operating fees included in the Updated 2026 CAT Budget are \$21,268,590.⁵⁶ Accordingly, the budgeted annual costs for CAIS operating fees are the same for both the Original 2026 CAT Budget and the Updated 2026 CAT Budget.

(iv) Technology Costs—Change Request Fees

(a) Description of Change Request Fees

Section 11.3(a)(iii)(B)(B)(1) of the CAT NMS Plan requires the fee filing for a Prospective CAT Fee to provide a brief description of the change request fees set forth in the budget. The Operating

Committee approved an operating budget for the CAT pursuant to Section 11.1(a) of the CAT NMS Plan that included \$0 in technology costs for change request fees for the CAT Fee 2026–1 Period. The technology costs related to change request fees include costs related to certain modifications, upgrades or other changes to the CAT.

Change requests are standard practice and necessary to reflect operational changes, including changes related to new market developments, such as new market participants. In general, if CAT LLC determines that a modification, upgrade or other changes to the functionality or service is necessary and appropriate, CAT LLC will submit a request for such a change to the Plan Processor. The Plan Processor will then respond to the request with a proposal for implementing the change, including the cost (if any) of such a change. CAT LLC then determines whether to approve the proposed change.

The change request budget line is established to include expected costs to be incurred in which the nature of the costs (i.e., capitalization versus expensing) have not yet been determined. Upon the incurrence of such costs, the final determination of capitalization versus expensing is determined and then such costs are reclassified from the change request line to the appropriate technology cost line item.

CAT LLC estimates that the budget for change requests during the CAT Fee 2026–1 Period will be approximately \$0.⁵⁷ The budget for change requests during the CAT Fee 2026–1 Period is calculated based on the Updated 2026 CAT Budget. This \$0 cost number for change request fees reflects the fact that there were no change request fees set forth in the Updated 2026 CAT Budget.

CAT LLC estimated the budget for the potential change requests for the CAT Fee 2026–1 Period based on, among other things, a review of past change requests and potential future change request needs, as well as discussions with FCAT. This process for estimating the budget for the change requests for the CAT Fee 2026–1 Period is the same process by which CAT LLC estimated the change requests cost for the Original 2026 CAT Budget. The Original 2026 CAT Budget estimated a change request budget of \$0 for January and February of 2026. The actual costs for change requests for January and February of 2026, which are set forth in the Updated 2026 CAT Budget, were \$0. There was no variance between budgeted and

⁵² See Section 9 of Appendix D of the CAT NMS Plan.

⁵³ See chart entitled "Budgeted CAT Costs 2026–1" in Section 3(a)(2)(C) above.

⁵⁴ This calculation is $(\frac{2}{3} \times \$5,317,147) + \$5,317,147 + \$5,317,147 = \$14,179,060$.

⁵⁵ See chart entitled "Comparison of Budgeted and Actual Costs for January & February 2026" in Section 3(a)(2)(C) above.

⁵⁶ See chart entitled "Comparison of Full Year Budgeted Costs" in Section 3(a)(2)(C) above.

⁵⁷ See chart entitled "Budgeted CAT Costs 2026–1" in Section 3(a)(2)(C) above.

actual change request costs for January and February of 2026.⁵⁸ Accordingly, CAT LLC believes that the process for estimating the budgeted change request costs for the CAT Fee 2026–1 Period is reasonable.

(b) Changes From Prior Fee Filing

Section 11.3(a)(iii)(B)(B) of the CAT NMS Plan requires the fee filing for a Prospective CAT Fee to describe the reason for changes in the line item for change request fees from the prior CAT Fee filing. As this is the first Prospective CAT Fee filing under this CAT Funding Model, this filing describes the changes in the change request fees from the Original 2026 Budget. Specifically, the following describes the differences (if any) in the costs for change request fees included in the Original 2026 CAT Budget versus the Updated 2026 CAT Budget, and the reasons for any changes.

The annual 2026 budgeted costs for change requests included in the Original 2026 CAT Budget were \$0, and the annual 2026 budgeted costs for change requests included in the Updated 2026 CAT Budget are \$0.⁵⁹ Accordingly, budgeted annual costs for change requests are the same for both the Original 2026 CAT Budget and the Updated 2026 CAT Budget.

(v) Technology Costs—Capitalized Developed Technology Costs

(a) Description of Capitalized Developed Technology Costs

Section 11.3(a)(iii)(B)(B)(1) of the CAT NMS Plan requires the fee filing for a Prospective CAT Fee to provide a brief description of the capitalized developed technology costs set forth in the budget. The Operating Committee approved an operating budget for the CAT pursuant to Section 11.1(a) of the CAT NMS Plan that includes \$3,450,000 in technology costs for capitalized developed technology costs for the CAT Fee 2026–1 Period. This category of costs includes the budget for capitalizable application development costs incurred in the development of the CAT. It is anticipated that such costs will include certain costs related to the software license fee for the Reference Database in accordance with the Plan Processor Agreement with FCAT, as well as costs related to a set of technology changes to be implemented by FCAT related to the cost savings amendments⁶⁰ and the move to 23x5 trading.

CAT LLC estimates that the budget for capitalized developed technology costs during the CAT Fee 2026–1 Period will be approximately \$3,450,000.⁶¹ The budget for capitalized developed technology costs during the CAT Fee 2026–1 Period is calculated based on the Updated 2026 CAT Budget. Specifically, this estimate was calculated by adding (1) capitalized developed technology costs of \$3,450,000 for May, \$0 for June and \$0 for the third and fourth quarters of 2026 included in the Updated 2026 CAT Budget; and (2) \$0 for the Software License Fee 2026 for the second, third, and fourth quarters of 2026 included in the Updated 2026 CAT Budget.⁶²

CAT LLC estimated the budget for capitalized developed technology costs for the CAT Fee 2026–1 Period based on an analysis of a variety of factors, including information related to potential technology costs and related contractual and Plan requirements, and discussions with FCAT regarding such potential technology costs. This process for estimating the budget for capitalized developed technology costs for the CAT Fee 2026–1 Period is the same process by which CAT LLC estimated the capitalized developed technology costs for the Original 2026 CAT Budget. The Original 2026 CAT Budget estimated a budget for capitalized developed technology costs of \$671,472 for January and February 2026, and the actual costs for capitalized developed technology costs for January and February 2026 were \$4,145,430.⁶³ The variance of \$3,473,958 for January and February 2026 is the result of costs related to the software license fee for the Reference Database in accordance with the Plan Processor Agreement with FCAT. Accordingly, CAT LLC believes that the process for estimating the budgeted capitalized developed technology costs for the CAT Fee 2026–1 Period is reasonable.

(b) Changes From Prior Fee Filing

Section 11.3(a)(iii)(B)(B) of the CAT NMS Plan requires the fee filing for a Prospective CAT Fee to describe the reason for changes in the line item for capitalized developed technology costs from the prior CAT Fee filing. As this is the first Prospective CAT Fee filing under this CAT Funding Model, this

filing describes the changes in the capitalized developed technology costs from the Original 2026 Budget. Specifically, the following describes the differences in the costs for capitalized developed technology costs as included in the Original 2026 CAT Budget versus the Updated 2026 CAT Budget, and the reasons for any changes.

The annual 2026 budget for capitalized developed technology costs included in the Original 2026 CAT Budget was \$8,228,827, and the annual 2026 budget for capitalized developed technology costs included in the Updated 2026 CAT Budget are \$8,378,964.⁶⁴ Accordingly, the annual budget for capitalized developed technology costs increased by \$150,137 from the Original 2026 CAT Budget to the Updated 2026 CAT Budget, which is an approximate 2% increase in the capitalized developed technology costs for the full year of 2026. This budgeted increase in the annual budget for capitalized developed technology costs was the result of costs related to the software license fee for the Reference Database in accordance with the Plan Processor Agreement with FCAT.

(vi) Legal Costs

(a) Description of Legal Costs

Section 11.3(a)(iii)(B)(B)(2) of the CAT NMS Plan requires the fee filing for a Prospective CAT Fee to provide a brief description of the legal costs set forth in the budget. The Operating Committee approved an operating budget for the CAT pursuant to Section 11.1(a) of the CAT NMS Plan that includes \$5,670,452 in legal costs for the CAT Fee 2026–1 Period. This category of costs represents budgeted costs for legal services for this period. CAT LLC anticipates that it will receive legal services from two law firms, Wilmer Cutler Pickering Hale and Dorr LLP (“WilmerHale”) and Jenner & Block LLP (“Jenner”), during the CAT Fee 2026–1 Period.

Law Firm: WilmerHale. It is anticipated that legal costs during the CAT Fee 2026–1 Period will include costs related to the legal services performed by WilmerHale. CAT LLC anticipates that it will continue to employ WilmerHale during the CAT Fee 2026–1 Period based on, among other things, their expertise, long history with the project and recognition that the hourly fee rates for this law firm are anticipated to be in line with market rates for specialized legal expertise. WilmerHale’s billing rates are negotiated on an annual basis and are determined with reference to the rates

⁵⁸ See chart entitled “Comparison of Budgeted and Actual Costs for January & February 2026” in Section 3(a)(2)(C) above.

⁵⁹ See chart entitled “Comparison of Full Year Budgeted Costs” in Section 3(a)(2)(C) above.

⁶⁰ See CAIS Amendment and Cost Savings Amendment.

⁶¹ See chart entitled “Budgeted CAT Costs 2026–1” in Section 3(a)(2)(C) above.

⁶² This calculation is $(\$3,450,000 + \$0 + \$0 + \$0) + (\$0 + \$0 + \$0) = \$3,450,000$. Note that the \$4,178,964 cost for the software license fee was not included in the CAT Fee 2026–1 Period.

⁶³ See chart entitled “Comparison of Budgeted and Actual Costs for January & February 2026” in Section 3(a)(2)(C) above.

⁶⁴ See chart entitled “Comparison of Full Year Budgeted Costs” in Section 3(a)(2)(C) above.

charged by other leading law firms for similar work. The Participants assess WilmerHale's performance and review prospective budgets and staffing plans submitted by WilmerHale on an annual basis. The legal fees will be paid by CAT LLC to WilmerHale.

During the CAT Fee 2026–1 Period, it is anticipated that WilmerHale will provide legal services related to the following:

- Assist with CAT fee filings and related funding issues;
- Draft exemptive requests from CAT NMS Plan requirements and/or proposed amendments to the CAT NMS Plan;
- Provide legal guidance with respect to interpretations of CAT NMS Plan requirements;
- Provide legal support for the Operating Committee, Compliance Subcommittee, working groups and Leadership Team;
- Draft SRO rule filings related to the CAT Compliance Rule;
- Manage corporate governance matters, including supporting Operating Committee meetings and preparing resolutions and consents;
- Assist with communications with the industry, including CAT Alerts and presentations;
- Provide guidance regarding the confidentiality of CAT Data;
- Assist with cost management analyses and proposals;
- Assist with commercial contract-related matters, including change orders and amendments, Plan Processor Agreement items, and subcontract matters;
- Provide support with regard to discussions with the SEC and its staff, including with respect to addressing interpretive and implementation issues;
- Provide legal guidance with respect to the CAT budgets;
- Provide background assistance to other counsel for CAT matters;
- Assist with legal responses related to third-party data requests; and
- Provide legal support regarding CAT policies and procedures.

CAT LLC estimated the budget for the legal costs for WilmerHale for the CAT Fee 2026–1 Period through an analysis of a variety of factors, including WilmerHale fee rates, historical legal fees, and information related to pending legal issues and potential future legal issues.

Law Firm: Jenner. It is anticipated that legal costs during the CAT Fee 2026–1 Period will include costs related to the legal services performed by Jenner. CAT LLC anticipates that it will continue to employ Jenner during the CAT Fee 2026–1 Period based on, among other

things, their expertise, history with the project and recognition that their hourly fee rates are in line with market rates for specialized legal expertise. The legal fees will be paid by CAT LLC to Jenner.

During the CAT Fee 2026–1 Period, it is anticipated that Jenner will continue to provide legal assistance to CAT LLC regarding certain litigation matters, including: (1) CAT LLC's defense against a lawsuit filed in the Western District of Texas against the SEC Chair, the SEC and CAT LLC challenging the validity of Rule 613 and the CAT and alleging various constitutional, statutory, and common law claims;⁶⁵ (2) CAT LLC's intervention in a lawsuit in the Eleventh Circuit filed by various parties against the SEC challenging the SEC's approval of the CAT Funding Model;⁶⁶ and (3) a lawsuit in the Eleventh Circuit filed by Citadel Securities LLC seeking review of the SEC's May 20, 2024 order⁶⁷ granting the Participants temporary conditional exemptive relief related to the reporting of bids and/or offers made in response to a request for quote or other form of solicitation response provided in standard electronic format that is not immediately actionable.⁶⁸ Litigation involving CAT LLC is an expense of operating the CAT, and, therefore, is appropriately an obligation of both Participants and Industry Members under the CAT Funding Model. Jenner also will continue to provide legal counseling to CAT LLC related to the above-listed litigation and other litigation risk.

CAT LLC estimated the budget for the legal costs for Jenner for the CAT Fee 2026–1 Period through an analysis of a variety of factors, including Jenner's fee rates, historical legal fees, and information related to pending legal issues and potential future legal issues.

Legal Cost Estimates. CAT LLC estimates that the budget for legal services during the CAT Fee 2026–1 Period will be approximately \$5,670,452.⁶⁹ The budget for legal services during the CAT Fee 2026–1 Period is calculated based on the Updated 2026 CAT Budget. Specifically, this estimate was calculated by adding budgeted costs for two-thirds of the legal costs for the second quarter and the legal costs for the third and fourth

quarters of 2026 included in the Updated 2026 CAT Budget.⁷⁰

CAT LLC estimated the budget for the legal services for the CAT Fee 2026–1 Period based on an analysis of a variety of factors, including law firm fee rates, historical legal fees, and information related to pending legal issues and potential future legal issues. This process for estimating the budget for the legal services for CAT Fee 2026–1 Period is the same process by which CAT LLC estimated the legal cost for the Original 2026 CAT Budget. The Original 2026 CAT Budget estimated a budget for legal costs of \$1,424,166 for January and February of 2026. The actual costs for legal services for January and February 2026, which are included in the Updated 2026 Budget, were \$1,838,617.⁷¹ The increase of \$414,451 was due to unanticipated issues that required additional legal efforts on behalf of CAT LLC that developed after the budget was created. Such additional costs were primarily due to additional legal work related to litigation matters as well as regulatory and corporate legal matters. Accordingly, CAT LLC believes that the process for estimating the budgeted legal costs for the CAT Fee 2026–1 Period is reasonable.

(b) Changes From Prior Fee Filing

Section 11.3(a)(iii)(B)(B) of the CAT NMS Plan requires the fee filing for a Prospective CAT Fee to describe the reason for changes in the line item for legal costs from the prior CAT Fee filing. As this is the first Prospective CAT Fee filing under this CAT Funding Model, this filing describes the changes in the legal costs from the Original 2026 Budget. Specifically, the following describes the differences in the legal costs included in the Original 2026 CAT Budget versus the Updated 2026 CAT Budget, and the reasons for any changes.

The annual 2026 budgeted legal costs included in the Original 2026 CAT Budget were \$8,485,000, and the annual 2026 budgeted legal costs included in the Updated 2026 CAT Budget are \$8,939,184.⁷² Accordingly, the annual budget for legal costs increased by \$454,184 from the Original 2026 CAT Budget to the Updated 2026 CAT Budget for the full year of 2026, which is an approximate 5% increase in the legal costs for the full year of 2026. This budgeted increase in the legal costs in the Updated 2026 CAT Budget from the

⁶⁵ *Davidson et al. v. Atkins et al.*, Case No. 6:24–cv–197 (W.D. Tex.).

⁶⁶ *Am. Sec. Ass'n v. SEC*, Case No. 26–10936 (11th Cir.).

⁶⁷ Securities Exchange Act Rel. No. 100181 (May 20, 2024), 89 FR 45715 (May 23, 2024).

⁶⁸ *Citadel Securities v. SEC*, Case No. 24–12300 (11th Cir.).

⁶⁹ See chart entitled “Budgeted CAT Costs 2026–1” in Section 3(a)(2)(C) above.

⁷⁰ This calculation is $(\frac{2}{3} \times \$2,145,170) + \$2,125,170 + \$2,115,170 = \$5,670,452$.

⁷¹ See chart entitled “Comparison of Budgeted and Actual Costs for January & February 2026” in Section 3(a)(2)(C) above.

⁷² See chart entitled “Comparison of Full Year Budgeted Costs” in Section 3(a)(2)(C) above.

Original 2026 Budget was primarily due to an anticipated increase in legal costs related to litigation matters as well as regulatory and corporate legal matters.

(vii) Consulting Costs

(a) Description of Consulting Costs

Section 11.3(a)(iii)(B)(B)(3) of the CAT NMS Plan requires the fee filing for a Prospective CAT Fee to provide a brief description of the consulting costs set forth in the budget. The Operating Committee approved an operating budget for the CAT pursuant to Section 11.1(a) of the CAT NMS Plan that included \$1,025,957 in consulting costs for the CAT Fee 2026–1 Period. The consulting costs represent the fees estimated to be paid to the consulting firm Deloitte & Touche LLP (“Deloitte”) as project manager during the CAT Fee 2026–1 Period. The services provided by Deloitte to the CAT include advisory services related to the operation of the CAT, and meeting facilitation and communications coordination, vendor support and financial analyses. In addition, the consulting costs include the compensation for the Chair of the CAT Operating Committee.

It is anticipated that the costs for CAT during the CAT Fee 2026–1 Period will include costs related to consulting services performed by Deloitte. CAT LLC anticipates that it will continue to employ Deloitte during the CAT Fee 2026–1 Period based on, among other things, their expertise, long history with the project, and the recognition that it is anticipated that the consulting fees will remain in line with market rates for this type of specialized consulting work. Deloitte’s fee rates are negotiated on an annual basis. CAT LLC assesses Deloitte’s performance and reviews prospective budgets and staffing plans submitted by Deloitte on an annual basis. The consulting fees will be paid by CAT LLC to Deloitte.

It is anticipated that Deloitte will provide a variety of consulting services to the CAT during the CAT Fee 2026–1 Period, including the following:

- Implement program operations for the CAT project;
- Provide support to the Operating Committee, the Chair of the Operating Committee and the Leadership Team, including project management support, coordination and planning for meetings and communications, and interfacing with law firms and the SEC;
- Assist with cost and funding matters for the CAT, including assistance with loans and the CAT bank account for CAT funding;
- Provide support for updating the SEC on the progress of the development of the CAT; and

- Provide support for third party vendors for the CAT, including FCAT, Anchin and the law firms engaged by CAT LLC.

In addition, the consulting costs include the compensation for the Chair of the CAT Operating Committee, which is paid by CAT LLC.

CAT LLC estimates that the budget for consulting costs during the CAT Fee 2026–1 Period will be approximately \$1,025,957.⁷³ The budget for consulting costs during the CAT Fee 2026–1 Period is calculated based on the Updated 2026 CAT Budget. Specifically, this estimate was calculated by adding two-thirds of the consulting costs for the second quarter and the consulting costs for the third and fourth quarters of 2026 included in the Updated 2026 CAT Budget.⁷⁴

CAT LLC estimates the budget for the consulting costs for Deloitte for the CAT Fee 2026–1 Period based on the current statement of work with Deloitte, which took into consideration past consulting costs, potential future consulting needs, the proposed rates and other contractual issues, and discussions with Deloitte, as well as the compensation arrangement for the Chair. This process for estimating the budget for consulting costs for the CAT Fee 2026–1 Period is the same process by which CAT LLC estimated the consulting costs for the Original 2026 CAT Budget. The Original 2026 CAT Budget estimated a budget for consulting services of \$258,334 for January and February 2026, and the actual costs for consulting services for January and February 2026, which are included in the Updated 2026 CAT Budget, were \$267,554.⁷⁵ Therefore, the variance between budgeted and actual consulting costs for January and February was approximately 4%. Accordingly, CAT LLC believes that the process for estimating the budgeted consulting costs for the CAT Fee 2026–1 Period is reasonable.

(b) Changes From Prior Fee Filing

Section 11.3(a)(iii)(B)(B) of the CAT NMS Plan requires the fee filing for a Prospective CAT Fee to describe the reason for changes in the line item for consulting costs from the prior CAT Fee filing. As this is the first Prospective CAT Fee filing under this CAT Funding Model, this filing describes the changes in the consulting costs from the Original 2026 Budget. Specifically, the following

describes the differences (if any) in the consulting costs included in the Original 2026 CAT Budget versus the Updated 2026 CAT Budget, and the reasons for any changes.

The annual 2026 budget for consulting costs included in the Original 2026 CAT Budget was \$1,550,000, and the annual 2026 budget for consulting costs included in the Updated 2026 CAT Budget is \$1,550,000.⁷⁶ Accordingly, the annual budget for consulting costs has not changed from the Original 2026 CAT Budget to the Updated 2026 CAT Budget for the full year of 2026.

(viii) Insurance Costs

(a) Description of Insurance Costs

Section 11.3(a)(iii)(B)(B)(4) of the CAT NMS Plan requires the fee filing for a Prospective CAT Fee to provide a brief description of the insurance costs set forth in the budget. The Operating Committee approved an operating budget for the CAT pursuant to Section 11.1(a) of the CAT NMS Plan that included \$852,768 in insurance costs for the CAT Fee 2026–1 Period.⁷⁷ The insurance costs represent the costs to be incurred for insurance for the CAT during the CAT Fee 2026–1 Period.

It is anticipated that the insurance costs for CAT during the CAT Fee 2026–1 Period will include costs related to cyber security liability insurance, directors’ and officers’ liability insurance, and errors and omissions liability insurance brokered by USI Insurance Services LLC (“USI”). Such policies are standard for corporate entities, and cyber security liability insurance is important for the CAT System. CAT LLC anticipates that it will continue to maintain this insurance during the CAT Fee 2026–1 Period, and notes that the annual premiums for these policies were competitive for the coverage provided. CAT LLC estimated the budget for the insurance costs for the CAT Fee 2026–1 Period based on the insurance estimate from USI for 2026. The annual premiums would be paid by CAT LLC to USI.

The budgeted insurance costs for the CAT Fee 2026–1 Period are based on an insurance cost estimate from USI for 2026. Accordingly, CAT LLC believes that the process for estimating the budgeted insurance costs for the CAT Fee 2026–1 Period is reasonable.

⁷³ See chart entitled “Budgeted CAT Costs 2026–1” in Section 3(a)(2)(C) above.

⁷⁴ This calculation is $(\frac{2}{3} \times \$2,145,170) + \$2,125,170 + \$2,115,170 = \$5,670,452$.

⁷⁵ See chart entitled “Comparison of Budgeted and Actual Costs for January & February 2026” in Section 3(a)(2)(C) above.

⁷⁶ See chart entitled “Comparison of Full Year Budgeted Costs” in Section 3(a)(2)(C) above.

⁷⁷ See chart entitled “Budgeted CAT Costs 2026–1” in Section 3(a)(2)(C) above.

(b) Changes From Prior Fee Filing

Section 11.3(a)(iii)(B)(B) of the CAT NMS Plan requires the fee filing for a Prospective CAT Fee to describe the reason for changes in the line item for insurance costs from the prior CAT Fee filing. As this is the first Prospective CAT Fee filing under this CAT Funding Model, this filing describes the changes in the insurance costs from the Original 2026 Budget. Specifically, the following describes the differences in the insurance costs included in the Original 2026 CAT Budget versus the Updated 2026 CAT Budget, and the reasons for any changes.

The annual 2026 budgeted insurance costs included in the Original 2026 CAT Budget were \$1,505,625, and the annual 2026 budgeted insurance costs included in the Updated 2026 CAT Budget are \$1,254,070.⁷⁸ Accordingly, the annual budget for insurance costs decreased by \$251,555 from the Original 2026 CAT Budget to the Updated 2026 CAT Budget for the full year of 2026, which is an approximate 16% decrease in the insurance costs for the full year of 2026. This budgeted decrease in the insurance costs in the Updated 2026 CAT Budget from the Original 2026 Budget was primarily due to an anticipated decrease in insurance premiums.

(ix) Professional and Administration Costs

(a) Description of Professional and Administration Costs

Section 11.3(a)(iii)(B)(B)(5) of the CAT NMS Plan requires the fee filing for a Prospective CAT Fee to provide a brief description of the professional and administration costs set forth in the budget. The Operating Committee approved an operating budget for the CAT pursuant to Section 11.1(a) of the CAT NMS Plan that included \$749,151 in professional and administration costs for the CAT Fee 2026–1 Period. In adopting the CAT NMS Plan, the Commission amended the Plan to add a requirement that CAT LLC's financial statements be prepared in compliance with GAAP, audited by an independent public accounting firm, and made publicly available.⁷⁹ The professional and administration costs would include costs related to accounting and accounting advisory services to support the operating and financial functions of CAT, financial statement audit services by an independent accounting firm, preparation of tax returns, and various cash management and treasury

functions. The professional and administration costs represent the fees to be paid to Anchin, Block & Anchin ("Anchin") and Grant Thornton LLP ("Grant Thornton") for financial services during the CAT Fee 2026–1 Period.

Financial Advisory Firm: Anchin. It is anticipated that the professional and administration costs for the CAT Fee 2026–1 Period will include costs related to financial advisory services performed by Anchin. CAT LLC anticipates that it will continue to employ Anchin during the CAT Fee 2026–1 Period based on, among other things, the firm's relevant expertise and fees, which are anticipated to remain in line with market rates for these financial advisory services. The fees for these services will be paid by CAT LLC to Anchin.

It is anticipated that Anchin will provide a variety of services to the CAT during the CAT Fee 2026–1 Period, including the following:

- Update and maintain internal controls;
- Provide cash management and treasury functions;
- Facilitate bill payments to vendors;
- Facilitate repayments of promissory notes to Participants;
- Provide monthly bookkeeping;
- Review vendor invoices and documentation in support of cash disbursements;
- Review documentation to ensure that repayments of promissory notes to Participants are in accordance with established policies and procedures;
- Provide accounting research and consultations on various accounting, financial reporting and tax matters;
- Address not-for-profit tax and accounting considerations;
- Prepare tax returns;
- Address various accounting, financial reporting and operating inquiries from Participants;
- Develop and maintain annual and interim operating and financial budgets, including budget to actual and budget to budget fluctuation analyses;
- Support compliance with the CAT NMS Plan;
- Work with and provide support to the Operating Committee, Leadership Team and various CAT working groups;
- Prepare monthly, quarterly and annual financial statements;
- Review and reconcile the monthly FINRA CAT reports/analyses related to billings, collections, outstanding accounts receivable and cash account;
- Perform certain verification, completeness, and validation testing related to the monthly FINRA CAT reports/analyses related to billings;

- Support the annual financial statement audits by an independent auditor;

- Review historical costs from inception;

- Provide accounting and financial information in support of SEC filings; and

- Perform additional ad hoc accounting and financial advisory services, as requested by CAT LLC.

CAT LLC estimated the annual budget for the costs for Anchin based on historical costs adjusted for cost of living rate increases, and projected incremental advisory and support services.

Accounting Firm: Grant Thornton. It is anticipated that the professional and administration costs for the CAT Fee 2026–1 Period will include costs related to accounting services performed by Grant Thornton. CAT LLC anticipates that it will continue to employ Grant Thornton during the CAT Fee 2026–1 Period based on, among other things, the firm's relevant expertise and fees, which are anticipated to remain in line with market rates for these financial advisory services. It is anticipated that Grant Thornton will continue to be engaged as an independent accounting firm to complete the audit of CAT LLC's financial statements, in accordance with the requirements of the CAT NMS Plan. The fees for these services will be paid by CAT LLC to Grant Thornton. CAT LLC estimated the budget for the accounting costs for Grant Thornton for the CAT Fee 2026–1 Period based on the anticipated hourly rates and the anticipated services plus an administrative fee.

Professional and Administration Cost Estimates. CAT LLC estimates that the budget for professional and administration services during the CAT Fee 2026–1 Period will be approximately \$749,151.⁸⁰ The budget for professional and administration services during the CAT Fee 2026–1 Period is based on the Updated 2026 CAT Budget. CAT LLC estimated the budget for the professional and administration costs for the CAT Fee 2026–1 Period based on a review of past professional and administration costs, potential future professional and administration needs, the proposed rates and other contractual issues, as well as discussions with Anchin and Grant Thornton. This process for estimating the budget for the professional and administration costs for the CAT Fee 2026–1 Period is the same process by which CAT LLC

⁷⁸ See chart entitled "Comparison of Full Year Budgeted Costs" in Section 3(a)(2)(C) above.

⁷⁹ Section 9.2 of the CAT NMS Plan.

⁸⁰ See chart entitled "Budgeted CAT Costs 2026–1" in Section 3(a)(2)(C) above.

estimated the professional and administration costs for the Original 2026 CAT Budget. The Original 2026 CAT Budget estimated a budget for professional and administration costs of \$190,916 for January and February 2026, and the actual costs for professional and administration services for January and February 2026, which are set forth in the Updated 2026 Budget, were \$149,061.⁸¹ The decrease of \$41,855 was due to a lower than expected professional and administration services costs and to the movement of bank fees from the professional and administration category to the interest income category. Accordingly, CAT LLC believes that the process for estimating the budgeted professional and administration costs for the CAT Fee 2026–1 Period is reasonable.

(b) Changes From Prior Fee Filing

Section 11.3(a)(iii)(B)(B) of the CAT NMS Plan requires the fee filing for a Prospective CAT Fee to describe the reason for changes in the line item for professional and administration costs from the prior CAT Fee filing. As this is the first Prospective CAT Fee filing under this CAT Funding Model, this filing describes the changes in the professional and administration costs from the Original 2026 Budget. Specifically, the following describes the differences in the professional and administration costs included in the Original 2026 CAT Budget versus the Updated 2026 CAT Budget, and the reasons for any changes.

The annual 2026 budgeted professional and administration costs as included in the Original 2026 CAT Budget were \$1,145,500, and the annual 2026 budgeted professional and administration costs included in the Updated 2026 CAT Budget are \$1,085,500.⁸² Accordingly, the budgeted annual costs for professional and administration services decreased by \$60,000 from the Original 2026 CAT Budget to the Updated 2026 CAT Budget for the full year of 2026. This budgeted decrease in the professional and administration costs in the Updated 2026 CAT Budget from the Original 2026 Budget was due to the movement of bank fees from the professional and administration category to the interest income category, and not a change in costs related to Anchin and Grant Thornton services.

⁸¹ See chart entitled “Comparison of Budgeted and Actual Costs for January & February 2026” in Section 3(a)(2)(C) above.

⁸² See chart entitled “Comparison of Full Year Budgeted Costs” in Section 3(a)(2)(C) above.

(x) Public Relations Costs

(a) Description of Public Relations Costs

Section 11.3(a)(iii)(B)(B)(6) of the CAT NMS Plan requires the fee filing for a Prospective CAT Fee to provide a brief description of the public relations costs set forth in the budget. The Operating Committee approved an operating budget for the CAT pursuant to Section 11.1(a) of the CAT NMS Plan that included \$0 in public relations costs for the CAT Fee 2026–1 Period. The public relations costs would represent the fees paid to a public relations firm for professional communications services to CAT, including media relations consulting, strategy and execution. Because CAT LLC anticipates that it will not engage a public relations firm for the CAT Fee Period 2026–1, the budget for public relations costs for this period is \$0.⁸³

(b) Changes From Prior Fee Filing

Section 11.3(a)(iii)(B)(B) of the CAT NMS Plan requires the fee filing for a Prospective CAT Fee to describe the reason for changes in the line item for public relations costs from the prior CAT Fee filing. As this is the first Prospective CAT Fee filing under this CAT Funding Model, this filing describes the changes in the public relations costs from the Original 2026 Budget. Specifically, the following describes the differences (if any) in public relations costs included in the Original 2026 CAT Budget versus the Updated 2026 CAT Budget, and the reasons for any changes.

The annual budgeted public relations costs for 2026 included in the Original 2026 CAT Budget were \$0, and the annual budgeted public relations costs for 2026 included in the Updated 2026 CAT Budget are \$0.⁸⁴ Accordingly, the annual budgeted public relations costs for 2026 are the same for both the Original 2026 CAT Budget and the Updated 2026 CAT Budget.

(xi) Interest Income

(a) Description of Interest Income

Section 11.1(a) of the CAT NMS Plan requires the CAT budget to include “the sources of all revenues to cover costs.” Accordingly, the Updated 2026 CAT Budget includes a line item for interest income. Specifically, the Operating Committee approved an operating budget for the CAT pursuant to Section 11.1(a) of the CAT NMS Plan that included \$1,453,382 in interest income

⁸³ See chart entitled “Budgeted CAT Costs 2026–1” in Section 3(a)(2)(C) above.

⁸⁴ See chart entitled “Comparison of Full Year Budgeted Costs” in Section 3(a)(2)(C) above.

for the CAT Fee 2026–1 Period.⁸⁵

Interest income represents the interest earned on the surplus reserve and other funds held by CAT LLC. Such income would be used to reduce the amount to be collected to fund the CAT.

CAT LLC estimates the budget for the interest income for the CAT Fee 2026–1 Period based on the estimate of the funds held by CAT LLC and the expected interest rates on such funds. The Original 2026 CAT Budget estimated interest income of \$758,343 for January and February 2026, and the actual interest income for January and February 2026, which are included in the Updated 2026 CAT Budget, were \$757,527.⁸⁶ As mentioned above, bank fees were moved from the professional and administration category in the Original 2026 CAT Budget to the interest income category in the Updated 2026 CAT Budget. Accordingly, the interest income amount for the Updated 2026 CAT Budget was net of \$10,000 in bank fees. Therefore, the variance between budgeted and actual interest income (aside from bank fees) for January and February 2026 was approximately \$10,000. Accordingly, CAT LLC believes that the process for estimating the budgeted interest income for the CAT Fee 2026–1 Period is reasonable.

(b) Changes From Prior Fee Filing

Section 11.3(a)(iii)(B)(B) of the CAT NMS Plan requires the fee filing for a Prospective CAT Fee to describe the reason for changes in each line item from the prior CAT Fee filing. As this is the first Prospective CAT Fee filing under this CAT Funding Model, this filing describes the changes in interest income from the Original 2026 CAT Budget. Specifically, the following describes the differences in the interest income included in the Original 2026 CAT Budget versus the Updated 2026 CAT Budget, and the reasons for any changes.

The annual 2026 budgeted interest income as included in the Original 2026 CAT Budget was \$1,995,958, and the annual 2026 budgeted interest income included in the Updated 2026 CAT Budget is \$2,806,325.⁸⁷ Accordingly, the budgeted interest income (not including bank fees) increased by \$810,367 from the Original 2026 CAT Budget to the Updated 2026 CAT Budget for the full year of 2026, which is an approximate

⁸⁵ See chart entitled “Budgeted CAT Costs 2026–1” in Section 3(a)(2)(C) above.

⁸⁶ See chart entitled “Comparison of Budgeted and Actual Costs for January & February 2026” in Section 3(a)(2)(C) above.

⁸⁷ See chart entitled “Comparison of Full Year Budgeted Costs” in Section 3(a)(2)(C) above.

40% increase in the interest income for the full year of 2026. This budgeted increase in the interest income in the Updated 2026 CAT Budget from the Original 2026 Budget was primarily due to higher than expected cash balances being maintained after the approval of the Original 2026 Budget.

(xii) Reserve

(a) Description of Reserve

Section 11.3(a)(iii)(B)(B) of the CAT NMS Plan requires the fee filing for a Prospective CAT Fee to provide a brief description of the reserve costs set forth in the budget. The Operating Committee approved an operating budget for the CAT pursuant to Section 11.1(a) of the CAT NMS Plan that includes a reserve amount for 2026. Section 11.1(a)(i) of the CAT NMS Plan states that the budget shall include a reserve. Section 11.1(a)(ii) of the CAT NMS Plan further describes the reserve as follows:

For the reserve referenced in paragraph (a)(i) of this Section, the budget will include an amount reasonably necessary to allow the Company to maintain a reserve of not more than 25% of the annual budget. To the extent collected CAT fees exceed CAT costs, including the reserve of 25% of the annual budget, such surplus shall be used to offset future fees. For the avoidance of doubt, the Company will only include an amount for the reserve in the annual budget if the Company does not have a sufficient reserve (which shall be up to but not more than 25% of the annual budget). For the avoidance of doubt, the calculation of the amount of the reserve would exclude the amount of the reserve from the budget.

CAT LLC determined to maintain a reserve in the amount of 25% of the total expenses set forth in the Updated 2026 CAT Budget (which does not include the reserve amount). Accordingly, the total 25% reserve of \$23,508,157 was calculated by multiplying the total expenses set forth in the Updated 2026 CAT Budget (other than the reserve) by 25%.⁸⁸

The Updated 2026 CAT Budget estimates that CAT LLC will have \$102,391,135 in reserve as of the beginning of the CAT Fee Period 2026–1. Such reserve is related, in part, to (i) the collection of CAT fees in excess of the budgeted CAT costs in light of the greater actual executed equivalent share volume than the projected executed equivalent share volume for prior CAT Fees, and (ii) a reduction in anticipated

budgeted costs associated with the implementation of certain cost savings measures. This reserve balance of \$102,391,135 would be used to offset a portion of CAT costs for CAT Fee Period 2026–1, thereby reducing the fee rate to be paid for CAT Fee 2026–1. Specifically, the total costs (including the 25% reserve) for CAT Fee 2026–1 of \$117,540,783 would be reduced by the \$102,391,135 in reserve. Therefore, the Total Budgeted CAT Costs 2026–1 would be \$15,149,648.

Accordingly, the fee rate for CAT Fee 2026–1 is calculated based on this reduced amount of \$15,149,648, resulting in a fee rate of \$0.000001 per executed equivalent share. If the fee rate for CAT Fee 2026–1 were calculated solely based on the reasonably budgeted costs for CAT for May–December 2026, excluding the reduction in that amount due to the surplus reserve offset, the fee rate would be the higher rate of \$0.000010.⁸⁹

(b) Changes From Prior Fee Filing
Section 11.3(a)(iii)(B)(B) of the CAT NMS Plan requires the fee filing for a Prospective CAT Fee to describe the reason for changes in the line item for a reserve from the prior CAT Fee filing. As this is the first Prospective CAT Fee filing under this CAT Funding Model, this filing describes the changes in reserve from the Original 2026 CAT Budget. Specifically, the following describes the differences in the reserve included in the Original 2026 CAT Budget versus the Updated 2026 CAT Budget, and the reasons for any changes.

The accrued liquidity reserve balance at the beginning of the year included in the Original 2026 CAT Budget was \$119,128,336. The Original 2026 CAT Budget contemplated using the reserve to pay CAT bills throughout the year as no CAT fee was in effect. The accrued liquidity reserve balance at the beginning of the year included in the Updated 2026 CAT Budget was \$155,403,378. The increase in the accrued liquidity reserve balance at the beginning of the year from the Original 2026 CAT Budget to the Updated 2026 CAT Budget reflected the additional CAT Fees that had been received after the approval of the Original 2026 CAT Budget. In addition, the Updated 2026 CAT Budget not only reflected the use of the surplus reserve to pay CAT bills but also the accrual of additional reserve to establish a 25% reserve through CAT Fee 2026–1. Accordingly, the estimated liquidity reserve balance increased from a deficit of \$37,304,661 included in the Original 2026 CAT Budget to a reserve balance of \$23,508,157 included in the

Updated 2026 CAT Budget for the full year of 2026.

(D) Projected Total Executed Equivalent Share Volume

The calculation of Fee Rate 2026–1 also requires the determination of the projected total executed equivalent share volume of transactions in Eligible Securities for the CAT Fee 2026–1 Period. Under the CAT NMS Plan, the Operating Committee is required to “reasonably determine the projected total executed equivalent share volume of all transactions in Eligible Securities for each relevant period based on the executed equivalent share volume of all transactions in Eligible Securities for the prior twelve months.”⁹⁰ The Operating Committee is required to base its projection on the prior twelve months, but it may use its discretion to analyze the likely volume for the upcoming year. Such discretion would allow the Operating Committee to use its judgment when estimating projected total executed equivalent share volume if the volume over the prior twelve months was unusual or otherwise unfit to serve as the basis of a future volume estimate.⁹¹

The total executed equivalent share volume of transactions in Eligible Securities for the 12-month period from March 2025 through February 2026 was 5,980,937,549,360.49 executed equivalent shares. The Operating Committee has determined to calculate the projected total executed equivalent share volume for the eight-month recovery period for CAT Fee 2026–1 by multiplying by 8/12ths the executed equivalent share volume for the 12-month period from March 2025 through February 2026. The Operating Committee determined that such an approach was reasonable as the CAT’s annual executed equivalent share volume has increased from prior years (e.g., the executed equivalent share volume for 2024 was 4,295,884,600,069.41), and the Operating Committee believes that it is reasonable to conclude that the annual executed equivalent share volume will remain at the higher level. Accordingly, the projected total executed equivalent share volume for the eight-month period for CAT Fee 2026–1 is projected to be 3,987,291,699,573.66 executed equivalent shares.⁹²

The projected total executed equivalent share volume of all

⁹⁰ Section 11.3(a)(i)(D) of the CAT NMS Plan.

⁹¹ CAT Funding Model Approval Order at 13452.

⁹² This projection was calculated by multiplying 5,980,937,549,360.49 executed equivalent shares by 8/12ths.

⁸⁸ The reserve was calculated by multiplying \$94,032,626 by 25%, which equals approximately \$23,508,157.

⁸⁹ See CAT Fee Alert 2026–1 (Apr. 1, 2026).

transactions in Eligible Securities for the eight-month recovery period for CAT Fee 2026–1 and a description of the calculation of the projection is provided in this filing in accordance with the requirement in the CAT NMS Plan to provide such information in a fee filing for a CAT Fee.⁹³

(E) Fee Rate 2026–1

Fee Rate 2026–1 would be calculated by dividing the Budgeted CAT Costs 2026–1 by the reasonably projected total executed equivalent share volume of all transactions in Eligible Securities for the eight-month recovery period for CAT Fee 2026–1, as described in detail above.⁹⁴ Specifically, Fee Rate 2026–1 would be calculated by dividing \$15,149,648 by 3,987,291,699,573.66 executed equivalent shares. As a result, Fee Rate 2026–1 would be \$0.000003799483243631228 per executed equivalent share. Fee Rate 2026–1 is provided in this filing in accordance with the requirement in the CAT NMS Plan to provide the Fee Rate in a fee filing for a CAT Fee.⁹⁵

Fee Rate 2026–1 would be used to calculate the fee rate to be paid by CEBBs and CEBBs for CAT Fee 2026–1. Such fee rate is calculated by multiplying Fee Rate 2026–1 of \$0.000003799483243631228 by one-third, and rounding the result to six decimal places.⁹⁶ Accordingly, the fee rate to be paid by CEBBs and CEBBs for CAT Fee 2026–1 would be \$0.000001 per executed equivalent share.

(3) Monthly Fees

CEBBs and CEBBs would be required to pay fees for CAT Fee 2026–1 on a monthly basis for eight months, from July 2026 until January 2027. A CEBB's or CEBB's fee for each month would be calculated based on the transactions in Eligible Securities executed by the CEBB or CEBB from the prior month.⁹⁷ Proposed paragraph (a)(6)(A) of the fee schedule would state that each CAT Executing Broker would receive its first

invoice for CAT Fee 2026–1 in June 2026, and would receive an invoice for CAT Fee 2026–1 each month thereafter until January 2027. Proposed paragraph (a)(6)(B) of the fee schedule would state that “Consolidated Audit Trail, LLC shall provide each CAT Executing Broker with an invoice for CAT Fee 2026–1 on a monthly basis.” In addition, paragraph (b)(1) of the fee schedule states that each CEBB and CEBB is required to pay its CAT fees “each month.”

(4) Consolidated Audit Trail Funding Fees

To implement CAT Fee 2026–1, the Exchange proposes to add a new paragraph to the “Consolidated Audit Trail Funding Fees” section of the Exchange's fee schedule, to include the proposed paragraphs described below.

(A) Fee Schedule for CAT Fee 2026–1

The CAT NMS Plan states that:

Each Industry Member that is the CAT Executing Broker for the buyer in a transaction in Eligible Securities (“CAT Executing Broker for the Buyer” or “CEBB”) and each Industry Member that is the CAT Executing Broker for the seller in a transaction in Eligible Securities (“CAT Executing Broker for the Seller” or “CEBS”) will be required to pay a CAT Fee for each such transaction in Eligible Securities in the prior month based on CAT Data. The CEBB's CAT Fee or CEBB's CAT Fee (as applicable) for each transaction in Eligible Securities will be calculated by multiplying the number of executed equivalent shares in the transaction by one-third and by the Fee Rate reasonably determined pursuant to paragraph (a)(i) of this Section 11.3.⁹⁸

Accordingly, based on the factors discussed above, the Exchange proposes to add paragraph (a)(6) to the Consolidated Audit Trail Funding Fees section of its fee schedule. Proposed paragraph (a)(6) would state the following:

(A) Each CAT Executing Broker shall receive its first invoice for CAT Fee 2026–1 in June 2026, which shall set forth the CAT Fee 2026–1 fees calculated based on transactions in May 2026, and shall receive an invoice for CAT Fee 2026–1 for each month thereafter until January 2027.

(B) Consolidated Audit Trail, LLC shall provide each CAT Executing Broker with an invoice for CAT Fee 2026–1 on a monthly basis. Each month, such invoices shall set forth a fee for each transaction in Eligible Securities executed by the CAT Executing Broker

in its capacity as a CAT Executing Broker for the Buyer (“CEBB”) and/or the CAT Executing Broker for the Seller (“CEBS”) (as applicable) from the prior month as set forth in CAT Data. The fee for each such transaction will be calculated by multiplying the number of executed equivalent shares in the transaction by the fee rate of \$0.000001 per executed equivalent share.

(C) Notwithstanding the last invoice date of January 2027 for CAT Fee 2026–1 in paragraph 6(A), CAT Fee 2026–1 shall continue in effect after January 2027, with each CAT Executing Broker receiving an invoice for CAT Fee 2026–1 each month, until a new subsequent CAT Fee is in effect with regard to Industry Members in accordance with Section 19(b) of the Exchange Act. Consolidated Audit Trail, LLC will provide notice when CAT Fee 2026–1 will no longer be in effect.

(D) Each CAT Executing Broker shall be required to pay each invoice for CAT Fee 2026–1 in accordance with paragraph (b).

As noted in the Plan amendment for the CAT Funding Model, “[a]s a practical matter, the fee filing would provide the exact fee per executed equivalent share to be paid for the CAT Fees, by multiplying the Fee Rate by one-third and describing the relevant number of decimal places for the fee.”⁹⁹ Accordingly, proposed paragraph (a)(6)(B) of the fee schedule would set forth a fee rate of \$0.000001 per executed equivalent share. This fee rate is calculated by multiplying Fee Rate 2026–1 of \$0.000003799483243631228 by one-third, and rounding the result to six decimal places.¹⁰⁰ The Operating Committee determined to use six decimal places to balance the accuracy of the calculation with the potential systems and other impracticalities of using additional decimal places in the calculation.

The proposed language in paragraph (a)(6)(A) of the fee schedule would describe when CAT Executing Brokers would receive their first monthly invoice for CAT Fee 2026–1. Specifically, CAT Executing Brokers would receive their first monthly invoice for CAT Fee 2026–1 in June 2026 and the fees set forth in that invoice would be calculated based on transactions executed in May 2026. The payment for the first invoice would be required within 30 days after the receipt

⁹⁹ CAT Funding Model Approval Order at 13445, n.677.

¹⁰⁰ This fee rate of \$0.000001 is calculated by multiplying the Fee Rate of \$0.000003799483243631228 by one-third, and rounding this result (which equals \$0.000001266494414543743) to 6 decimal places.

⁹³ Section 11.3(a)(iii)(B) of the CAT NMS Plan.

⁹⁴ In approving the CAT Funding Model, the Commission stated that “[t]he manner in which the Fee Rate for Prospective CAT Costs will be calculated (*i.e.*, by dividing the CAT costs reasonably budgeted for the upcoming year by the reasonably projected total executed equivalent share volume of all transactions in Eligible Securities for the year) is appropriate.” CAT Funding Model Approval Order at 13435.

⁹⁵ See Section 11.3(a)(iii)(B)(A) of the CAT NMS Plan.

⁹⁶ This fee rate of \$0.000001 is calculated by multiplying the Fee Rate of \$0.000003799483243631228 by one-third and rounding this result (which equals \$0.000001266494414543743) to 6 decimal places.

⁹⁷ See proposed paragraph (a)(6)(B) of the fee schedule.

⁹⁸ Section 11.3(a)(iii)(A) of the CAT NMS Plan.

of the first invoice (unless a longer period is indicated), as described in paragraph (b)(2) of the fee schedule.

Proposed paragraph (a)(6)(A) of the fee schedule also would describe the monthly cadence of the invoices for CAT Fee 2026–1. Specifically, after the first invoices are provided to CAT Executing Brokers in June 2026, invoices will be sent to CAT Executing Brokers each month thereafter until January 2027.

Proposed paragraph (a)(6)(B) of the fee schedule would describe the invoices for CAT Fee 2026–1. Proposed paragraph (a)(6)(B) of the fee schedule would state that “Consolidated Audit Trail, LLC shall provide each CAT Executing Broker with an invoice for CAT Fee 2026–1 on a monthly basis.” Proposed paragraph (a)(6)(B) of the fee schedule also would describe the fees to be set forth in the invoices for CAT Fee 2026–1. Specifically, it would state that “[e]ach month, such invoices shall set forth a fee for each transaction in Eligible Securities executed by the CAT Executing Broker in its capacity as a CAT Executing Broker for the Buyer (‘CEBB’) and/or the CAT Executing Broker for the Seller (‘CEBS’) (as applicable) from the prior month as set forth in CAT Data. The fee for each such transaction will be calculated by multiplying the number of executed equivalent shares in the transaction by the fee rate of \$0.000001 per executed equivalent share.”

Since CAT Fee 2026–1 is a monthly fee based on actual transaction volume from the prior month, CAT Fee 2026–1 may collect more or less than two-thirds of the Budgeted CAT Costs 2026–1. To the extent that CAT Fee 2026–1 collects more than two-thirds of the Budgeted CAT Costs 2026–1, any excess money collected will be used to offset future fees and/or to fund the reserve for the CAT. To the extent that CAT Fee 2026–1 collects less than two-thirds of the Budgeted CAT Costs 2026–1, the budget for the CAT in the ensuing months will reflect such shortfall.

Furthermore, proposed paragraph (a)(6)(C) of the fee schedule would describe how long CAT Fee 2026–1 would remain in effect. It would state that “[n]otwithstanding the last invoice date of January 2027 for CAT Fee 2026–1 in paragraph 6(A), CAT Fee 2026–1 shall continue in effect after January 2027, with each CAT Executing Broker receiving an invoice for CAT Fee 2026–1 each month, until a new subsequent CAT Fee is in effect with regard to Industry Members in accordance with Section 19(b) of the Exchange Act. Consolidated Audit Trail, LLC will

provide notice when CAT Fee 2026–1 will no longer be in effect.”

Finally, proposed paragraph (a)(6)(D) of the fee schedule would set forth the requirement for the CAT Executing Brokers to pay the invoices for CAT Fee 2026–1. It would state that “[e]ach CAT Executing Broker shall be required to pay each invoice for CAT Fee 2026–1 in accordance with paragraph (b).”

(B) Manner of Payment

Paragraph (b)(1) of the “Consolidated Audit Trail Funding Fees” section of the fee schedule describes the manner of payment of Industry Member CAT fees. It states that “[e]ach CAT Executing Broker shall pay its CAT fees as required pursuant to paragraph (a) each month to the Consolidated Audit Trail, LLC in the manner prescribed by the Consolidated Audit Trail, LLC.” The CAT NMS Plan requires the Operating Committee to establish a system for the collection of CAT fees.¹⁰¹ The Plan Processor has established a billing system for CAT fees.¹⁰² Accordingly, CAT Executing Brokers would be required to pay CAT Fee 2026–1 in accordance with such system.

(C) Failure To Pay CAT Fees

The CAT NMS Plan further states that:

Participants shall require each Industry Member to pay all applicable fees authorized under this Article XI within thirty (30) days after receipt of an invoice or other notice indicating payment is due (unless a longer payment period is otherwise indicated). If an Industry Member fails to pay any such fee when due (as determined in accordance with the preceding sentence), such Industry Member shall pay interest on the outstanding balance from such due date until such fee is paid at a per annum rate equal to the lesser of: (a) the Prime Rate plus 300 basis points; or (b) the maximum rate permitted by applicable law.¹⁰³

Paragraph (b)(2) of the fee schedule states that:

Each CAT Executing Broker shall pay the CAT fees required pursuant to paragraph (a) within thirty days after receipt of an invoice or other notice indicating payment is due (unless a longer payment period is otherwise indicated). If a CAT Executing Broker

fails to pay any such CAT fee when due, such CAT Executing Broker shall pay interest on the outstanding balance from such due date until such fee is paid at a per annum rate equal to the lesser of (i) the Prime Rate plus 300 basis points, or (ii) the maximum rate permitted by applicable law.

The requirements of paragraph (b)(2) would apply to CAT Fee 2026–1.

(5) CAT Fee Details

The CAT NMS Plan states that:

Details regarding the calculation of a Participant or CAT Executing Broker’s CAT Fees will be provided upon request to such Participant or CAT Executing Broker. At a minimum, such details would include each Participant or CAT Executing Broker’s executed equivalent share volume and corresponding fee by (1) Listed Options, NMS Stocks and OTC Equity Securities, (2) by transactions executed on each exchange and transactions executed otherwise than on an exchange, and (3) by buy-side transactions and sell-side transactions.¹⁰⁴

Such information would provide CEBBs and CEBSs with the ability to understand the details regarding the calculation of their CAT Fee.¹⁰⁵ CAT LLC will provide CAT Executing Brokers with these details regarding the calculation of their CAT Fees on their monthly invoice for the CAT Fees.

In addition, CAT LLC will make certain aggregate statistics regarding CAT Fees publicly available. Specifically, the CAT NMS Plan states that, “[f]or each CAT Fee, at a minimum, CAT LLC will make publicly available the aggregate executed equivalent share volume and corresponding aggregate fee by (1) Listed Options, NMS Stocks and OTC Equity Securities, (2) by transactions executed on each exchange and transactions executed otherwise than on an exchange, and (3) by buy-side transactions and sell-side transactions.”¹⁰⁶ Such aggregate

¹⁰⁴ Section 11.3(a)(iv)(A) of the CAT NMS Plan.

¹⁰⁵ In approving the CAT Funding Model, the Commission stated that, “[i]n the Commission’s view, providing CAT Execut[ing] Brokers information regarding the calculation of their CAT Fees will aid in transparency and permit CAT Execut[ing] Brokers to confirm the accuracy of their invoices for CAT Fees.” CAT Funding Model Approval Order at 13454.

¹⁰⁶ Section 11.3(a)(iv)(B) of the CAT NMS Plan. In approving the CAT Funding Model, the Commission stated that “[t]he publication of the aggregate executed equivalent share volume and aggregate fee is appropriate because it would allow Participants and CAT Executing Brokers a high-level validation of executed volume and fees.” CAT Funding Model Approval Order at 13454.

¹⁰¹ Section 11.4 of the CAT NMS Plan.

¹⁰² The billing process and system are described in CAT Alert 2023–02 as well as in the CAT FAQs related to the billing of CAT fees, the Industry Member CAT Reporter Portal User Guide, the FCAT Industry Member Onboarding Guide, the FCAT Connectivity Supplement for Industry Members and the CAT Billing Webinars (dated Sept. 28, 2023 and Nov. 7, 2023), each available on the CAT website.

¹⁰³ Section 11.4 of the CAT NMS Plan.

statistics will be available on the CAT website.

Furthermore, CAT LLC will make publicly available on the CAT website the total amount invoiced each month that CAT Fee 2026–1 is in effect as well as the total amount invoiced for CAT Fee 2026–1 for all months since its commencement. CAT LLC also will make publicly available on the CAT website the total costs to be collected from Industry Members for CAT Fee 2026–1.

(6) Financial Accountability Milestones

The CAT NMS Plan states that “[n]o Participant will make a filing with the SEC pursuant to Section 19(b) of the Exchange Act regarding any CAT Fee related to Prospective CAT Costs until the Financial Accountability Milestone related to Period 4 described in Section 11.6 has been satisfied.”¹⁰⁷ Under Section 1.1 of the CAT NMS Plan, a Financial Accountability Milestone is considered complete as of the date identified in the Participants’ Quarterly Progress Reports. As indicated by the Participants’ Quarterly Progress Report for the second and third quarter of 2024,¹⁰⁸ the Financial Accountability Milestone related to Period 4 was satisfied on July 15, 2024. In addition, the satisfaction of the Financial Accountability Milestone related to Period 4 was described in detail in the fee filing for the first Prospective CAT Fee, CAT Fee 2024–1.¹⁰⁹

(7) Participant Invoices

While CAT Fees charged to Industry Members become effective in accordance with the requirements of Section 19(b) of the Exchange Act,¹¹⁰ CAT fees charged to Participants are implemented via an approval of the CAT fees by the Operating Committee in accordance with the requirements of the CAT NMS Plan.¹¹¹ On March 31, 2026, the Operating Committee approved the Participant fee related to CAT Fee 2026–1. Specifically, pursuant to the requirements of CAT NMS Plan,¹¹² each Participant would be required to pay a CAT fee calculated using the fee rate of \$0.000001 per executed equivalent share, which is the same fee rate that applies to CEBBs and CEBSS. Like CEBBs and CEBSS, each Participant would be invoiced such CAT fees on a

monthly basis for eight months, from June 2026 until January 2027, and each Participant’s fee for each month would be calculated based on the transactions in Eligible Securities executed on the applicable exchange (for the Participant exchanges) or otherwise than on an exchange (for FINRA) in the prior month. Accordingly, each Participant will receive its first invoice in June 2026, and would receive an invoice each month thereafter until January 2027. Like with the CAT Fee 2026–1 applicable to CEBBs and CEBSS as described in proposed paragraph (a)(6)(C) of the fee schedule, notwithstanding the last invoice date of January 2027, Participants will continue to receive invoices for this fee each month until a new subsequent CAT Fee is in effect with regard to Industry Members. Furthermore, Section 11.4 of the CAT NMS Plan states that each Participant is required to pay such invoices as required by Section 3.7(b) of the CAT NMS Plan. Section 3.7(b) states, in part, that

[e]ach Participant shall pay all fees or other amounts required to be paid under this Agreement within thirty (30) days after receipt of an invoice or other notice indicating payment is due (unless a longer payment period is otherwise indicated) (the “Payment Date”). The Participant shall pay interest on the outstanding balance from the Payment Date until such fee or amount is paid at a per annum rate equal to the lesser of: (i) Prime Rate plus 300 basis points; or (ii) the maximum rate permitted by applicable law.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the requirements of the Exchange Act. The Exchange believes that the proposed rule change is consistent with Section 6(b)(5) of the Act,¹¹³ which requires, among other things, that the Exchange’s rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest, and not designed to permit unfair discrimination between customers, issuers, brokers and dealers. The Exchange also believes that the proposed rule change is consistent with the provisions of Section 6(b)(4) of the Act,¹¹⁴ because it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using its facilities and does not unfairly

discriminate between customers, issuers, brokers or dealers. The Exchange further believes that the proposed rule change is consistent with Section 6(b)(8) of the Act,¹¹⁵ which requires that the Exchange’s rules not impose any burden on competition that is not necessary or appropriate in furtherance of the purpose of the Exchange Act. These provisions also require that the Exchange be “so organized and [have] the capacity to be able to carry out the purposes” of the Act and “to comply, and . . . to enforce compliance by its members and persons associated with its members,” with the provisions of the Exchange Act.¹¹⁶ Accordingly, a reasonable reading of the Act indicates that it intended that regulatory funding be sufficient to permit an exchange to fulfill its statutory responsibility under the Act, and contemplated that such funding would be achieved through equitable assessments on the members, issuers, and other users of an exchange’s facilities.

The Exchange believes that this proposal is consistent with the Act because it implements provisions of the Plan and is designed to assist the Exchange in meeting regulatory obligations pursuant to the Plan. In approving the Plan, the SEC noted that the Plan “is necessary and appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanism of a national market system, or is otherwise in furtherance of the purposes of the Act.”¹¹⁷ To the extent that this proposal implements the Plan and applies specific requirements to Industry Members, the Exchange believes that this proposal furthers the objectives of the Plan, as identified by the SEC, and is therefore consistent with the Act.

The Exchange believes that the proposed fees to be paid by the CEBBs and CEBSS are reasonable, equitably allocated and not unfairly discriminatory. First, the CAT Fee 2026–1 fees to be collected are directly associated with the budgeted costs of establishing and maintaining the CAT, where such costs include Plan Processor costs and costs related to technology, legal, consulting, insurance, and professional and administration costs.

The proposed CAT Fee 2026–1 fees would be charged to Industry Members in support of the maintenance of a consolidated audit trail for regulatory

¹⁰⁷ Section 11.3(a)(iii)(C) of the CAT NMS Plan.

¹⁰⁸ Q2 & Q3 2024 Quarterly Progress Report (July 29, 2024).

¹⁰⁹ See Securities Exchange Act Rel. No. 100874, (Aug. 29, 2024), 89 FR 72646, (Sep. 5, 2024).

¹¹⁰ Section 11.3(a)(i)(A)(I) of the CAT NMS Plan.

¹¹¹ CAT Funding Model Approval Order at 13448.

¹¹² See Section 11.3(a)(ii) and Appendix B of the CAT NMS Plan.

¹¹³ 15 U.S.C. 78f(b)(6).

¹¹⁴ 15 U.S.C. 78f(b)(4).

¹¹⁵ 15 U.S.C. 78f(b)(8).

¹¹⁶ See 15 U.S.C. 78f(b)(1).

¹¹⁷ CAT NMS Plan Approval Order at 84697.

purposes. The proposed fees, therefore, are consistent with the Commission's view that regulatory fees be used for regulatory purposes and not to support the Exchange's business operations. The proposed fees would not cover Exchange services unrelated to the CAT. In addition, any surplus would be used as a reserve to offset future fees. Given the direct relationship between CAT fees and CAT costs, the Exchange believes that the proposed fees are reasonable, equitable and not unfairly discriminatory.

As further discussed below, the SEC approved the CAT Funding Model, finding it was reasonable and that it equitably allocates fees among Participants and Industry Members. The Exchange believes that the proposed fees adopted pursuant to the CAT Funding Model approved by the SEC are reasonable, equitably allocated and not unfairly discriminatory.

(1) Implementation of CAT Funding Model in CAT NMS Plan

Section 11.1(b) of the CAT NMS Plan states that "[t]he Participants shall file with the SEC under Section 19(b) of the Exchange Act any such fees on Industry Members that the Operating Committee approves." Per Section 11.1(b) of the CAT NMS Plan, the Exchange has filed this fee filing to implement the Industry Member CAT fees included in the CAT Funding Model. The Exchange believes that this proposal is consistent with the Exchange Act because it is consistent with, and implements, the CAT Funding Model in the CAT NMS Plan, and is designed to assist the Exchange and its Industry Members in meeting regulatory obligations pursuant to the CAT NMS Plan. In approving the CAT NMS Plan, the SEC noted that the Plan "is necessary and appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanism of a national market system, or is otherwise in furtherance of the purposes of the Act."¹¹⁸ Similarly, in approving the CAT Funding Model, the SEC concluded that the CAT Funding Model met this standard.¹¹⁹ As this proposal implements the Plan and the CAT Funding Model described therein, and applies specific requirements to Industry Members in compliance with the Plan, the Exchange believes that this proposal furthers the objectives of the Plan, as identified by the SEC, and is

therefore consistent with the Exchange Act.

(2) Calculation of Fee Rate for CAT Fee 2026–1 Is Reasonable

The SEC has determined that the CAT Funding Model satisfies the requirements of the Exchange Act. Specifically, the SEC has concluded that the method for determining CAT Fees as set forth in Section 11.3 of the CAT NMS Plan, including the formula for calculating the Fee Rate, the identification of the parties responsible for payment and the transactions subject to the fee rate for CAT Fees, satisfies the Exchange Act.¹²⁰ In each respect, as discussed above, CAT Fee 2026–1 is calculated, and would be applied, in accordance with the requirements applicable to CAT Fees as set forth in the CAT NMS Plan. Furthermore, as discussed below, the Exchange believes that each of the figures for the variables in the SEC-approved formula for calculating the fee rate for CAT Fee 2026–1 is reasonable and consistent with the Exchange Act. The calculation of Fee Rate 2026–1 for CAT Fee 2026–1 requires the figures for Budgeted CAT Costs 2026–1, the executed equivalent share volume for the prior twelve months, the determination of the CAT Fee 2026–1 Period, and the projection of the executed equivalent share volume for the CAT Fee 2026–1 Period. Each of these variables is reasonable and satisfies the Exchange Act, as discussed throughout this filing.

(A) Budgeted CAT Costs 2026–1

The formula for calculating a Fee Rate requires the amount of Budgeted CAT Costs to be recovered. Specifically, Section 11.3(a)(iii)(B) of the CAT NMS Plan requires a fee filing to provide: the budget for the upcoming year (or remainder of the year, as applicable), including a brief description of each line item in the budget, including (1) the technology line items of cloud hosting services, operating fees, CAIS operating fees, change request fees, and capitalized developed technology costs, (2) legal, (3) consulting, (4) insurance, (5) professional and administration, and (6) public relations costs, a reserve and/or such other categories as reasonably determined by the Operating Committee to be included in the budget, and the reason for changes in each such line item from the prior CAT fee filing.

In accordance with this requirement, the Exchange has set forth the amount and type of Budgeted CAT Costs 2026–1 for each of these categories above.

Section 11.3(a)(iii)(B) of the CAT NMS Plan also requires that the fee filing provide "sufficient detail to demonstrate that the budget for the upcoming year, or part of year, as applicable, is reasonable and appropriate." As discussed below, the Exchange believes that the budget for the CAT Fee 2026–1 Period is "reasonable and appropriate." Each of the costs included in CAT Fee 2026–1 is reasonable and appropriate because the costs are consistent with standard industry practice, based on the need to comply with the requirements of the CAT NMS Plan, incurred subject to negotiations performed on an arm's length basis, and/or is consistent with the needs of any legal entity, particularly one with no employees.

(i) Technology: Cloud Hosting Services

In approving the CAT Funding Model, the Commission recognized that it is appropriate to recover budgeted costs related to cloud hosting services as a part of CAT Fees.¹²¹ CAT LLC determined that the budgeted costs related to cloud hosting services described in this filing are reasonable and should be included as a part of Budgeted CAT Costs 2026–1. As described above, the cloud hosting services costs reflect, among other things, the breadth of the CAT cloud activities, data volumes far in excess of the original volume estimates, the need for specialized cloud services given the volume and unique nature of the CAT, the processing time requirements of the Plan, and regular efforts to seek to minimize costs where permissible under the Plan. CAT LLC determined that use of cloud hosting services is necessary for implementation of the CAT, particularly given the substantial data volumes associated with the CAT, and that the fees for cloud hosting services negotiated by FCAT were reasonable, taking into consideration a variety of factors, including the expected volume of data and the breadth of services provided and market rates for similar services.¹²² Indeed, the actual costs of the CAT are far in excess of the original estimated costs of the CAT due to various factors, including the higher volumes and greater complexity of the CAT than anticipated when Rule 613 was originally adopted.

To comply with the requirements of the Plan, the breadth of the cloud activities related to the CAT is substantial. The cloud services not only

¹²¹ Section 11.3(a)(iii)(B)(1) of the CAT NMS Plan.

¹²² For a discussion of the amount and type of cloud hosting services fees, see Section 3(a)(2)(C)(i) above.

¹¹⁸ *Id.*

¹¹⁹ CAT Funding Model Approval Order at 13481.

¹²⁰ *Id.*

include the production environment for the CAT, but they also include two industry testing environments, support environments for quality assurance and stress testing and disaster recovery capabilities. Moreover, the cloud storage costs are driven by the requirements of the Plan, which requires the storage of multiple versions of the data, from the original submitted version of the data through various processing steps, to the final version of the data.

Data volume is a significant driver of costs for cloud hosting services. When the Commission adopted the CAT NMS Plan in 2016, it estimated that the CAT would need to receive 58 billion records per day¹²³ and that annual operating costs for the CAT would range from \$36.5 million to \$55 million.¹²⁴ In contrast to the 2016 projections, the actual daily Q3 2025 data volumes averaged 792 billion events per day.

In addition to the effect of the data volume on the cloud hosting costs, the processing timelines set forth in the Plan contribute to the cloud hosting costs. Although CAT LLC has proactively sought to manage cloud hosting costs while complying with the Plan, including through requests to the Commission for exemptive relief and amendments to the CAT NMS Plan to reduce costs, stringent CAT NMS Plan requirements do not allow for any material flexibility in cloud architecture design choices, processing timelines (e.g., the use of non-peak processing windows), or lower-cost storage tiers. As a result, the required CAT processing timelines contribute to the cloud hosting costs of the CAT.

The costs for cloud hosting services also reflect the need for specialized cloud hosting services given the data volume and unique processing needs of the CAT. The data volume as well as the data processing needs of the CAT necessitate the use of cloud hosting services. The equipment, power and services required for an on-premises data model, the alternative to cloud hosting services, would be cost prohibitive. Moreover, as CAT was being developed, there were limited cloud hosting providers that could satisfy all the necessary CAT requirements, including the operational and security criteria. Over time, more providers offering cloud hosting services that would satisfy these criteria have entered the market. CAT LLC will continue to evaluate alternative cloud hosting services, recognizing that the

time and cost to move to an alternative cloud provider would be substantial.

The reasonableness of the cloud hosting services costs is further supported by key cost discipline mechanisms for the CAT—a cost-based funding structure, cost transparency, cost management efforts (including regular efforts to lower compute and storage costs where permitted by the Plan) and oversight. Together, these mechanisms help ensure the ongoing reasonableness of the CAT's costs and the level of fees assessed to support those costs.¹²⁵

(ii) Technology: Operating Fees

In approving the CAT Funding Model, the SEC recognized that it is appropriate to recover budgeted costs related to operating fees as a part of CAT Fees.¹²⁶ CAT LLC determined that the budgeted costs related to operating fees described in this filing are reasonable and should be included as a part of Budgeted CAT Costs 2026–1.

The operating fees would include the negotiated fees paid by CAT LLC to the Plan Processor to operate and maintain the system for order-related information and to perform business operations related to the system, including compliance, security, testing, training, communications with the industry (e.g., management of the FINRA CAT Helpdesk, FAQs, website and webinars) and program management. CAT LLC determined that the selection of FCAT as the Plan Processor was reasonable and appropriate given its expertise with securities regulatory reporting, after a process of considering other potential candidates.¹²⁷ CAT LLC also determined that the fixed price contract, negotiated on an arm's length basis with the goals of managing costs and receiving services required to comply with the CAT NMS Plan and Rule 613, was reasonable and appropriate, taking into consideration a variety of factors, including the breadth of services provided and market rates for similar types of activity.¹²⁸ The services to be performed by FCAT for CAT Fee 2026–1 Period and the budgeted costs related to such services are described above.¹²⁹

The operating costs also include costs related to the receipt of market data. CAT LLC anticipates receiving certain market data from Algoseek during the

CAT Fee 2026–1 Period. CAT LLC anticipates that Algoseek will provide data as set forth in the SIP Data requirements of the CAT NMS Plan and that the fees are reasonable and in line with market rates for market data received.¹³⁰

(iii) Technology: CAIS Operating Fees

In approving the CAT Funding Model, the SEC recognized that it is appropriate to recover budgeted costs related to CAIS operating fees as a part of CAT Fees.¹³¹ CAT LLC determined that the budgeted costs related to CAIS operating fees described in this filing are reasonable and should be included as a part of the Budgeted CAT Costs 2026–1. The CAIS operating fees would include the fees paid to the Plan Processor to operate and maintain the Reference Database and to perform the business operations related to the system, including compliance, security, testing, training, communications with the industry (e.g., management of the FINRA CAT Helpdesk, FAQs, website and webinars) and program management. CAT LLC determined that the fees for FCAT's services related to the Reference Database, negotiated on an arm's length basis with the goals of managing costs and receiving services required to comply with the CAT NMS Plan, taking into consideration a variety of factors, including the services to be provided and market rates for similar types of activity, are reasonable and appropriate.¹³² The services to be performed by FCAT for the CAT Fee 2026–1 Period and the budgeted costs for such services are described above.¹³³

(iv) Technology: Change Request Fees

In approving the CAT Funding Model, the SEC recognized that it is appropriate to recover budgeted costs related to change request fees as a part of CAT Fees.¹³⁴ CAT LLC determined that the budgeted costs related to change request fees described in this filing are reasonable and should be included as a part of the Budgeted CAT Costs 2026–1. It is common practice to utilize a change request process to address evolving needs in technology projects. This is particularly true for a project like CAT that is the first of its kind, both in substance and in scale. The substance and costs of each of the change requests are evaluated by the Operating Committee and approved in accordance

¹²⁵ See Securities Exchange Act Rel. No. 97151 (Mar. 15, 2023), 88 FR 17086, 17117 (Mar. 21, 2023) (describing key cost discipline mechanisms for the CAT).

¹²⁶ Section 11.3(a)(iii)(B)(B)(1) of the CAT NMS Plan.

¹²⁷ See Section 3(a)(2)(C)(ii) above.

¹²⁸ *Id.*

¹²⁹ *Id.*

¹³⁰ *Id.*

¹³¹ Section 11.3(a)(iii)(B)(B)(1) of the CAT NMS Plan.

¹³² See Section 3(a)(2)(C)(iii) above.

¹³³ *Id.*

¹³⁴ Section 11.3(a)(iii)(B)(B)(1) of the CAT NMS Plan.

¹²³ Section 1.3 of Appendix D of the CAT NMS Plan at n.262.

¹²⁴ CAT NMS Plan Approval Order at 84801.

with the requirements for Operating Committee meetings. In each case, CAT LLC forecasts that the change requests will be necessary to implement the CAT. As described above,¹³⁵ CAT LLC determined that it was reasonable not to include any change request fees in the Budgeted CAT Costs 2026–1.

(v) Capitalized Developed Technology Costs

In approving the CAT Funding Model, the SEC recognized that it is appropriate to recover budgeted costs related to capitalized developed technology costs as a part of CAT Fees.¹³⁶ In general, capitalized developed technology costs would include costs related to, for example, certain development costs, costs related to certain modifications, upgrades and other changes to the CAT and license fees. The amount and type of budgeted capitalized developed technology costs for the CAT Fee 2026–1 Period, which relate to the software license fee and technology changes to be implemented by FCAT, are described in more detail above.¹³⁷

(vi) Legal

In approving the CAT Funding Model, the SEC recognized that it is appropriate to recover budgeted costs related to legal fees as a part of CAT Fees.¹³⁸ CAT LLC determined that the budgeted legal costs described in this filing are reasonable and should be included as a part of the Budgeted CAT Costs 2026–1. Given the unique nature of the CAT, the number of parties involved with the CAT (including, for example, the SEC, Participants, Industry Members, and vendors) and the many regulatory, contractual and other issues associated with the CAT, the scope of the necessary legal services is substantial. CAT LLC determined that the scope of the proposed legal services is necessary to implement and maintain the CAT and that the legal rates reflect the specialized services necessary for such a project. CAT LLC determined to hire and continue to use each law firm based on a variety of factors, including their relevant expertise and fees. In each case, CAT LLC determined that the fee rates were in line with market rates for specialized legal expertise. In addition, CAT LLC determined that the budgeted costs for the legal projects were appropriate given the breadth of the services provided. The services to be performed by each law firm for the CAT

Fee 2026–1 Period and the budgeted costs related to such services are described above.¹³⁹

(vii) Consulting

In approving the CAT Funding Model, the SEC recognized that it is appropriate to recover budgeted consulting costs as a part of CAT Fees.¹⁴⁰ CAT LLC determined that the budgeted consulting costs described in this filing are reasonable and should be included as a part of Budgeted CAT Costs 2026–1. Because there are no CAT employees¹⁴¹ and because of the significant number of issues associated with the CAT, the consultants are budgeted to provide assistance in the management of various CAT matters and the processes related to such matters.¹⁴² CAT LLC determined the budgeted consulting costs were appropriate, as the consulting services were to be provided at reasonable market rates that were comparable to the rates charged by other consulting firms for similar work. Moreover, the total budgeted costs for such consulting services were appropriate in light of the breadth of services provided by Deloitte. The services budgeted to be performed by Deloitte and the budgeted costs related to such services are described above.¹⁴³

(viii) Insurance

In approving the CAT Funding Model, the SEC recognized that it is appropriate to recover budgeted insurance costs as a part of CAT Fees.¹⁴⁴ CAT LLC determined that the budgeted insurance costs described in this filing are reasonable and should be included as a part of the Budgeted CAT Costs 2026–1. CAT LLC determined that it is common practice to have directors' and officers' liability insurance, and errors and omissions liability insurance. CAT LLC further determined that it was important to have cyber security insurance given the nature of the CAT, and such a decision is consistent with the CAT NMS Plan, which states that the cyber incident response plan may include "[i]nsurance against security

breaches."¹⁴⁵ As discussed above,¹⁴⁶ CAT LLC determined that the budgeted insurance costs were appropriate given its prior experience with this market and an analysis of the alternative insurance offerings. Based on this analysis, CAT LLC determined that the selected insurance policies provided appropriate coverage at reasonable market rates.¹⁴⁷

(ix) Professional and Administration

In approving the CAT Funding Model, the SEC recognized that it is appropriate to recover budgeted professional and administration costs as a part of CAT Fees.¹⁴⁸ CAT LLC determined that the budgeted professional and administration costs described in this filing are reasonable and should be included as a part of Budgeted CAT Costs 2026–1. Because there are no CAT employees, all required accounting, financial, tax, cash management and treasury functions for CAT LLC have been outsourced at market rates. In addition, the required annual financial statement audit of CAT LLC is included in professional and administration costs, which costs are also at market rates. The services performed by Anchin and Grant Thornton and the costs related to such services are described above.¹⁴⁹

CAT LLC anticipates continuing to make use of Anchin, a financial advisory firm, to assist with financial matters for the CAT. CAT LLC determined that the budgeted costs for Anchin were appropriate, as the financial advisory services were to be provided at reasonable market rates that were comparable to the rates charged by other such firms for similar work. Moreover, the total budgeted costs for such financial advisory services were appropriate in light of the breadth of services provided by Anchin. The services budgeted to be performed by Anchin and the budgeted costs related to such services are described above.¹⁵⁰

CAT LLC anticipates continuing to make use of Grant Thornton, an independent accounting firm, to complete the audit of CAT LLC's financial statements, in accordance with the requirements of the CAT NMS Plan. CAT LLC determined that the budgeted costs for Grant Thornton were appropriate, as the accounting services were to be provided at reasonable

¹³⁹ See Section 3(a)(2)(C)(vi) above.

¹⁴⁰ Section 11.3(a)(iii)(B)(B)(3) of the CAT NMS Plan.

¹⁴¹ As stated in the filing of the proposed CAT NMS Plan, "[i]t is the intent of the Participants that the Company have no employees." Securities Exchange Act Rel. No. 77724 (Apr. 27, 2016), 81 FR 30614, 30621 (May 17, 2016).

¹⁴² CAT LLC uses certain third parties to perform tasks that may be performed by administrators for other NMS Plans. See, e.g., CTA Plan and CQ Plan.

¹⁴³ Section 3(a)(2)(C)(vii) above.

¹⁴⁴ Section 11.3(a)(iii)(B)(B)(4) of the CAT NMS Plan.

¹⁴⁵ Section 4.1.5 of Appendix D of the CAT NMS Plan.

¹⁴⁶ See Section 3(a)(2)(C)(viii) above.

¹⁴⁷ *Id.*

¹⁴⁸ Section 11.3(a)(iii)(B)(B)(5) of the CAT NMS Plan.

¹⁴⁹ See Section 3(a)(2)(C)(ix) above.

¹⁵⁰ *Id.*

¹³⁵ See Section 3(a)(2)(C)(iv) above.

¹³⁶ Section 11.3(a)(iii)(B)(B)(1) of the CAT NMS Plan.

¹³⁷ See Section 3(a)(2)(C)(v) above.

¹³⁸ Section 11.3(a)(iii)(B)(B)(2) of the CAT NMS Plan.

market rates that were comparable to the rates charged by other such firms for similar work. Moreover, the total budgeted costs for such accounting services were appropriate in light of the breadth of services provided by Grant Thornton. The services budgeted to be performed by Grant Thornton and the budgeted costs related to such services are described above.¹⁵¹

(x) Public Relations Costs

In approving the CAT Funding Model, the SEC recognized that it is appropriate to recover budgeted public relations costs as a part of CAT Fees.¹⁵² However, as described above,¹⁵³ CAT LLC determined not to include any public relations costs in Budgeted CAT Costs 2026–1. CAT LLC determined that it was reasonable not to include any public relations costs in the Budgeted CAT Costs 2026–1.

(xi) Interest Income

Section 11.1(a) of the CAT NMS Plan requires the CAT budget to include “the sources of all revenues to cover costs.” Accordingly, the Updated 2026 CAT Budget includes a line item for interest income. Specifically, the Updated 2026 CAT Budget includes \$1,453,382 in interest income for the CAT Fee 2026–1 Period.¹⁵⁴ CAT LLC determined that using interest income to reduce the amount to be collected via CAT Fees is reasonable and should be included as a part of the Budgeted CAT Costs 2026–1.

(xii) Reserve

In approving the CAT Funding Model, the SEC recognized that it is appropriate to recover budgeted reserve costs as a part of CAT Fees.¹⁵⁵ CAT LLC determined that the reserve in the amount of 25% of the Updated 2026 CAT Budget (other than the reserve) complies with the requirements of the CAT NMS Plan related to a reserve, is a reasonable amount, and, therefore, should be included as a part of the Updated 2026 CAT Budget.

In its approval order for the CAT Funding Model, the Commission stated that it would be appropriate for the annual operating budget for the CAT to “include a reserve of not more than 25% of the annual budget.”¹⁵⁶ In making this

statement, the Commission noted the following:

Because the CAT is a critical regulatory tool/system, the CAT needs to have a stable funding source to build financial stability to support the Company as a going concern. Funding for the CAT, as noted in Section 11.1(b), is the responsibility of the Participants and the industry. Because CAT fees are charged based on the budget, which is based on anticipated volume, it is appropriate to have a reserve on hand to prevent a shortfall in the event there is an unexpectedly high volume in a given year. A reserve would help to assure that the CAT has sufficient resources to cover costs should there be unanticipated costs or costs that are higher than expected.¹⁵⁷

The SEC also recognized that a reserve would help address the difficulty in predicting certain variable CAT costs, like trading volume.¹⁵⁸ The SEC also recognized that CAT fees will be collected approximately three months after trading activity on which a CAT fee is based, or 25% of the year, and that the reserve would be available to address funding needs related to this three-month delay.¹⁵⁹ The inclusion of the proposed reserve in the Updated 2026 CAT Budget would provide each of these benefits to the CAT. The reserve is discussed further above.¹⁶⁰

As discussed further below,¹⁶¹ however, a surplus reserve balance in excess of the budgeted 25% reserve has been collected as of the beginning of the year of 2026. Accordingly, the Updated 2026 CAT Budget indicates that this surplus would be used to offset a portion of CAT costs for the CAT Fee 2026–1 Period, thereby reducing the fee rate for CAT Fee 2026–1 (\$0.000001 per executed equivalent share). If the fee rate for CAT Fee 2026–1 were calculated solely based on the reasonably budgeted costs for CAT for May–December 2026, excluding the reduction in that amount due to the surplus reserve offset, the fee rate would be \$0.000010 per executed equivalent share.

(B) Reconciliation of Budget to the Collected Fees

The CAT NMS Plan also requires fee filings for Prospective CAT Fees to include “a discussion of how the budget is reconciled to the collected fees.”¹⁶² As discussed above,¹⁶³ this reserve

balance of \$102,391,135 collected via prior CAT Fees would be used to offset a portion of CAT costs for CAT Fee Period 2026–1, thereby reducing the fee rate to be paid for CAT Fee 2026–1. Specifically, the total costs (including the 25% reserve) for CAT Fee 2026–1 of \$117,540,783 would be reduced by the \$102,391,135 in reserve. Therefore, the Total Budgeted CAT Costs 2026–1 would be \$15,149,648. Such surplus reserve balance would be used to reduce the fee rate for CAT Fee 2026–1 (\$0.000001 per executed equivalent share).

(C) Total Executed Equivalent Share Volume for the Prior 12 Months

The total executed equivalent share volume of transactions in Eligible Securities for the period from March 2025 through February 2026 was 5,980,937,549,360.49 executed equivalent shares. CAT LLC determined the total executed equivalent share volume for the prior twelve months by counting executed equivalent shares in the same manner as it counts executed equivalent shares for CAT billing purposes.¹⁶⁴

(D) Projected Executed Equivalent Share Volume for the CAT Fee 2026–1 Period

CAT LLC has determined that the projected total executed equivalent share volume for the eight months of the CAT Fee 2026–1 Period by multiplying by 8/12ths the executed equivalent share volume for the prior twelve months: 8/12 times 5,980,937,549,360.49 executed equivalent shares.¹⁶⁵ The Operating Committee determined that such an approach was reasonable as the CAT’s annual executed equivalent share volume has increased from prior years (e.g., the executed equivalent share volume for 2024 was 4,295,884,600,069.41), and the Operating Committee believes that it is reasonable to conclude that the annual executed equivalent share volume will remain at the higher level.

(E) Actual Fee Rate for CAT Fee 2026–1

(i) Decimal Places

As noted in the approval order for the CAT Funding Model, as a practical matter, the fee filing for a CAT Fee would provide the exact fee per executed equivalent share to be paid for each CAT Fee, by multiplying the Fee Rate by one-third and describing the relevant number of decimal places for

¹⁵¹ *Id.*

¹⁵² Section 11.3(a)(iii)(B)(B)(6) of the CAT NMS Plan.

¹⁵³ See Section 3(a)(2)(C)(x) above.

¹⁵⁴ See chart entitled “Budgeted CAT Costs 2026–1” in Section 3(a)(2)(C) above.

¹⁵⁵ Section 11.3(a)(iii)(B)(B) of the CAT NMS Plan.

¹⁵⁶ CAT Funding Model Approval Order at 13444.

¹⁵⁷ *Id.*

¹⁵⁸ *Id.*

¹⁵⁹ *Id.*

¹⁶⁰ See Section 3(a)(2)(C)(xii) above.

¹⁶¹ See Section 3(b)(2)(B) below.

¹⁶² Section 11.3(a)(iii)(B)(C) of the CAT NMS Plan.

¹⁶³ See Section 3(a)(2)(C)(xii) above.

¹⁶⁴ See Section 3(a)(2)(D) above.

¹⁶⁵ *Id.*

the fee rate.¹⁶⁶ Accordingly, proposed paragraph (a)(6)(B) of the fee schedule would set forth a fee rate of \$0.000001 per executed equivalent share. This fee rate is calculated by multiplying Fee Rate 2026–1 by one-third and rounding the result to six decimal places. CAT LLC determined that the use of six decimal places is reasonable as it balances the accuracy of the calculation with the potential systems and other impracticalities of using additional decimal places in the calculation.¹⁶⁷

(ii) Reasonable Fee Level

The Exchange believes that charging CAT Fee 2026–1 with a fee rate of \$0.000001 per executed equivalent share is reasonable because it provides for a revenue stream for the Company that is aligned with the Budgeted CAT Costs 2026–1. Moreover, the Exchange believes that the level of the fee rate is reasonable, as it is less than CAT Fee 2025–2 and is comparable to other transaction-based fees, including fees assessed pursuant to Section 31.¹⁶⁸ As a result, the magnitude of CAT Fee 2026–1 is small, and therefore will mitigate any potential adverse economic effects or inefficiencies.¹⁶⁹

(3) CAT Fee 2026–1 Provides for an Equitable Allocation of Fees

CAT Fee 2026–1 provides for an equitable allocation of fees, as it equitably allocates CAT costs between and among the Participants and Industry Members. The SEC approved the CAT Funding Model, finding that each aspect of the CAT Funding Model satisfied the requirements of the Exchange Act, including the formula for calculating CAT Fees as well as the Industry Members to be charged the CAT Fees.¹⁷⁰ In approving the CAT Funding Model, the SEC stated that “[t]he Participants have sufficiently demonstrated that the proposed allocation of fees is appropriate and meets the Rule 608(b) approval standard.”¹⁷¹ Accordingly, the CAT Funding Model sets forth the requirements for allocating fees related to Budgeted CAT Costs among Participants and Industry Members, and the fee filings for CAT Fees must comply with those requirements.

CAT Fee 2026–1 provides for an equitable allocation of fees as it complies with the requirements regarding the calculation of CAT Fees as set forth in the CAT NMS Plan. For example, as described above, the calculation of CAT Fee 2026–1 complies with the formula set forth in Section 11.3(a) of the CAT NMS Plan. In addition, CAT Fee 2026–1 would be charged to CEBBs and CEBBs in accordance with Section 11.3(a) of the CAT NMS Plan. Furthermore, the Participants would be charged for their designated share of the Budgeted CAT Costs 2026–1 through a fee implemented via the CAT NMS Plan, which would have the same fee rate as CAT Fee 2026–1.

In addition, as discussed above, each of the inputs into the calculation of CAT Fee 2026–1—the Budgeted CAT Costs 2026–1, the count for the executed equivalent share volume for the prior 12 months, and the projected executed equivalent share volume for the CAT Fee 2026–1 Period—is reasonable. Moreover, these inputs lead to a reasonable fee rate for CAT Fee 2026–1 that is lower than other fee rates for transaction-based fees. A reasonable fee rate allocated in accordance with the requirements of the CAT Funding Model provides for an equitable allocation of fees.

(4) CAT Fee 2026–1 Is Not Unfairly Discriminatory

CAT Fee 2026–1 is not an unfairly discriminatory fee. The SEC approved the CAT Funding Model, finding that each aspect of the CAT Funding Model satisfies the requirements of the Exchange Act. In reaching this conclusion, the SEC analyzed the potential effect of CAT Fees calculated pursuant to the CAT Funding Model on affected categories of market participants, including Participants (including exchanges and FINRA), Industry Members (including subcategories of Industry Members, such as alternative trading systems, CAT Executing Brokers and market makers), and investors generally, and considered market effects related to equities and options, among other things. CAT Fee 2026–1 complies with the requirements regarding the calculation of CAT Fees as set forth in the CAT NMS Plan. In addition, as discussed above, each of the inputs into the calculation of CAT Fee 2026–1 and the resulting fee rate for CAT Fee 2026–1 is reasonable. Therefore, CAT Fee 2026–1 does not impose an unfairly discriminatory fee on Industry Members.

The Exchange believes the proposed fees established pursuant to the CAT

Funding Model promote just and equitable principles of trade, and, in general, protect investors and the public interest, and are provided in a transparent manner and with specificity in the fee schedule. The Exchange also believes that the proposed fees are reasonable because they would provide ease of calculation, ease of billing and other administrative functions, and predictability of a fee based on fixed rate per executed equivalent share. Such factors are crucial to estimating a reliable revenue stream for CAT LLC and for permitting Exchange members to reasonably predict their payment obligations for budgeting purposes.

B. Self-Regulatory Organization's Statement on Burden on Competition

Section 6(b)(8) of the Act¹⁷² requires that the Exchange's rules not impose any burden on competition that is not necessary or appropriate in furtherance of the purpose of the Exchange Act. The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange notes that CAT Fee 2026–1 implements provisions of the CAT NMS Plan that were approved by the Commission and is designed to assist the Exchange in meeting its regulatory obligations pursuant to the Plan.

In addition, all Participants (including exchanges and FINRA) are proposing to introduce CAT Fee 2026–1 on behalf of CAT LLC to implement the requirements of the CAT NMS Plan. Therefore, this is not a competitive fee filing, and, therefore, it does not raise competition issues between and among the Participants.

Furthermore, in approving the CAT Funding Model, the SEC analyzed the potential competitive impact of the CAT Funding Model, including competitive issues related to market services, trading services and regulatory services, efficiency concerns, and capital formation.¹⁷³ The SEC also analyzed the potential effect of CAT fees calculated pursuant to the CAT Funding Model on affected categories of market participants, including Participants (including exchanges and FINRA), Industry Members (including subcategories of Industry Members, such as alternative trading systems, CAT Executing Brokers and market makers), and investors generally, and considered market effects related to equities and options, among other things. Based on

¹⁶⁶ CAT Funding Model Approval Order at 13445, n.677.

¹⁶⁷ See Section 3(a)(5)(A) above.

¹⁶⁸ For example, as the SEC noted in the CAT Funding Model Approval Order, recent Section 31 fees ranged from \$0.00007 per share to \$0.00072 per share. CAT Funding Model Approval Order at 13469.

¹⁶⁹ *Id.*

¹⁷⁰ See Section 11.3(a) of the CAT NMS Plan.

¹⁷¹ CAT Funding Model Approval Order at 13412.

¹⁷² 15 U.S.C. 78f(b)(8).

¹⁷³ CAT Funding Model Approval Order at 13457–81.

this analysis, the SEC approved the CAT Funding Model as compliant with the Exchange Act. CAT Fee 2026–1 is calculated and implemented in accordance with the CAT Funding Model as approved by the SEC.

As discussed above, each of the inputs into the calculation of CAT Fee 2026–1 is reasonable and the resulting fee rate for CAT Fee 2026–1 calculated in accordance with the CAT Funding Model is reasonable. Therefore, CAT Fee 2026–1 would not impose any burden on competition that is not necessary or appropriate in furtherance of the purpose of the Exchange Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.¹⁷⁴

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-Phlx-2026-24 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.

All submissions should refer to file number SR-Phlx-2026-24. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<https://www.sec.gov/rules/sro.shtml>). Copies of the filing will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR-Phlx-2026-24 and should be submitted on or before June 4, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁷⁵

J. Matthew DeLesDernier,

Deputy Secretary.

[FR Doc. 2026-09600 Filed 5-13-26; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-105437; File No. SR-CBOE-2026-046]

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend its Fees Schedule To Make Changes in Connection With the Fees Related to Certain Orders Executed in Automated Improvement Mechanism Auctions, Amend the Customer Volume Incentive Program and Affiliated Volume Plan, and Amend the Cboe Options Historical Depth Description

May 11, 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 May 1, 2026, Cboe Exchange, Inc. (the "Exchange" or "Cboe Options") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the

proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe Exchange, Inc. (the "Exchange" or "Cboe Options") proposes to amend its Fees Schedule to make changes in connection with the fees related to certain orders executed in Automated Improvement Mechanism ("AIM") Auctions, amend the Customer Volume Incentive Program and Affiliated Volume Plan, and amend the Cboe Options Historical Depth description. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Commission's website (<https://www.sec.gov/rules/sro.shtml>), the Exchange's website (https://www.cboe.com/us/options/regulation/rule_filings/bzx/), and at the principal office of the Exchange.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its Fees Schedule, effective May 1, 2026.

AIM Fee Changes

First, the Exchange proposes changes in connection with the fees related to certain orders executed in AIM Auctions.³

By way of background, AIM includes functionality in which a Trading Permit Holder ("TPH") (an "Initiating TPH") may electronically submit for execution an order it represents as agent on behalf of certain customers ("Agency Order")

³ The Exchange notes that the changes described herein will apply similarly to applicable AM, FLEX AIM and FLEX SAM orders, which is consistent with the structure of the Exchange's current fees for AIM Contra orders, which apply uniformly to qualifying orders in AIM, SAM, FLEX AIM, and FLEX SAM. See Fees Schedule Footnote 18.

¹⁷⁴ 15 U.S.C. 78s(b)(3)(A)(ii).

¹⁷⁵ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

against any other order it represents as agent, as well as against principal interest in AIM only, (an “Initiating Order”) provided it submits the Agency Order for electronic execution into the AIM Auction.⁴ The Exchange may designate any class of options traded on Cboe Options as eligible for AIM. The Exchange notes that all Users, other than the Initiating TPH, may submit responses to an Auction (“AIM Responses”).⁵ AIM Auctions take into account AIM Responses to the applicable Auction as well as contra interest resting on the Cboe Options Book at the conclusion of the Auction (“unrelated orders”), regardless of whether such unrelated orders were already present on the Book when the Agency Order was received by the Exchange or were received after the Exchange commenced the applicable Auction. If contracts remain from one or more unrelated orders at the time the Auction ends, they are considered for participation in the AIM order allocation process.

The Fees Schedule contains specific transaction fees for orders executed using AIM. For example, the Exchange assesses a fee of \$0.23 per contract for Market-Maker (“M” Capacity Code) AIM Contra orders in equity, Exchange Traded Funds (“ETF”) and ETN options products, yielding fee code MA. The Exchange notes that under the Fees Schedule, fees for AIM Contra orders apply uniformly to qualifying orders in SAM, FLEX AIM and FLEX SAM.⁶

The Exchange notes that it recently updated its rules to permit orders for the accounts of Market-Makers with an appointment in the applicable class on the Exchange, in all classes, to be solicited for the Initiating Order submitted for execution against an Agency Order into a simple AIM, simple SAM, FLEX AIM or FLEX SAM Auction.⁷

Currently, fee code YC is appended to all Customer (capacity “C”), Clearing TPHs (capacity “F”), Non-Clearing TPH Affiliates (capacity “L”), Broker-Dealer (capacity “B”), Joint Back-Office (capacity “J”), Non-TPH Market-Maker (capacity “N”), and Professional (capacity “U”) (collectively, “Non-Market Maker”) Simple AIM Contra orders in equity, ETF and ETN options products and assesses a fee of \$0.07 per contract. Further, fee code MA is

appended to Market-Maker Simple AIM Contra orders in equity, ETF, and ETN options products and assesses a fee of \$0.23 per contract, which may be slightly reduced via the Liquidity Provider Sliding Scale, yet remains higher than the \$0.07 per contract fee assessed to Non-Market Makers via fee code YC. To align Market-Maker Simple AIM Contra orders in equity, ETF, and ETN products with those for Non-Market Makers, the Exchange proposes to adopt fee code YM, which would be appended to Market-Maker Simple AIM Contra orders in equity, ETF and ETN products and assess a fee of \$0.07 per contract.⁸

The Exchange also proposes to adopt a \$0.20 per contract surcharge for Market-Maker Simple AIM Contra orders in Cboe Volatility Index (“VIX”) options. Currently, fee code BR is appended to Broker-Dealer (capacity “B”), Joint Back-Office (capacity “J”), Non-TPH Market-Maker (capacity “N”), and Professional (capacity “U”) (collectively, “Non-Market Maker, Non-Customer, Non-Firm”) orders in VIX options (as well as OEX and XEO options) and assesses a fee of \$0.40 per contract, while fee codes MV or MW are appended to Market-Maker orders in VIX options, depending on the premium, and are assessed \$0.05 (for fee code MV) or \$0.23 (for fee code MW) per contract. The Exchange proposes to adopt a \$0.20 per contract surcharge to apply to Market-Maker AIM (including SAM, FLEX AIM and FLEX SAM) Contra orders, to bring the fees more in-line with those applicable to Non-Market Maker, Non-Customer, Non-Firm orders.

The Exchange proposes to amend fee codes applicable to Non-Market Maker, Non-Customer, Non-Firm orders in Russell 2000 Index (“RUT”) options. Currently, fee code BS is appended to Non-Customer, Non-Market Maker, Non-Firm manual and AIM orders in RUT options and assesses a fee of \$0.25 per contract; fee code BK is appended to Non-Customer, Non-Market Maker, Non-Firm electronic or Non-AIM orders in RUT options and assesses a fee of \$0.65 per contract; and fee code MT is applied to Market-Maker (capacity “M”) AIM orders in RUT options and assesses a fee of \$0.30 per contract.

The Exchange now proposes to update fee code BS to apply only to manual orders in VIX [sic] options; there are no changes to the assessed fee. The Exchange also proposes to amend

fee code BK to apply to electronic orders (including AIM), and to assess a fee of \$0.55 per contract.

Customer Volume Incentive Program and Affiliated Volume Plan

The Exchange proposes to amend the Customer Volume Incentive Program (“VIP”) and the Affiliated Volume Plan (“AVP”). Under the VIP, the Exchange credits each TPH the per contract amount set forth in the VIP table for Public Customer (origin code “C”) orders transmitted by TPHs (with certain exceptions)⁹ and executed electronically on the Exchange, provided the TPH meets certain volume thresholds in a month; volume for Professional Customers (origin code “U”), Broker-Dealers (origin code “B”), and Joint Back-Offices (“JBO”) (origin code “J”) orders are counted toward reaching such thresholds.¹⁰ Specifically, the percentage thresholds are calculated based on the percentage of national customer volume in all underlying symbols excluding Underlying Symbol List A,¹¹ Sector Indexes,¹² DJX, CBTX, MBTX, MGTN, MRUT, MXEA, MXEF, MXACW, MXUSA, MXWLD, NANOS, SPEQX, SPESG, XSP and FLEX Micros entered and executed over the course of the month. VIP offers rates for both Complex and Simple orders (both in AIM and Non-AIM orders).

Currently, VIP offers 4 tiers.

Particularly, a TPH may meet the criteria under Tier 1 if its qualifying volume in the qualifying classes is above 0% and up to 0.75% of national customer volume, under Tier 2 if its qualifying volume in qualifying classes is above 0.75% and up to 2.00% of national customer volume, under Tier 3 if its qualifying volume in the qualifying classes is above 2.00% and up to 4.00% of national customer volume, under Tier 4 if its qualifying volume in the qualifying classes is above 4.00%.

The Exchange proposes to adopt new Tier 5. A TPH may meet the criteria under proposed Tier 5 if its qualifying volume in the qualifying classes is above 5.00%. As a result of the proposed change, the Exchange also proposes to amend Tier 4 criteria to provide that a TPH may meet the criteria under Tier 4 if its qualifying volume in the qualifying classes is above 4.00% and up to 5.00%.

Under proposed Tier 5, the Exchange proposes VIP credit rates of \$0.17 for Simple Non-AIM contracts, \$0.14 for

⁴ See Rule 5.37.

⁵ For purposes of this filing and the proposed fee, the term “AIM Response” will include responses submitted to AIM and SAM Auctions.

⁶ See Fees Schedule Footnote 18.

⁷ See Securities Exchange Act Release No. 105049 (March 19, 2026), 91 FR 14057 (March 24, 2026) (SR-CBOE-2025-090).

⁸ The Exchange proposes to amend Footnote 10 to state that volume executed via Market-Maker Simple AIM Contra orders in equity, ETF and ETN products is excluded from the Liquidity Provider Sliding Scale program.

⁹ See Cboe Options Fees Schedule, Footnote 36.

¹⁰ See Cboe Options Fees Schedule, Volume Incentive Program.

¹¹ See Cboe Options Fees Schedule, Footnote 34.

¹² See Cboe Options Fees Schedule, Footnote 47.

Simple AIM contracts, \$0.25 for Complex Non-AIM contracts, and \$0.24 for Complex AIM contracts.

The VIP offers both rates for Complex and Simple orders. The VIP provides that a TPH will only receive the Complex credit rates for both its Complex AIM and Non-AIM volume if at least 32% for Tiers 1, 2, and 3 or 38% for Tier 4 of that TPH's qualifying VIP volume in the previous month was comprised of Simple volume. If the TPH's previous month's volume does not meet the applicable volume thresholds, then the TPH's Customer (C) Complex volume will receive credits at the Simple rate only (*i.e.*, all volume, both Simple and Complex, will receive credits at the applicable Simple rate). In light of the proposed adoption of Tier 5, the Exchange proposes to amend the program to provide that that a TPH will only receive the Complex credit rates for both its Complex AIM and Non-AIM volume if at least 32% for Tiers 1, 2, and 3 or 38% for Tiers 4 and 5 of that TPH's qualifying VIP volume in the previous month was comprised of Simple volume.

The proposed changes are designed to incentivize more volume to earn credits while also maintaining an incremental incentive for TPHs to strive for the highest tier level. The Exchange expects the impact of the change to be minimal, as currently, one TPH qualifies for Tier 4. Further, under current Tier 4 and proposed Tier 5, the VIP credit rates are the same for Complex AIM contracts (*i.e.*, \$0.25 for Non-AIM contracts and \$0.24 for AIM contracts) and for Simple AIM contracts (*i.e.*, \$0.14). The difference between VIP credit rates for Simple Non-AIM contracts are \$0.02 (*i.e.*, \$0.15 for Tier 4 Simple Non-AIM contracts and \$0.17 for Tier 5 Simple Non-AIM contracts).

The proposed changes are also designed to increase the amount of volume TPHs provide on the Exchange and further encourage them to contribute to a deeper, more liquid market, as well as to increase transactions and take such execution opportunities provided by such increased liquidity. The Exchange believes that this, in turn, benefits all market participants by contributing towards a robust and well-balanced market ecosystem. The Exchange notes the proposed tiers are competitively achievable for all TPHs that submit significant customer order flow, in that all firms that submit the requisite significant customer order flow could compete to meet the tiers.

The Exchange proposes to make corresponding amendments to the Affiliated Volume Plan ("AVP"). Under

AVP, if a Market-Maker Affiliate¹³ ("Affiliate OFP") or Appointed OFP¹⁴ receives a credit under the VIP, the Market-Maker will receive an access credit on its BOE Bulk Ports corresponding to the VIP tier reached as well as a transaction fee credit on its sliding scale Market-Maker transaction fees (not including any additional surcharges or fees assessed as part of the Liquidity Provider Sliding Scale Adjustment Table). In connection with the proposed changes to the VIP, the Exchange proposes to make a corresponding change to the AVP and adopt VIP Tier 5, with a Market-Maker Affiliate Access Credit of 25% and Liquidity Provider Sliding Scale Credit of 35%. All other Tiers and corresponding Market-Maker Affiliate Access Credits and Liquidity Provider Sliding Scale Credits remain unchanged under the proposed rule change.

Cboe Options Historical Depth

Finally, the Exchange also proposes to amend the Cboe Options Historical Depth description to remove language that is no longer applicable. Specifically, the Exchange proposes to remove "This discount cannot be combined with any other discount offered by the Exchange." This language referred to a previous discount that was removed from the Exchange's Fee Schedule on February 25, 2026.¹⁵ As this discount is no longer on the Exchange's Fee Schedule, the Exchange proposes to remove this supplementary language to clean up the Exchange's Fee Schedule.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the "Act") and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.¹⁶ Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)¹⁷ requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and

practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)¹⁸ requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The Exchange also believes the proposed rule change is consistent with Section 6(b)(4) of the Act,¹⁹ which requires that Exchange rules provide for the equitable allocation of reasonable dues, fees, and other charges among its TPHs and other persons using its facilities.

AIM Fee Changes

The Exchange believes the proposed changes in connection with the fees related to certain orders executed in the AIM Auctions are reasonable, equitable, and not unfairly discriminatory.

The Exchange believes it is reasonable to adopt fee code YM and assess Market-Maker Simple AIM Contra orders in equity, ETF, and ETN options products a fee of \$0.07 per contract, which is the same rate currently assessed to Non-Market Maker Simple AIM Contra orders via fee code YC. As noted above, the Exchange recently updated its rules to permit orders for the accounts of Market-Makers with an appointment in the applicable class. [sic] in all classes, on the Exchange to be solicited for the Initiating Order submitted for execution against an Agency Order in a simple AIM or simple SAM Auction. Given this change, the Exchange believes it is equitable and not unfairly discriminatory to assess Market-Maker Simple AIM Contra orders the same \$0.07 per contract fee assessed to Non-Market Maker Simple AIM Contra orders, as both are able to be the contra side in a simple AIM Auction.

The Exchange believes it is reasonable to adopt a \$0.20 per contract surcharge applicable to Market-Maker AIM Contra orders in VIX options. The proposed surcharge brings the total fees assessed to Market-Makers acting as AIM Contra participants in VIX more in-line with the \$0.40 per contract assessed under fee code BR to Non-Market Maker, Non-Customer, Non-Firm AIM Contra orders

¹³ For purposes of AVP, "Affiliate" is defined as having at least 75% common ownership between the two entities as reflected on each entity's Form BD, Schedule A.

¹⁴ See Cboe Options Fees Schedule Footnote 23. Particularly, a Market-Maker may designate an Order Flow Provider ("OFP") as its "Appointed OFP" and an OFP may designate a Market-Maker to be its "Appointed Market-Maker" for purposes of qualifying for credits under AVP.

¹⁵ See Securities Exchange Act Release No. 104910 (March 2, 2026), 91 FR 10841 (March 5, 2026) (SR-CBOE-2026-021).

¹⁶ 15 U.S.C. 78f(b).

¹⁷ 15 U.S.C. 78f(b)(5).

¹⁸ *Id.*

¹⁹ 15 U.S.C. 78f(b)(4).

in VIX options. As noted above, based on the current Fees Schedule, Market-Makers acting as AIM Contra participants would be assessed \$0.05 per contract (for options with a premium below \$0.10, yielding fee code MV) or \$0.23 per contract (for options with a premium of \$0.10 or above, yielding fee code MW). The Exchange believes the proposed \$0.20 per contract surcharge is equitable and not unfairly discriminatory, as it is designed to bring Market-Maker AIM Contra fees more in line with Non-Market Maker AIM Contra fees, given the current Market-Maker fee structure for VIX options.

The Exchange also believes it is reasonable, equitable, and not unfairly discriminatory to amend the fee structure for Non-Market Maker, Non-Customer, Non-Firm orders in VIX options. As noted above, under the current Fees Schedule, the fee assessed for Market-Maker AIM orders in RUT options (\$0.30 per contract for orders yielding fee code MT) is higher than the fee assessed for Non-Market Maker, Non-Customer, Non-Firm AIM orders in RUT options (\$0.25 per contract for orders yielding fee code BS). By updating fee code BK to apply to electronic orders including AIM orders in RUT options at \$0.55 per contract, the Exchange is effectively increasing the fee assessed to Non-Market Maker, Non-Customer, Non-Firm participants for AIM orders in RUT options, while simultaneously slightly reducing the fee assessed to those same participants for other, non-AIM electronic orders. Given the recent change to permit orders for the accounts of Market-Makers with an appointment in the applicable class on the Exchange, in all classes, to be solicited for the Initiating Order submitted for execution against an Agency Order, the Exchange believes the proposed changes will facilitate and encourage the submission of AIM orders in RUT options through local Market-Makers. Incentivizing Market-Maker participation in RUT AIM auctions benefits all participants by promoting deeper liquidity, tighter markets, and greater price improvement opportunities.

Customer Volume Incentive Program and Affiliated Volume Plan

The Exchange believes the proposed amendments to the VIP (and corresponding amendments to AVP) to adopt Tier 4 [sic] and to amend the volume threshold for Tier 4 to be above 4.00%–5.00%, is reasonable because it continues to encourage TPHs to take the opportunity to receive credits on Customer orders by reaching the proposed volume thresholds. The

Exchange notes that relative volume-based incentives and discounts have been widely adopted by exchanges²⁰ and are reasonable, equitable and non-discriminatory because they are open to all TPHs on an equal basis and provide additional benefits or discounts that are reasonably related to (i) the value to an exchange's market quality and (ii) associated higher levels of market activity, such as higher levels of liquidity provision and/or growth patterns. Additionally, the Exchange operates in a highly competitive market. The Exchange is only one of several options venues to which market participants may direct their order flow. Competing options exchanges offer similar tiered pricing structures to that of the Exchange, including schedules of rebates/credits and fees that apply based upon members achieving certain volume and/or growth thresholds. These competing pricing schedules, moreover, are presently comparable to those that the Exchange provides, including the pricing of comparable tiers.²¹

The Exchange believes adjusting the VIP volume thresholds by adopting Tier 5 (and making corresponding changes to the AVP) and amending the volume threshold for Tier 4 is reasonable because it will continue to encourage TPHs to increase their order flow to the Exchange based on increasing their Customer, Professional Customer, Broker-Dealer, and JBO executed orders as a percentage of national customer volume. Particularly, the Exchange believes the proposed threshold change is reasonable because it will encourage increased volume to receive a higher per contract credit for Non-AIM Simple orders, resulting in a deeper, more liquid market, and an increase in transaction opportunities provided by the increased liquidity. In turn, these increases benefit all TPHs by contributing towards a robust and well-balanced market ecosystem. Increased overall order flow benefits all investors by deepening the Exchange's liquidity pool, providing greater execution incentives and opportunities, offering additional flexibility for all investors to enjoy cost savings, supporting the quality of price discovery, promoting market transparency, and improving investor protection.

While the Exchange has no way of knowing whether this proposed rule change would definitively result in any particular TPH qualifying for the

proposed tier, the Exchange anticipates that approximately one to two TPHs may be able to compete for and achieve the proposed criteria of the proposed Tier 5; however, the proposed tier is open to any TPH that satisfies the tier's criteria. The Exchange believes the proposed tier could provide an incentive for other TPHs to submit increased volumes to qualify for the proposed enhanced credit.

The proposed volume thresholds also do not represent a significant departure from the current required criteria under the Exchange's existing tiers and is therefore still reasonable based on the difficulty of satisfying the tiers' criteria and ensures the existing credit and proposed thresholds appropriately reflect the incremental difficulty to achieve the existing VIP tiers. Further, the Exchange believes that the amendments are reasonable because it will still allow TPHs transmitting qualifying orders that reach a threshold of above 4.00% to receive either the same credit for doing so, in the case of Simple and Complex Non-AIM Contracts and Complex AIM Contracts, or a \$0.02 greater credit for Simple AIM Contracts. Finally, the changes to the AVP are reasonable because the AVP utilizes the VIP tier structure, and thus, any changes to the VIP tiers must be incorporated into the AVP.

The Exchange believes proposed Tier 5 and Tier 4, as amended, remain in line with existing tiers, both in required criteria and credits. For example, the volume threshold amount under existing Tier 1 is currently set as a range within a 0.75 percentage point (0%–0.75%), Tier 2 is currently set as a range within a 1.25 percentage point (between 0.75% up to 2.00%), and Tier 3 is currently set as a range within 2 percentage points (2.00% up to 4.00%). It is reasonable to incrementally increase the range for Tier 4 to be within 1 percentage points (between 4.00% and up to 5.00%), and then over 5.00% for Tier 5, as proposed, since higher credits are available for higher tiers, with the exception of Tier 5 which offers the same credits as Tier 4 except for Simple Non-AIM Contracts. The Exchange also believes that the tiers, as amended, are in a reasonable increment to encourage overall order flow to the Exchange without so significantly increasing the difficulty in reaching the tiers' criteria.

The Exchange believes that the proposal represents an equitable allocation of rebates and is not unfairly discriminatory because all TPHs have the opportunity to meet the tier thresholds. The Exchange also notes that the proposed changes will not adversely impact any TPH's pricing or

²⁰ See e.g., NASDAQ Stock Market Rules, Options Rules, Options 7 Pricing Schedule, Sec. 2 Options Market—Fees and Rebates, Tiers 1–6; see also NYSE Arca Options, Fees and Charges, Customer Posting Credit Tiers in Non-Penny Issues.

²¹ *Id.*

ability to qualify for other credit tiers. Rather, should a TPH not meet the proposed criteria, the TPH will merely not receive the proffered credit, for both the VIP and AVP.

Cboe Options Historical Depth

The Exchange believes that the proposed rule change related to the Cboe Options Historical Depth fee will remove impediments to and perfect the mechanism of a free and open market and a national market system, and in general, will protect investors and the public interest by improving accuracy and clarity within the Fees Schedule. Specifically, by removing language that references a previously removed discount, the proposed rule change is designed to protect investors by making the Fees Schedule more accurate and adding clarity to the Fees Schedule, thereby mitigating any potential investor confusion. The proposed rule change will have no impact on trading on the Exchange or fees assessed by the Exchange, as the proposed Fees Schedule change is non-substantive in nature, and there are no changes to fees assessed as a result of the proposal.

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.

AIM Fee Changes

The Exchange does not believe that the proposed rule changes related to fees for certain orders executed in AIM Auctions will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. In general, the proposed changes are designed to bring fees for Market-Maker AIM Contra orders more in-line with similar fees for other participants, given the recent change to permit orders for the accounts of Market-Makers with an appointment in the applicable class on the Exchange, in all classes, to be solicited for the Initiating Order submitted for execution against an Agency Order. The Exchange believes the proposed changes will facilitate and encourage the submission of AIM orders in equity, ETF and ETN, RUT, and VIX options through local Market-Makers. Incentivizing Market-Maker participation in these AIM auctions benefits all participants by promoting deeper liquidity, tighter markets, and greater price improvement opportunities.

The amended fee for Market-Maker Simple AIM Contra orders in equity,

ETF, and ETN options and \$0.20 per contract surcharge for Market-Maker AIM Contra orders in VIX options will apply uniformly to all Market-Makers acting as AIM contra on applicable orders. Similarly, the amended fee structure for Non-Market Maker, Non-Customer, Non-Firm orders in VIX options will apply uniformly to all applicable Non-Market Maker, Non-Customer, Non-Firm orders in VIX options. While the proposed change results in an increase in the fee assessed to Non-Market Maker, Non-Customer, Non-Firm participants for AIM orders in RUT options, the Exchange believes such increase will facilitate and encourage the submission of AIM orders in RUT options through local Market-Makers, which benefits all participants by promoting deeper liquidity, tighter markets, and greater price improvement opportunities. The Exchange notes that use of the AIM auction mechanism is voluntary.

The Exchange believes the proposed rule change to the VIP and AVP does not impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that the proposed changes to the VIP, and corresponding changes to the AVP, will encourage the submission of additional liquidity to a public exchange, thereby promoting market depth, price discovery and transparency and enhancing order execution opportunities for all TPHs. As a result, the Exchange believes that the proposed change furthers the Commission's goal in adopting Regulation NMS of fostering competition among orders, which promotes "more efficient pricing of individual stocks for all types of orders, large and small."²² Further, the proposed change applies to all TPHs submitting qualified orders equally, in that all TPHs submitting such orders are eligible for the tiers (as amended), have a reasonable opportunity to meet the tiers' criteria (as amended) and will all receive the existing credit if such criteria is met. As described above, while only certain orders would count towards the qualifying thresholds, specifically, Customers, Professionals, Broker-Dealers and JBOs, these market participants' orders are primarily executed as agency orders, whose order flow would bring greater volume and liquidity, which benefits all market participants by providing more trading opportunities and tighter spreads. Overall, the proposed change is

designed to encourage additional order flow to the Exchange, which the Exchange believes benefits all market participants on the Exchange by providing more liquidity, thus trading opportunities, encouraging even more TPHs to send orders, thereby contributing towards a robust and well-balanced market ecosystem to the benefit of all market participants.

The Exchange does not believe that the proposed rule change related to the Cboe Options Historical Depth fee will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. As noted above, the proposed rule change is designed to protect investors by making the Fees Schedule more accurate and adding clarity to the Fees Schedule, thereby mitigating any potential investor confusion. The proposed rule change will have no impact on trading on the Exchange or fees assessed by the Exchange, as the proposed Fees Schedule change is non-substantive in nature, and there are no changes to fees assessed as a result of the proposal.

Finally, the Exchange believes the proposed rule changes do not impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. In regards to the fee changes related to AIM Contra orders in RUT or VIX options, the proposed fees apply to an Exchange proprietary product, which are traded exclusively on the Exchange. In regards to the other fee changes, the Exchange notes that it operates in a highly competitive market. Members have numerous alternative venues that they may participate on and direct their order flow, including 17 other options exchanges. Based on publicly available information, no single options exchange has more than 15% of the market share.²³ Therefore, no exchange possesses significant pricing power in the execution of option order flow. Indeed, participants can readily choose to send their orders to other exchange, and, additionally off-exchange venues, if they deem fee levels at those other venues to be more favorable. Moreover, the Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Specifically, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices

²² See Securities Exchange Act Release No. 51808, 70 FR 37495, 37498–99 (June 29, 2005) (S7–10–04) (Final Rule).

²³ See Cboe Global Markets U.S. Options Monthly Market Volume Summary (April 30, 2026), available at https://markets.cboe.com/us/options/market_statistics/.

and SRO revenues and, also, recognized that current regulation of the market system “has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.”²⁴ The fact that this market is competitive has also long been recognized by the courts. In *NetCoalition v. Securities and Exchange Commission*, the D.C. Circuit stated as follows: “[n]o one disputes that competition for order flow is ‘fierce.’ . . . As the SEC explained, ‘[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution’; [and] ‘no exchange can afford to take its market share percentages for granted’ because ‘no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers’”²⁵ Accordingly, the Exchange does not believe its proposed fee change imposes any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization’s Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act²⁶ and paragraph (f) of Rule 19b-4²⁷ thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission’s internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-CBOE-2026-046 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.

All submissions should refer to file number SR-CBOE-2026-046. 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-CBOE-2026-046 and should be submitted on or before June 4, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁸

J. Matthew DeLesDernier,
Deputy Secretary.

[FR Doc. 2026-09597 Filed 5-13-26; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-105438; File No. SR-GEMX-2026-16]

Self-Regulatory Organizations; Nasdaq GEMX, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Establish Fees for Industry Members Related to Reasonably Budgeted CAT Costs of the National Market System Plan Governing the Consolidated Audit Trail for May 1, 2026 Through December 31, 2026

May 11, 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 April 27, 2026, Nasdaq GEMX, LLC (“GEMX” or “Exchange”) filed with the Securities and Exchange Commission (“SEC” or “Commission”) the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to establish fees for Industry Members³ related to reasonably budgeted CAT costs of the National Market System Plan Governing the Consolidated Audit Trail (the “CAT NMS Plan” or “Plan”) for the period from May 1, 2026 through December 31, 2026. These fees would be payable to Consolidated Audit Trail, LLC (“CAT LLC” or the “Company”) and referred to as CAT Fee 2026-1, and would be described in a section of the Exchange’s fee schedule entitled “Consolidated Audit Trail Funding Fees.” The fee rate for CAT Fee 2026-1 would be \$0.000001 per executed equivalent share. CAT Executing Brokers will receive their first monthly invoice for CAT Fee 2026-1 in June 2026 calculated based on their transactions as CAT Executing Brokers for the Buyer (“CEBB”) and/or CAT Executing Brokers for the Seller (“CEBS”) in May 2026. As described further below, CAT

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ An “Industry Member” is defined as “a member of a national securities exchange or a member of a national securities association.” See Rule General 7, Section 1. See also Section 1.1 of the CAT NMS Plan. Unless otherwise specified, capitalized terms used in this rule filing are defined as set forth in the CAT NMS Plan and/or the CAT Compliance Rule. See Rule General 7 (Consolidated Audit Trail Compliance).

²⁴ See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005).

²⁵ *NetCoalition v. SEC*, 615 F.3d 525, 539 (D.C. Cir. 2010) (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782-83 (December 9, 2008) (SR-NYSEArca-2006-21)).

²⁶ 15 U.S.C. 78s(b)(3)(A).

²⁷ 17 CFR 240.19b-4(f).

²⁸ 17 CFR 200.30-3(a)(12).

Fee 2026–1 is anticipated to be in place for eight months, and is anticipated to recover approximately two-thirds of the costs set forth in the reasonably budgeted CAT costs for 2026.

The text of the proposed rule change is available on the Exchange's website at <https://listingcenter.nasdaq.com/rulebook/gemx/rulefilings>, and at the principal office of the Exchange.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On July 11, 2012, the Commission adopted Rule 613 of Regulation NMS, which required the self-regulatory organizations ("SROs") to submit a national market system ("NMS") plan to create, implement and maintain a consolidated audit trail that would capture customer and order event information for orders in NMS securities across all markets, from the time of order inception through routing, cancellation, modification or execution.⁴ On November 15, 2016, the Commission approved the CAT NMS Plan.⁵ Under the CAT NMS Plan, the Operating Committee has the discretion to establish funding for CAT LLC to operate the CAT, including establishing fees for Industry Members to be assessed by CAT LLC that would be implemented on behalf of CAT LLC by the Participants.⁶ The Operating Committee adopted a revised funding model to fund the CAT ("CAT Funding Model"). On March 16, 2026, the Commission approved the CAT Funding Model after concluding that the model satisfied the

requirements of Section 11A of the Exchange Act and Rule 608 thereunder.⁷

The CAT Funding Model provides a framework for the recovery of the costs to create, develop and maintain the CAT, including providing a method for allocating costs to fund the CAT among Participants and Industry Members. The CAT Funding Model establishes two categories of fees: (1) CAT fees assessed by CAT LLC and payable by certain Industry Members to recover a portion of historical CAT costs previously paid by the Participants ("Historical CAT Assessment" fees); and (2) CAT fees assessed by CAT LLC and payable by Participants and Industry Members to fund prospective CAT costs ("CAT Fees").⁸

Under the CAT Funding Model, Participants, CEBBs and CEBSSs are subject to fees designed to cover the ongoing budgeted costs of the CAT, as determined by the Operating Committee. "The Operating Committee will establish fees ('CAT Fees') to be payable by Participants and Industry Members with regard to CAT costs not previously paid by the Participants ('Prospective CAT Costs')." ⁹ In establishing a CAT Fee, the Operating Committee will calculate a "Fee Rate" for the relevant period. Then, for each month in which a CAT Fee is in effect, each CEBB and CEBSS would be required to pay the fee for each transaction in Eligible Securities executed by the CEBB or CEBSS from the prior month as set forth in CAT Data, where the fee for each transaction will be calculated by multiplying the number of executed equivalent shares in the transaction by one-third and by the Fee Rate.

The CAT Fees to be paid by CEBBs and CEBSSs are designed to contribute toward the recovery of two-thirds of the budgeted CAT costs for the relevant period.¹⁰ The CAT Funding Model is

⁷ Securities Exchange Act Rel. No. 105003 (Mar. 16, 2026), 91 FR 13410 (Mar. 19, 2026) ("CAT Funding Model Approval Order"). This CAT Funding Model replaced the prior funding model that was approved by the Commission on September 6, 2023. Securities Exchange Act Rel. No. 98290 (Sept. 6, 2023), 88 FR 62628 (Sept. 12, 2023).

⁸ Under the CAT Funding Model, the Operating Committee may establish CAT Fees related to CAT costs going forward. Section 11.3(a) of the CAT NMS Plan. This filing only establishes CAT Fee 2026–1 related to reasonably budgeted CAT costs for the period from May 1, 2026 through December 31, 2026 as described herein; it does not address any other potential CAT Fees related to CAT costs. Any such other CAT Fee will be subject to a separate fee filing. In addition, under the CAT Funding Model, the Operating Committee may establish one or more Historical CAT Assessments. Section 11.3(b) of the CAT NMS Plan. This filing does not address any Historical CAT Assessments.

⁹ Section 11.3(a) of the CAT NMS Plan.

¹⁰ Section 11.3(a)(iii)(A) of the CAT NMS Plan.

designed to require that the Participants contribute to the recovery of the remaining one-third of the budgeted CAT costs.¹¹ Participants would be subject to the same Fee Rate as CEBBs and CEBSSs.¹² While CAT Fees charged to Industry Members become effective in accordance with the requirements of Section 19(b) of the Exchange Act,¹³ CAT fees charged to Participants are implemented via an approval of the CAT fees by the Operating Committee in accordance with the requirements of the CAT NMS Plan.¹⁴ Accordingly, this filing does not address Participant CAT fees as they are described in the CAT NMS Plan.¹⁵

CAT LLC proposes to charge CEBBs and CEBSSs (as described in more detail below) CAT Fee 2026–1 to recover the reasonably budgeted CAT costs for the period from May 1, 2026 through December 31, 2026 in accordance with the CAT Funding Model. To implement this fee on behalf of CAT LLC, the CAT NMS Plan requires the Participants to "file with the SEC under Section 19(b) of the Exchange Act any such fees on Industry Members that the Operating Committee approves, and such fees shall be labeled as 'Consolidated Audit Trail Funding Fees.'" ¹⁶ The Plan further states that "[o]nce the Operating Committee has approved such Fee Rate, the Participants shall be required to file with the SEC pursuant to Section 19(b) of the Exchange Act CAT Fees to be charged to Industry Members calculated using such Fee Rate." ¹⁷ Accordingly, the purpose of this filing is to implement a CAT Fee on behalf of CAT LLC for Industry Members, referred to as CAT Fee 2026–1, in accordance with the CAT NMS Plan.

(1) CAT Executing Brokers

CAT Fee 2026–1 will be charged to each CEBB and CEBSS for each applicable transaction in Eligible Securities.¹⁸ The CAT NMS Plan defines a "CAT Executing Broker" to mean:

¹¹ Section 11.3(a)(ii)(A) of the CAT NMS Plan.

¹² Section 11.3(a)(ii) of the CAT NMS Plan.

¹³ Section 11.3(a)(i)(A)(I) of the CAT NMS Plan.

¹⁴ CAT Funding Model Approval Order at 13448.

¹⁵ See Section 11.3(a)(ii) and Appendix B of the CAT NMS Plan.

¹⁶ Section 11.1(b) of the CAT NMS Plan.

¹⁷ Section 11.3(a)(i)(A)(I) of the CAT NMS Plan.

¹⁸ In its approval of the CAT Funding Model, the Commission determined that charging CAT fees to CAT Executing Brokers was appropriate. In reaching this conclusion, the Commission noted that the use of CAT Executing Brokers is appropriate because the CAT Funding Model is based upon the calculation of *executed* equivalent shares, and, therefore, charging CAT Executing Brokers would reflect their executing role in each transaction. Furthermore, the Commission noted that, because CAT Executing Brokers are already identified in transaction reports from the exchanges

⁴ Securities Exchange Act Rel. No. 67457 (July 18, 2012), 77 FR 45722 (Aug. 1, 2012).

⁵ Securities Exchange Act Rel. No. 79318 (Nov. 15, 2016), 81 FR 84696 (Nov. 23, 2016) ("CAT NMS Plan Approval Order").

⁶ Section 11.1(b) of the CAT NMS Plan.

(a) with respect to a transaction in an Eligible Security that is executed on an exchange, the Industry Member identified as the Industry Member responsible for the order on the buy-side of the transaction and the Industry Member responsible for the sell-side of the transaction in the equity order trade event and option trade event in the CAT Data submitted to the CAT by the relevant exchange pursuant to the Participant Technical Specifications; and (b) with respect to a transaction in an Eligible Security that is executed

otherwise than on an exchange and required to be reported to an equity trade reporting facility of a registered national securities association, the Industry Member identified as the executing broker and the Industry Member identified as the contra-side executing broker in the TRF/ORF/ADF transaction data event in the CAT Data submitted to the CAT by FINRA pursuant to the Participant Technical Specifications; provided, however, in those circumstances where there is a non-Industry Member identified as the

contra-side executing broker in the TRF/ORF/ADF transaction data event or no contra-side executing broker is identified in the TRF/ORF/ADF transaction data event, then the Industry Member identified as the executing broker in the TRF/ORF/ADF transaction data event would be treated as CAT Executing Broker for the Buyer and for the Seller.¹⁹

The following fields of the Participant Technical Specifications indicate the CAT Executing Brokers for the transactions executed on an exchange:

EQUITY ORDER TRADE (EOT)²⁰

No.	Field name	Data type	Description	Include key
12.n.8/13.n.8	member	Member Alias	The identifier for the member firm that is responsible for the order on this side of the trade. Not required if there is no order for the side as indicated by the NOBUYID/ NOSELLID instruction. This must be provided if orderID is provided.	C

OPTION TRADE (OT)²¹

No.	Field name	Data type	Description	Include key
16.n.13/17.n.13	member	Member Alias	The identifier for the member firm that is responsible for the order.	R

In addition, the following fields of the Participant Technical Specifications would indicate the CAT Executing

Brokers for the transactions executed otherwise than on an exchange:

TRF/ORF/ADF TRANSACTION DATA EVENT (TRF)²²

No.	Field name	Data type	Description	Include key
26	reportingExecutingMpid	Member Alias	MPID of the executing party	R
28	contraExecutingMpid	Member Alias	MPID of the contra-side executing party ..	C

(2) Calculation of Fee Rate 2026–1

The Operating Committee determined the Fee Rate to be used in calculating CAT Fee 2026–1 (“Fee Rate 2026–1”) by dividing the reasonably budgeted CAT costs (“Budgeted CAT Costs 2026–1”) for the period from May 1, 2026 through December 31, 2026 (“CAT Fee 2026–1 Period”) by the reasonably projected total executed share volume of all

transactions in Eligible Securities for the eight-month recovery period, as discussed in detail below.²³ Based on this calculation, the Operating Committee has determined that Fee Rate 2026–1 would be \$0.000003799483243631228 per executed equivalent share. This rate is then divided by three and rounded to determine the fee rate of \$0.000001 per

executed equivalent share that will be assessed to CEBBs and CEBSSs, as also discussed in detail below.

(A) CAT Fee 2026–1 Period

CAT LLC proposes to implement CAT Fee 2026–1. CAT LLC proposes to commence CAT Fee 2026–1 during the year, rather than at the beginning of the year. Accordingly, CAT Fee 2026–1

and FINRA’s equity trade reporting facilities recorded in CAT Data, charging CAT Executing Brokers could streamline the billing process. CAT Funding Model Approval Order at 13413.

¹⁹ Section 1.1 of the CAT NMS Plan. In its approval order for the CAT Funding Model, the Commission “recognize[d] that Industry Members may pass-through CAT fees for customer executed

volume.” See CAT Funding Model Approval Order at 13424.

²⁰ See Table 23, Section 4.7 (Order Trade Event) of the CAT Reporting Technical Specifications for Plan Participants, Version 4.2.0–r2 (Feb. 24, 2026), https://www.catnmsplan.com/sites/default/files/2026-02/02.24.2026-CAT_Reporting_Technical_Specifications_for_Participants_4.2.0-r2.pdf (“CAT

Reporting Technical Specifications for Plan Participants”).

²¹ See Table 52, Section 5.2.5.1 (Simple Option Trade Event) of the CAT Reporting Technical Specifications for Plan Participants.

²² See Table 62, Section 6.1 (TRF/ORF/ADF Transaction Data Event) of the CAT Reporting Technical Specifications for Plan Participants.

²³ Section 11.3(a)(i) of the CAT NMS Plan.

“would be calculated as described in paragraph (II)” of Section 11.3(a)(i)(A) of the CAT NMS Plan,²⁴ which states that “[d]uring each year, the Operating Committee will calculate a new Fee Rate by dividing the reasonably budgeted CAT costs for the remainder of the year by the reasonably projected total executed equivalent share volume of all transactions in Eligible Securities for the remainder of the year.”²⁵ For CAT Fee 2026–1, the reasonably budgeted CAT costs for “the remainder of the year” are the reasonably budgeted CAT costs from May 1, 2026 through December 31, 2026 as set forth in the updated annual budget for 2026 for CAT LLC approved by the Operating Committee on March 31, 2026 (“Updated 2026 CAT Budget”).²⁶

(B) Executed Equivalent Shares for Transactions in Eligible Securities

Under the CAT NMS Plan, for purposes of calculating CAT Fees, executed equivalent shares in a transaction in Eligible Securities will be reasonably counted as follows: (1) each executed share for a transaction in NMS Stocks will be counted as one executed equivalent share; (2) each executed contract for a transaction in Listed Options will be counted based on the multiplier applicable to the specific Listed Options (*i.e.*, 100 executed equivalent shares or such other applicable multiplier); and (3) each executed share for a transaction in OTC Equity Securities will be counted as 0.01 executed equivalent share.²⁷

(C) Budgeted CAT Costs 2026–1

The CAT NMS Plan states that “[t]he budgeted CAT costs for the year shall be comprised of all reasonable fees, costs and expenses reasonably budgeted to be incurred by or for the Company in connection with the development, implementation and operation of the CAT as set forth in the annual operating budget approved by the Operating Committee pursuant to Section 11.1(a) of the CAT NMS Plan, or as adjusted during the year by the Operating

Committee.”²⁸ Section 11.1(a) of the CAT NMS Plan describes the requirement for the Operating Committee to approve an operating budget for CAT LLC on an annual basis. It requires the budget to “include the projected costs of the Company, including the costs of developing and operating the CAT for the upcoming year, and the sources of all revenues to cover such costs, as well as the funding of any reserve that the Operating Committee reasonably deems appropriate for the prudent operation of the Company.” Section 11.1(a)(i) of the CAT NMS Plan further states that: [w]ithout limiting the foregoing, the reasonably budgeted CAT costs shall include technology (including cloud hosting services, operating fees, CAIS operating fees, change request fees and capitalized developed technology costs), legal, consulting, insurance, professional and administration, and public relations costs, a reserve and such other cost categories as reasonably determined by the Operating Committee to be included in the budget.

In accordance with the requirements under the CAT NMS Plan, the Operating Committee approved an annual budget for 2026 for CAT LLC (“Original 2026 CAT Budget”) on December 11, 2025.²⁹ On March 31, 2026, the Operating Committee approved an updated budget for 2026, referred to as the Updated 2026 CAT Budget. The Updated 2026 CAT Budget includes actual costs for each category for January and February 2026, with updated estimated costs for the remainder of the year. The updated costs for May through December as included in the Updated 2026 CAT Budget (*i.e.*, Budgeted CAT Costs 2026–1) are the costs used in calculating CAT Fee 2026–1.³⁰ The 2026 CAT budgets, both the Original 2026 CAT Budget and the Updated 2026 CAT Budget, were prepared on the accrual basis of accounting.³¹

²⁸ Section 11.3(a)(i)(C) of the CAT NMS Plan.

²⁹ The Original 2026 CAT Budget is available on the CAT website (https://www.catnmsplan.com/sites/default/files/2025-12/12.08.25-CAT-LLC-2026-Financial_and_Operating_Budget.pdf).

³⁰ The version of the Updated 2026 CAT Budget set forth on the CAT website is presented on a quarterly basis, but is prepared based on more granular detail. The costs for May and June are estimated based on two-thirds of costs for Q2 where the budgeted monthly amounts are consistent. For those cases in which the costs for a category vary from month to month in Q2, the specific budgeted amounts for May and June are noted.

³¹ CAT budgets for periods prior to 2025 were prepared on the cash basis of accounting, as such

As described in detail below, the Budgeted CAT Costs 2026–1 would be \$15,149,648. CEBBs collectively will be responsible for one-third of the Budgeted CAT Costs 2026–1 (which is \$5,049,882.67), and CEBBs collectively will be responsible for one-third of the Budgeted CAT Costs 2026–1 (which is \$5,049,882.67).

The following describes in detail the Budgeted CAT Costs 2026–1 for CAT Fee 2026–1. The following cost details are provided in accordance with the requirement in the CAT NMS Plan to provide in the fee filing the following:

the budget for the upcoming year (or remainder of the year, as applicable), including a brief description of each line item in the budget, including (1) technology line items of cloud hosting services, operating fees, CAIS operating fees, change request fees and capitalized developed technology costs, (2) legal, (3) consulting, (4) insurance, (5) professional and administration, and (6) public relations costs, a reserve and/or such other categories as reasonably determined by the Operating Committee to be included in the budget, and the reason for changes in each such line item from the prior CAT fee filing.³²

Each of the costs described below is reasonable, appropriate and necessary for the creation, implementation and maintenance of CAT.

The following table breaks down the Budgeted CAT Costs 2026–1 into the categories set forth in Section 11.3(a)(iii)(B) of the CAT NMS Plan.³³ The Budgeted CAT Costs 2026–1 reflect the costs for May through December as included in the Updated 2026 CAT Budget. The Budgeted CAT Costs 2026–1 are the costs used in calculating CAT Fee 2026–1.

budgets were primarily used to determine the dollar amount of promissory notes from the Participants that were required to fund the ongoing operations of the CAT. Commencing in 2025, with the contemplated recovery of costs from Industry Members and the Participants via CAT Fees, the Original 2025 CAT Budget was prepared on the accrual basis of accounting to properly match projected revenues with estimated expenses incurred. A cash basis budget reflects expenditures when paid, while an accrual basis budget reflects expenditures when incurred. In moving from a cash basis budget to an accrual basis budget, there is no double counting of expenses.

³² Section 11.3(a)(iii)(B) of the CAT NMS Plan.

³³ Note that costs and related cost calculations provided in this filing may reflect minor variations from the budgeted costs due to rounding.

²⁴ Section 11.3(a)(i)(A)(IV) of the CAT NMS Plan.

²⁵ Section 11.3(a)(i)(A)(II) of the CAT NMS Plan.

²⁶ The Updated 2026 CAT Budget is available on the CAT website (<https://www.catnmsplan.com/sites/default/files/2026-04/03.31.26-CAT-2026-Budget.pdf>).

²⁷ Section 11.3(a)(i)(B) of the CAT NMS Plan. In approving the CAT Funding Model, the Commission concluded that “the use of executed equivalent share volume provides an appropriate basis for the calculation of CAT fees.” CAT Funding Model Approval Order at 13413.

BUDGETED CAT COSTS 2026–1

Budget category	Budgeted CAT costs 2026–1 ^b (i.e., costs for May–December 2026)
Capitalized Developed Technology Costs ^a	^c \$3,450,000
Technology Costs	83,737,680
Cloud Hosting Services	^d 49,866,667
Operating Fees	^e 19,691,953
CAIS Operating Fees	^f 14,179,060
Change Request Fees	^g 0
Legal	^h 5,670,452
Consulting	ⁱ 1,025,957
Insurance	^j 852,768
Professional and administration	^k 749,151
Public relations	^l 0
Interest Income	^m (1,453,382)
Total Costs	94,032,626
Reserve (25% of Total Costs)	23,508,157
Total Costs and Reserve	117,540,783
Use of Existing Reserve	ⁿ (102,391,135)
Total Budgeted CAT Costs 2026–1	15,149,648

^a The non-cash amortization of these capitalized developed technology costs to be incurred during the CAT Fee 2026–1 Period have been appropriately excluded from the above table.³⁴

^b Budgeted CAT Costs 2026–1 described in this table of costs were determined based on an analysis of a variety of factors, including historical costs/invoices, estimated costs from respective vendors/service providers, contractual terms with vendors/service providers, anticipated service levels and needs, and discussions with vendors and Participants.

^c This cost number for capitalized developed technology costs reflects (1) capitalized developed technology costs of \$3,450,000 for May, \$0 for June and \$0 for the third and fourth quarters of 2026 as included in the Updated 2026 CAT Budget; and (2) \$0 for the Software License Fee 2026 for the second, third, and fourth quarters of 2026 as included in the Updated 2026 CAT Budget: $(\$3,450,000 + \$0 + \$0 + \$0) + (\$0 + \$0 + \$0) = \$3,450,000$.

^d This cost number for cloud hosting services reflects two-thirds of the cloud hosting services costs for the second quarter and the cloud hosting services for the third and fourth quarters of 2026 as included in the Updated 2026 CAT Budget: $(\frac{2}{3} \times \$18,700,000) + \$18,700,000 + \$18,700,000 = \$49,866,667$.

^e This cost number for operating fees reflects (1) two-thirds of the Non-CAIS fixed operating fees for the second quarter and the Non-CAIS fixed operating fees for the third and fourth quarters of 2026 as included in the Updated 2026 CAT Budget and (2) two-thirds of the market data vendor fees for the second quarter and the market data vendor fees for the third and fourth quarter of 2026 as included in the Updated 2026 CAT Budget: $(\frac{2}{3} \times \$7,191,853) + \$7,191,853 + \$7,191,853 + (\frac{2}{3} \times \$192,630) + \$192,630 + \$192,630 = \$19,691,953$.

^f This cost number for CAIS operating fees reflects two-thirds of the CAIS fixed operating fees for the second quarter and the CAIS fixed operating fees for the third and fourth quarters of 2026 as included in the Updated 2026 CAT Budget: $(\frac{2}{3} \times \$5,317,147) + \$5,317,147 + \$5,317,147 = \$14,179,060$.

^g This \$0 cost number for change requests reflects the fact that there were no change request fees set forth in the Updated 2026 CAT Budget.

^h This cost number for legal services reflects two-thirds of the legal costs for the second quarter and the legal costs for the third and fourth quarters of 2026 as included in the Updated 2026 CAT Budget: $(\frac{2}{3} \times \$2,145,170) + \$2,125,170 + \$2,115,170 = \$5,670,452$.

ⁱ This cost number for consulting services reflects two-thirds of the consulting costs for the second quarter and the consulting costs for the third and fourth quarters of 2026 as included in the Updated 2026 CAT Budget: $(\frac{2}{3} \times \$384,734) + \$384,734 + \$384,734 = \$1,025,957$.

^j This cost number for insurance reflects two-thirds of the insurance costs for the second quarter and the insurance costs for the third and fourth quarters of 2026 as included in the Updated 2026 CAT Budget: $(\frac{2}{3} \times \$300,977) + \$321,042 + \$331,074 = \$852,768$.

^k This cost number for professional and administration services reflects two-thirds of the professional and administration costs for the second quarter and the professional and administration costs for the third and fourth quarters of 2026 as included in the Updated 2026 CAT Budget: $(\frac{2}{3} \times \$280,932) + \$280,932 + \$280,932 = \$749,151$.

^l This \$0 cost number of change requests reflects the fact that there were no change request fees set forth in the Updated 2026 CAT Budget.

^m This interest income reflects interest income (net of bank fees) of \$517,208 for May and June and interest income (net of bank fees) for the third and fourth quarters of 2026 as included in the Updated 2026 CAT Budget: $\$517,208 + \$571,010 + \$365,164 = \$1,453,382$. Note that interest income for May and June 2026 of \$517,208 is slightly less than two-thirds of \$809,598 (which is \$539,732) for the second quarter as the amount of interest income varies from month to month.

ⁿ This amount for the use of the existing reserve is calculated by subtracting from the Accrued Liquidity Reserve Balance as of the Beginning of the Year in the Updated 2026 CAT Budget the 25% Incremental Liquidity Reserve Accrued during 2026 for the first quarter and for April of 2026 as included in the Updated 2026 CAT Budget: $\$155,403,378 - (\$41,800,153 + \$11,212,091) = \$102,391,135$. Note that the 25% Incremental Liquidity Reserved Accrued during 2026 for April 2026 of \$11,212,091 is slightly more than one-third of \$33,366,432 (which is \$11,122,144) for the second quarter as the amount of the 25% Incremental Liquidity Reserved Accrued during 2026 varies from month to month.

To the extent that CAT LLC enters into notes with Participants or others to pay costs incurred during the period in which CAT Fee 2026–1 is in effect, CAT LLC will use the proceeds from CAT Fee 2026–1 and the related Participant CAT fees to repay such notes.

³⁴ With respect to certain costs that were “appropriately excluded,” such excluded costs relate to the amortization of capitalized technology costs, which are amortized over the life of the Plan Processor Agreement. As such costs have already

The following table compares the annual budgeted CAT costs as set forth in the updated annual CAT budget for 2025 approved by the Operating Committee in May 2025 (“May Updated 2025 CAT Budget”),³⁵ the updated

been otherwise reflected in the filing, their inclusion would double count the capitalized technology costs. In addition, amortization is a non-cash expense.

³⁵ The May Updated 2025 CAT Budget is available on the CAT website (https://www.catnmsplan.com/sites/default/files/2025-05/05.19.25-CAT-LLC-2025-Financial_and_Operating-Budget.pdf).

annual CAT budget for 2025 approved by the Operating Committee in November 2025 (“November Updated 2025 CAT Budget”),³⁶ the Original 2026

³⁶ The November Updated 2025 CAT Budget is available on the CAT website (https://www.catnmsplan.com/sites/default/files/2025-12/05.19.25-CAT-LLC-2025-Financial_and_Operating-Budget.pdf).

³⁶ The November Updated 2025 CAT Budget is available on the CAT website (https://www.catnmsplan.com/sites/default/files/2025-12/05.19.25-CAT-LLC-2025-Financial_and_Operating-Budget.pdf). Continued

CAT Budget and the Updated 2026 CAT Budget, and is provided for informational purposes. In each case, the costs provided reflect the costs for

the entire year for each of the budgets; this differs from the above chart which focuses on budgeted costs for the period from May 1, 2026 through December 31,

2026, which, as noted, are the costs that are used in the calculation of the fee rate in this fee filing.

COMPARISON OF FULL YEAR BUDGETED COSTS

Budget category	Full year of 2025 budgeted CAT costs from updated 2025 CAT budget (May 2025)	Full year of 2025 budgeted CAT costs from updated 2025 budget (Nov. 2025)	Full year of 2026 budgeted CAT costs from original 2026 CAT budget	Full year of 2026 budgeted CAT costs from updated 2026 CAT budget
Capitalized Developed Technology Costs ^a	\$4,871,962	\$5,163,991	\$8,228,827	\$8,378,964
Technology Costs	211,548,472	173,091,660	137,514,003	128,643,476
Cloud Hosting Services	159,230,937	122,084,811	81,900,006	77,529,362
Operating Fees ^b	30,817,686	29,932,001	34,345,413	29,845,524
CAIS Operating Fees	20,749,848	20,749,848	21,268,584	21,268,590
Change Request Fees	750,000	325,000	0	0
Legal	7,370,002	7,312,547	8,485,000	8,939,184
Consulting	1,749,998	1,750,000	1,550,000	1,550,000
Insurance	1,594,452	1,368,750	1,505,625	1,254,070
Professional and administration	1,193,090	1,392,679	1,145,500	1,085,500
Public relations	6,575	6,575	0	0
Interest Income	0	(2,510,223)	(1,995,958)	(2,806,325)
Total Annual CAT Costs ^c	228,334,551	187,575,979	156,432,998	147,044,869

^a This cost number is calculated by adding together the Capitalized Developed Technology Costs and the Software License Fee for each budget.

^b This cost number is calculated by adding together the Operating fees, the Cyber Insurance Premium Adjustment (if any) and market data vendor fees (if any separate fees) for each budget.

^c This total cost number does not include an amount for a reserve.

In addition, the following table compares the budgeted costs for January and February 2026 that were used in drafting the Original 2026 CAT Budget with the actual costs for January and February 2026 that were used in

drafting the Updated 2026 CAT Budget. The Original 2026 CAT Budget includes budgeted costs for January and February 2026, whereas the Updated 2026 CAT Budget includes actual costs for January and February 2026. The variance from

the budgeted costs for January and February 2026 to the actual costs for January and February 2026 are used in this filing in supporting the reasonableness of the estimates for each category of costs.

COMPARISON OF BUDGETED AND ACTUAL COSTS FOR JANUARY & FEBRUARY 2026

Budget category	Budgeted costs for January & February 2026 (as used in drafting the original 2026 CAT budget)	Actual costs for January & February 2026 (as used in drafting the updated 2026 CAT budget)	Variance from budgeted costs for January & February 2026 to actual costs for January & February of 2026
Capitalized Developed Technology Costs ^a	\$671,472	\$4,145,430	Increase by \$3,473,958. ^b
Technology Costs	25,894,000	21,501,183	
Cloud Hosting Services	17,200,000	12,829,362	Decrease by \$4,370,638. ^c
Operating Fees	5,149,236	5,127,057	Decrease by \$22,179.
CAIS Operating Fees	3,544,764	3,544,764	No change.
Change Request Fees	0	0	No change.
Legal	1,424,166	1,838,617	Increase by \$414,451. ^d
Consulting	258,334	267,554	Increase by \$9,220.
Insurance	250,938	200,652	Decrease by \$50,286.
Professional and administration	190,916	149,061	Decrease by \$41,855.
Public relations	0	0	No change.
Interest Income	(758,343)	(757,527)	Decrease by \$816.
Total	27,931,483	27,344,970	Decrease by \$586,513.

^a This cost number for capitalized developed technology costs is calculated by adding together the capitalized developed technology costs and the software license fee for each budget.

^b The variance for capitalized developed technology costs is the result of costs related to the software license fee in accordance with the Plan Processor Agreement with FCAT.

^c This variance is attributable to lower than forecasted market volumes and the impact of lower processing costs due to shutting down certain functionalities.

^cThe variance in legal costs is attributable to unanticipated issues that required additional legal efforts on behalf of CAT LLC that developed after the budget was created.

(i) Technology Costs—Cloud Hosting Services

(a) Description of Cloud Hosting Services Costs

Section 11.3(a)(iii)(B)(B)(1) of the CAT NMS Plan requires the fee filing for a Prospective CAT Fee to provide a brief description of the cloud hosting services costs set forth in the budget. The Operating Committee approved an operating budget for the CAT pursuant to Section 11.1(a) of the CAT NMS Plan that included \$49,866,667 in technology costs for cloud hosting services for the CAT Fee 2026–1 Period. The technology costs for cloud hosting services represent costs reasonably budgeted to be incurred for services provided by the cloud services provider for the CAT, Amazon Web Services, Inc. (“AWS”) during the CAT Fee 2026–1 Period.

In the agreement between CAT LLC and the Plan Processor for the CAT (“Plan Processor Agreement”), FINRA CAT, LLC (“FCAT”), AWS was named as the subcontractor to provide cloud hosting services. Under the Plan Processor Agreement, CAT LLC is required to pay FCAT the fees incurred by the Plan Processor for cloud hosting services provided by AWS as FCAT’s subcontractor on a monthly basis for the cloud hosting services, and FCAT, in turn, pays such fees to AWS. The fees for cloud hosting services were negotiated by FCAT on an arm’s length basis with the goals of managing costs and receiving services required to comply with the CAT NMS Plan and Rule 613, taking into consideration a variety of factors, including the expected volume of data, the breadth of services provided and market rates for similar services. Services provided by AWS include storage services, databases, compute services and other services (such as networking, management tools and DevOps tools), as well as various environments for CAT, such as development, performance testing, test, and production environments. FCAT utilizes such cloud hosting services for a broad array of services for the CAT, such as data ingestion, data management, and analytic tools for the CAT. AWS performs cloud hosting services for both the CAT transaction database as well as the Reference Database (previously referred to as the Customer and Account Information System, or “CAIS”).³⁷ It is

anticipated that such cloud hosting services will continue during the CAT Fee 2026–1 Period.

The cost for AWS cloud services for the CAT is a function of the volume of CAT Data, largely as a result of the processing and storage of the CAT Data.³⁸ The greater the amount of CAT Data, the greater the cost of AWS services to CAT LLC. During the CAT Fee 2026–1 Period, it is expected that AWS would provide cloud hosting services for volumes of CAT Data far in excess of the volume predictions set forth in the CAT NMS Plan. The CAT NMS Plan states, when all CAT Reporters are submitting their data to the CAT, it “must be sized to receive[,] process and load more than 58 billion records per day,”³⁹ and that “[i]t is expected that the Central Repository will grow to more than 29 petabytes of raw, uncompressed data.”⁴⁰ In contrast with those estimates, the Q3 2025 data volumes averaged 792 billion events per day. The highest peak data volume to date of 1.45 trillion events was recorded on April 7, 2025. The top five peak days were recorded in April 2025.

CAT LLC estimates that the budget for cloud hosting services costs during the CAT Fee 2026–1 Period will be approximately \$49,866,667.⁴¹ The budget for cloud hosting services costs during the CAT Fee 2026–1 Period is calculated based on the Updated 2026 CAT Budget. Specifically, this estimate was calculated by adding two-thirds of the cloud hosting services costs for the second quarter and the cloud hosting services for the third and fourth quarters of 2026 as included in the Updated 2026 CAT Budget.⁴²

(referred to as “CAIS”). Effective with this amendment, CAIS has been renamed as the “Reference Database.” Securities Exchange Act Rel. No. 104586 (Jan. 13, 2026), 91 FR 2164 (Jan. 16, 2026) (“CAIS Amendment”). The SEC subsequently approved another amendment to the CAT NMS Plan to implement various cost savings measures that made further changes to the Reference Database. Securities Exchange Act Rel. No. 105107 (Mar. 27, 2026), 91 FR 16284 (Mar. 27, 2026) (“Cost Savings Amendment”).

³⁸ In addition to the effect of the data volume on the cloud hosting costs, the processing timelines set forth in the Plan contribute to the cloud hosting costs. For further discussion of the effect of processing timelines on cloud hosting costs, see Section 3(b)(2)(A)(i) below.

³⁹ Section 1.3 of Appendix D of the CAT NMS Plan, n.262.

⁴⁰ Section 1.3 of Appendix D of the CAT NMS Plan.

⁴¹ See chart entitled “Budgeted CAT Costs 2026–1” in Section 3(a)(2)(C) above.

⁴² This calculation is $(\frac{2}{3} \times \$18,700,000) + \$18,700,000 + \$18,700,000 = \$49,866,667$.

CAT LLC estimated the budget for the cost for cloud hosting services for the CAT Fee 2026–1 Period based on an assumption of 35% annual year-over-year volume growth for the transaction database and an assumption of 5% annual year-over-year volume growth for the Reference Database. CAT LLC determined these growth assumptions in coordination with FCAT.⁴³

This process for estimating the budget for cloud hosting services costs for the CAT Fee 2026–1 Period is the same process by which CAT LLC estimated the cloud hosting services costs for the Original 2026 CAT Budget.

The Original 2026 CAT Budget estimated a budget for cloud hosting services of \$17,200,000 for January and February 2026. The actual costs for cloud hosting services for January and February 2026, which are set forth in the Updated 2026 CAT Budget, were \$12,829,362. Therefore, the variance between budgeted and actual cloud hosting services costs for January and February 2026 was an approximate decrease of \$4,370,638 as a result of lower volumes and a change in functionality.⁴⁴ Accordingly, CAT LLC believes that the process for estimating the budgeted cloud hosting services costs for the CAT Fee 2026–1 Period is reasonable.

(b) Changes From Prior Fee Filing

Section 11.3(a)(iii)(B)(B) of the CAT NMS Plan requires the fee filing for a Prospective CAT Fee to describe the reason for changes in the line item for cloud hosting services costs from the prior CAT Fee filing. As this is the first Prospective CAT Fee filing under this CAT Funding Model, this filing describes the changes in the cloud hosting services costs from the Original 2026 Budget.⁴⁵ Specifically, the

⁴³ Note that these growth rates are based on events processed and stored in the CAT. Executed transactions are a small subset of such events. As a result, the number of transactions in the CAT, and, hence, the number of executed equivalent shares, is not directly correlated with the number of events processed in the CAT or the costs of cloud hosting services for the CAT. Accordingly, the number of executed equivalent shares may stay relatively constant from year to year while the number of events processed and stored in the CAT may grow significantly.

⁴⁴ See chart entitled “Comparison of Budgeted and Actual Costs for January & February 2026” in Section 3(a)(2)(C) above.

⁴⁵ The last Prospective CAT Fee, CAT Fee 2025–2, was implemented pursuant to the prior CAT funding model. Moreover, the final invoice for CAT Fee 2025–2 was sent in December 2025, and, therefore, there is a six-month gap between the final

Continued

³⁷ On January 13, 2026, the SEC approved an amendment to the CAT NMS Plan relating to the Customer and Account Information System

following describes the differences in the costs for cloud hosting services included in the Original 2026 CAT Budget versus the Updated 2026 CAT Budget, and the reasons for any changes.

The annual 2026 budgeted costs for cloud hosting services included in the Original 2026 CAT Budget were \$81,900,006, and the annual 2026 budgeted costs for cloud hosting services included in the Updated 2026 CAT Budget are \$77,529,362. Accordingly, budgeted annual costs for cloud hosting services decreased by \$4,370,644 from the Original 2026 CAT Budget to the Updated 2026 CAT Budget, which is an approximate 5% reduction in cloud hosting services costs for the full year of 2026.⁴⁶ The budgeted decrease in costs for cloud hosting services reflects lower costs for January and February 2026 due to lower than forecasted market volumes in January and the impact of lower processing costs due to shutting down certain functionalities.

(ii) Technology Costs—Operating Fees

(a) Description of Operating Fees

Section 11.3(a)(iii)(B)(B)(1) of the CAT NMS Plan requires the fee filing for a Prospective CAT Fee to provide a brief description of the operating fees set forth in the budget. The Operating Committee approved an operating budget for the CAT pursuant to Section 11.1(a) of the CAT NMS Plan that included \$19,691,953 in technology costs for operating fees for the CAT Fee 2026–1 Period. Operating fees are those fees paid by CAT LLC to FCAT as the Plan Processor to operate and maintain the CAT and to perform business operations related to the system, including compliance, security, testing, training, communications with the industry (e.g., management of the FINRA CAT Helpdesk, FAQs, website and webinars) and program management as required by the CAT NMS Plan. Operating fees also include market data provider costs, as discussed below.

Plan Processor: FCAT. Under the Plan Processor Agreement with FCAT, CAT LLC is required to pay FCAT a negotiated monthly fixed price for the operation of the CAT. This fixed price contract was negotiated on an arm's length basis with the goals of managing costs and receiving services required to comply with the CAT NMS Plan and

Rule 613, taking into consideration a variety of factors, including the breadth of services provided and market rates for similar types of activity. It is anticipated that FCAT will provide a variety of services to the CAT during the CAT Fee 2026–1 Period, including the following:

- Provide the CAT-related functions and services as the Plan Processor as required by SEC Rule 613 and the CAT NMS Plan in connection with the operation and maintenance of the CAT;
- Address compliance items, including drafting CAT policies and procedures, and addressing Regulation SCI requirements;
- Provide support to the Operating Committee, the Compliance Subcommittee and CAT working groups;
- Assist with interpretive efforts, exemptive requests and amendments regarding the CAT NMS Plan;
- Oversee the security of the CAT;
- Monitor the operation of the CAT, including with regard to Participant and Industry Member reporting;
- Provide support to subcontractors under the Plan Processor Agreement;
- Provide support in discussions with the Participants and the SEC and its staff;
- Operate the FINRA CAT Helpdesk;
- Facilitate communications with the industry, including via FAQs, CAT Alerts, meetings, presentations and webinars;
- Administer the CAT website and all of its content;
- Maintain cyber security insurance related to the CAT;
- Assist with billing, collection and other CAT fee-related activity; and
- Provide technical support and assistance with connectivity, data access, and user support, including the use of CAT Data and query tools, for Participants and the SEC staff.

CAT LLC calculated the budget for the FCAT technology costs for operating fees for the CAT Fee 2026–1 Period based on the recurring monthly operating fees under the Plan Processor Agreement.

Market Data Provider: Algoseek. It is anticipated that the operating fees costs for the CAT Fee 2026–1 Period will include costs related to the receipt of certain market data for the CAT pursuant to an agreement between FCAT and Algoseek, LLC (“Algoseek”). CAT LLC determined that Algoseek would provide market data that included data elements set forth in Section 6.5(a)(ii) of the CAT NMS Plan, and that the fees were reasonable and in line with market rates for the market data received. All costs under the

contract would be treated as a direct pass through cost to CAT LLC. CAT LLC estimated the budget for the costs for Algoseek for the CAT Fee 2026–1 Period based on the monthly rate set forth in the agreement between Algoseek and FCAT.

Operating Fee Estimates. CAT LLC estimates that the budget for operating fees during the CAT Fee 2026–1 Period will be approximately \$19,691,953.⁴⁷ The budget for operating fees during the CAT Fee 2026–1 Period is calculated based on the Updated 2026 CAT Budget. Specifically, this estimate was calculated by adding (1) two-thirds of the Non-CAIS fixed operating fees for the second quarter and the Non-CAIS fixed operating fees for the third and fourth quarters of 2026 included in the Updated 2026 CAT Budget and (2) two-thirds of the market data vendor fees for the second quarter and the market data vendor fees for the third and fourth quarter of 2026 included in the Updated 2026 CAT Budget.⁴⁸

As discussed above, CAT LLC estimated the budget for the operating fees during the CAT Fee 2026–1 Period based on monthly rates set forth in the Plan Processor Agreement and the agreement with Algoseek. CAT LLC also recognized that the operating fees are generally consistent throughout the year. This process for estimating the budget for the operating fees for the CAT Fee 2026–1 Period is the same process by which CAT LLC estimated the operating fees for the Original 2026 CAT Budget. The Original 2026 CAT Budget estimated a budget for operating fees of \$5,149,236 for January and February 2026, and the actual costs for operating fees for January and February 2026 were \$5,127,057. Therefore, the variance between budgeted and actual operating fees for this period was small – \$22,179.⁴⁹ Accordingly, CAT LLC believes that the process for estimating the budgeted operating fees for the CAT Fee 2026–1 Period is reasonable.

(b) Changes From Prior Fee Filing

Section 11.3(a)(iii)(B)(B) of the CAT NMS Plan requires the fee filing for a Prospective CAT Fee to describe the reason for changes in the line item for operating fees from the prior CAT Fee filing. As this is the first Prospective CAT Fee filing under this CAT Funding Model, this filing describes the changes

invoice for CAT Fee 2025–2 and the first invoice for CAT Fee 2026–1, which would be in June 2026. Accordingly, this filing describes the changes in the cloud hosting services costs from the Original 2026 Budget.

⁴⁶ See chart entitled “Comparison of Full Year Budgeted Costs” in Section 3(a)(2)(C) above.

⁴⁷ See chart entitled “Budgeted CAT Costs 2026–1” in Section 3(a)(2)(C) above.

⁴⁸ This calculation is $((\frac{2}{3} \times \$7,191,853) + \$7,191,853 + \$7,191,853) + ((\frac{2}{3} \times \$192,630) + \$192,630 + \$192,630) = \$19,691,953$.

⁴⁹ See chart entitled “Comparison of Budgeted and Actual Costs for January & February 2026” in Section 3(a)(2)(C) above.

in the operating fees from the Original 2026 Budget. Specifically, the following describes the differences in the costs for operating fees included in the Original 2026 CAT Budget versus the Updated 2026 CAT Budget, and the reasons for any changes.

The annual 2026 budgeted costs for operating fees included in the Original 2026 CAT Budget were \$34,345,413, and the annual 2026 budgeted costs for operating fees included in the Updated 2026 CAT Budget are \$29,845,524. Accordingly, budgeted annual costs for operating fees decreased by \$4,499,889 from the Original 2026 CAT Budget to the Updated 2026 CAT Budget, which is an approximate 13% reduction in operating fees for the full year of 2026.⁵⁰ The budgeted decrease in costs for operating fees reflects the proposed amendments to the Plan Processor Agreement related to the recent cost savings amendments to the CAT NMS Plan.⁵¹

(iii) Technology Costs—CAIS Operating Fees

(a) Description of CAIS Operating Fees

Section 11.3(a)(iii)(B)(B)(1) of the CAT NMS Plan requires the fee filing for a Prospective CAT Fee to provide a brief description of the CAIS operating fees set forth in the budget. The Operating Committee approved an operating budget for the CAT pursuant to Section 11.1(a) of the CAT NMS Plan that included \$14,179,060 in technology costs for CAIS operating fees for the CAT Fee 2026–1 Period. CAIS operating fees represent the fees paid to FCAT for services provided with regard to the operation and maintenance of the Reference Database (previously referred to as CAIS), and to perform the business operations related to the system, including compliance, security, testing, training, communications with the industry (e.g., management of the FINRA CAT Helpdesk, FAQs, website and webinars) and program management. The CAT is required under the CAT NMS Plan to capture and store Reference Data in the Reference Database and to create a CAT-Customer-ID for each Customer.⁵²

During the CAT Fee 2026–1 Period, it is anticipated that FCAT will provide services related to the Reference Database. Under the Plan Processor Agreement with FCAT, CAT LLC is required to pay FCAT for services

related to the Reference Database provided by FCAT on a monthly basis. CAT LLC negotiated the fees for FCAT's services related to the Reference Database on an arm's length basis with the goals of managing costs and receiving services required to comply with the CAT NMS Plan, taking into consideration a variety of factors, including the services to be provided and market rates for similar types of activity. During the CAT Fee 2026–1 Period, it is anticipated that FCAT will continue to provide services relating to the ongoing operation, maintenance and support of the Reference Database.

CAT LLC estimates that the budget for CAIS operating fees during the CAT Fee 2026–1 Period will be approximately \$14,179,060.⁵³ The budget for CAIS operating fees during the CAT Fee 2026–1 Period is calculated based on the Updated 2026 CAT Budget. Specifically, this estimate was calculated by adding two-thirds of the CAIS fixed operating fees for the second quarter and the CAIS fixed operating fees for the third and fourth quarters of 2026 included in the Updated 2026 CAT Budget.⁵⁴

CAT LLC calculated the budget for FCAT's services related to the Reference Database for the CAT Fee 2026–1 Period based on the recurring monthly CAIS operating fees under the Plan Processor Agreement. This process for estimating the budget for the CAIS operating fees for the CAT Fee 2026–1 Period is the same process by which CAT LLC estimated the CAIS operating fees for the Original 2026 CAT Budget. The Original 2026 CAT Budget estimated a budget of \$3,544,764 for CAIS operating fees for January and February of 2026. The actual costs for CAIS operating fees for January and February of 2026, which are included in the Updated 2026 CAT Budget, were \$3,544,764. There was no variance between budgeted and actual CAIS operating fees for the first two months of 2026.⁵⁵ Accordingly, CAT LLC believes that the process for estimating the budgeted CAIS operating fees for the CAT Fee 2026–1 Period is reasonable.

(b) Changes From Prior Fee Filing

Section 11.3(a)(iii)(B)(B) of the CAT NMS Plan requires the fee filing for a Prospective CAT Fee to describe the reason for changes in the line item for CAIS operating fees from the prior CAT

Fee filing. As this is the first Prospective CAT Fee filing under this CAT Funding Model, this filing describes the changes in the CAIS operating fees from the Original 2026 Budget. Specifically, the following describes the differences in the costs for CAIS operating fees included in the Original 2026 CAT Budget versus the Updated 2026 CAT Budget, and the reasons for any changes.

CAIS operating fees are based on a recurring monthly rate payable to FCAT and are unchanged from the Original 2026 CAT Budget to the Updated 2026 CAT Budget. The annual 2026 budgeted costs for CAIS operating fees included in the Original 2026 CAT Budget were \$21,268,584, and the annual 2026 budgeted costs for CAIS operating fees included in the Updated 2026 CAT Budget are \$21,268,590.⁵⁶ Accordingly, the budgeted annual costs for CAIS operating fees are the same for both the Original 2026 CAT Budget and the Updated 2026 CAT Budget.

(iv) Technology Costs—Change Request Fees

(a) Description of Change Request Fees

Section 11.3(a)(iii)(B)(B)(1) of the CAT NMS Plan requires the fee filing for a Prospective CAT Fee to provide a brief description of the change request fees set forth in the budget. The Operating Committee approved an operating budget for the CAT pursuant to Section 11.1(a) of the CAT NMS Plan that included \$0 in technology costs for change request fees for the CAT Fee 2026–1 Period. The technology costs related to change request fees include costs related to certain modifications, upgrades or other changes to the CAT.

Change requests are standard practice and necessary to reflect operational changes, including changes related to new market developments, such as new market participants. In general, if CAT LLC determines that a modification, upgrade or other changes to the functionality or service is necessary and appropriate, CAT LLC will submit a request for such a change to the Plan Processor. The Plan Processor will then respond to the request with a proposal for implementing the change, including the cost (if any) of such a change. CAT LLC then determines whether to approve the proposed change.

The change request budget line is established to include expected costs to be incurred in which the nature of the costs (i.e., capitalization versus expensing) have not yet been determined. Upon the incurrence of such costs, the final determination of

⁵⁰ See chart entitled "Comparison of Full Year Budgeted Costs" in Section 3(a)(2)(C) above.

⁵¹ See CAIS Amendment and Cost Savings Amendment.

⁵² See Section 9 of Appendix D of the CAT NMS Plan.

⁵³ See chart entitled "Budgeted CAT Costs 2026–1" in Section 3(a)(2)(C) above.

⁵⁴ This calculation is $(\frac{2}{3} \times \$5,317,147) + \$5,317,147 + \$5,317,147 = \$14,179,060$.

⁵⁵ See chart entitled "Comparison of Budgeted and Actual Costs for January & February 2026" in Section 3(a)(2)(C) above.

⁵⁶ See chart entitled "Comparison of Full Year Budgeted Costs" in Section 3(a)(2)(C) above.

capitalization versus expensing is determined and then such costs are reclassified from the change request line to the appropriate technology cost line item.

CAT LLC estimates that the budget for change requests during the CAT Fee 2026–1 Period will be approximately \$0.⁵⁷ The budget for change requests during the CAT Fee 2026–1 Period is calculated based on the Updated 2026 CAT Budget. This \$0 cost number for change request fees reflects the fact that there were no change request fees set forth in the Updated 2026 CAT Budget.

CAT LLC estimated the budget for the potential change requests for the CAT Fee 2026–1 Period based on, among other things, a review of past change requests and potential future change request needs, as well as discussions with FCAT. This process for estimating the budget for the change requests for the CAT Fee 2026–1 Period is the same process by which CAT LLC estimated the change requests cost for the Original 2026 CAT Budget. The Original 2026 CAT Budget estimated a change request budget of \$0 for January and February of 2026. The actual costs for change requests for January and February of 2026, which are set forth in the Updated 2026 CAT Budget, were \$0. There was no variance between budgeted and actual change request costs for January and February of 2026.⁵⁸ Accordingly, CAT LLC believes that the process for estimating the budgeted change request costs for the CAT Fee 2026–1 Period is reasonable.

(b) Changes From Prior Fee Filing

Section 11.3(a)(iii)(B)(B) of the CAT NMS Plan requires the fee filing for a Prospective CAT Fee to describe the reason for changes in the line item for change request fees from the prior CAT Fee filing. As this is the first Prospective CAT Fee filing under this CAT Funding Model, this filing describes the changes in the change request fees from the Original 2026 Budget. Specifically, the following describes the differences (if any) in the costs for change request fees included in the Original 2026 CAT Budget versus the Updated 2026 CAT Budget, and the reasons for any changes.

The annual 2026 budgeted costs for change requests included in the Original 2026 CAT Budget were \$0, and the annual 2026 budgeted costs for change requests included in the Updated 2026

CAT Budget are \$0.⁵⁹ Accordingly, budgeted annual costs for change requests are the same for both the Original 2026 CAT Budget and the Updated 2026 CAT Budget.

(v) Technology Costs—Capitalized Developed Technology Costs

(a) Description of Capitalized Developed Technology Costs

Section 11.3(a)(iii)(B)(B)(1) of the CAT NMS Plan requires the fee filing for a Prospective CAT Fee to provide a brief description of the capitalized developed technology costs set forth in the budget. The Operating Committee approved an operating budget for the CAT pursuant to Section 11.1(a) of the CAT NMS Plan that includes \$3,450,000 in technology costs for capitalized developed technology costs for the CAT Fee 2026–1 Period. This category of costs includes the budget for capitalizable application development costs incurred in the development of the CAT. It is anticipated that such costs will include certain costs related to the software license fee for the Reference Database in accordance with the Plan Processor Agreement with FCAT, as well as costs related to a set of technology changes to be implemented by FCAT related to the cost savings amendments⁶⁰ and the move to 23x5 trading.

CAT LLC estimates that the budget for capitalized developed technology costs during the CAT Fee 2026–1 Period will be approximately \$3,450,000.⁶¹ The budget for capitalized developed technology costs during the CAT Fee 2026–1 Period is calculated based on the Updated 2026 CAT Budget. Specifically, this estimate was calculated by adding (1) capitalized developed technology costs of \$3,450,000 for May, \$0 for June and \$0 for the third and fourth quarters of 2026 included in the Updated 2026 CAT Budget; and (2) \$0 for the Software License Fee 2026 for the second, third, and fourth quarters of 2026 included in the Updated 2026 CAT Budget.⁶²

CAT LLC estimated the budget for capitalized developed technology costs for the CAT Fee 2026–1 Period based on an analysis of a variety of factors, including information related to potential technology costs and related contractual and Plan requirements, and

discussions with FCAT regarding such potential technology costs. This process for estimating the budget for capitalized developed technology costs for the CAT Fee 2026–1 Period is the same process by which CAT LLC estimated the capitalized developed technology costs for the Original 2026 CAT Budget. The Original 2026 CAT Budget estimated a budget for capitalized developed technology costs of \$671,472 for January and February 2026, and the actual costs for capitalized developed technology costs for January and February 2026 were \$4,145,430.⁶³ The variance of \$3,473,958 for January and February 2026 is the result of costs related to the software license fee for the Reference Database in accordance with the Plan Processor Agreement with FCAT. Accordingly, CAT LLC believes that the process for estimating the budgeted capitalized developed technology costs for the CAT Fee 2026–1 Period is reasonable.

(b) Changes From Prior Fee Filing

Section 11.3(a)(iii)(B)(B) of the CAT NMS Plan requires the fee filing for a Prospective CAT Fee to describe the reason for changes in the line item for capitalized developed technology costs from the prior CAT Fee filing. As this is the first Prospective CAT Fee filing under this CAT Funding Model, this filing describes the changes in the capitalized developed technology costs from the Original 2026 Budget. Specifically, the following describes the differences in the costs for capitalized developed technology costs as included in the Original 2026 CAT Budget versus the Updated 2026 CAT Budget, and the reasons for any changes.

The annual 2026 budget for capitalized developed technology costs included in the Original 2026 CAT Budget was \$8,228,827, and the annual 2026 budget for capitalized developed technology costs included in the Updated 2026 CAT Budget are \$8,378,964.⁶⁴ Accordingly, the annual budget for capitalized developed technology costs increased by \$150,137 from the Original 2026 CAT Budget to the Updated 2026 CAT Budget, which is an approximate 2% increase in the capitalized developed technology costs for the full year of 2026. This budgeted increase in the annual budget for capitalized developed technology costs was the result of costs related to the software license fee for the Reference

⁵⁹ See chart entitled “Comparison of Full Year Budgeted Costs” in Section 3(a)(2)(C) above.

⁶⁰ See CAIS Amendment and Cost Savings Amendment.

⁶¹ See chart entitled “Budgeted CAT Costs 2026–1” in Section 3(a)(2)(C) above.

⁶² This calculation is $(\$3,450,000 + \$0 + \$0 + \$0) + (\$0 + \$0 + \$0) = \$3,450,000$. Note that the \$4,178,964 cost for the software license fee was not included in the CAT Fee 2026–1 Period.

⁶³ See chart entitled “Comparison of Budgeted and Actual Costs for January & February 2026” in Section 3(a)(2)(C) above.

⁶⁴ See chart entitled “Comparison of Full Year Budgeted Costs” in Section 3(a)(2)(C) above.

⁵⁷ See chart entitled “Budgeted CAT Costs 2026–1” in Section 3(a)(2)(C) above.

⁵⁸ See chart entitled “Comparison of Budgeted and Actual Costs for January & February 2026” in Section 3(a)(2)(C) above.

Database in accordance with the Plan Processor Agreement with FCAT.

(vi) Legal Costs

(a) Description of Legal Costs

Section 11.3(a)(iii)(B)(B)(2) of the CAT NMS Plan requires the fee filing for a Prospective CAT Fee to provide a brief description of the legal costs set forth in the budget. The Operating Committee approved an operating budget for the CAT pursuant to Section 11.1(a) of the CAT NMS Plan that includes \$5,670,452 in legal costs for the CAT Fee 2026–1 Period. This category of costs represents budgeted costs for legal services for this period. CAT LLC anticipates that it will receive legal services from two law firms, Wilmer Cutler Pickering Hale and Dorr LLP (“WilmerHale”) and Jenner & Block LLP (“Jenner”), during the CAT Fee 2026–1 Period.

Law Firm: WilmerHale. It is anticipated that legal costs during the CAT Fee 2026–1 Period will include costs related to the legal services performed by WilmerHale. CAT LLC anticipates that it will continue to employ WilmerHale during the CAT Fee 2026–1 Period based on, among other things, their expertise, long history with the project and recognition that the hourly fee rates for this law firm are anticipated to be in line with market rates for specialized legal expertise. WilmerHale’s billing rates are negotiated on an annual basis and are determined with reference to the rates charged by other leading law firms for similar work. The Participants assess WilmerHale’s performance and review prospective budgets and staffing plans submitted by WilmerHale on an annual basis. The legal fees will be paid by CAT LLC to WilmerHale.

During the CAT Fee 2026–1 Period, it is anticipated that WilmerHale will provide legal services related to the following:

- Assist with CAT fee filings and related funding issues;
- Draft exemptive requests from CAT NMS Plan requirements and/or proposed amendments to the CAT NMS Plan;
- Provide legal guidance with respect to interpretations of CAT NMS Plan requirements;
- Provide legal support for the Operating Committee, Compliance Subcommittee, working groups and Leadership Team;
- Draft SRO rule filings related to the CAT Compliance Rule;
- Manage corporate governance matters, including supporting Operating Committee meetings and preparing resolutions and consents;

- Assist with communications with the industry, including CAT Alerts and presentations;
- Provide guidance regarding the confidentiality of CAT Data;
- Assist with cost management analyses and proposals;
- Assist with commercial contract-related matters, including change orders and amendments, Plan Processor Agreement items, and subcontract matters;
- Provide support with regard to discussions with the SEC and its staff, including with respect to addressing interpretive and implementation issues;
- Provide legal guidance with respect to the CAT budgets;
- Provide background assistance to other counsel for CAT matters;
- Assist with legal responses related to third-party data requests; and
- Provide legal support regarding CAT policies and procedures.

CAT LLC estimated the budget for the legal costs for WilmerHale for the CAT Fee 2026–1 Period through an analysis of a variety of factors, including WilmerHale fee rates, historical legal fees, and information related to pending legal issues and potential future legal issues.

Law Firm: Jenner. It is anticipated that legal costs during the CAT Fee 2026–1 Period will include costs related to the legal services performed by Jenner. CAT LLC anticipates that it will continue to employ Jenner during the CAT Fee 2026–1 Period based on, among other things, their expertise, history with the project and recognition that their hourly fee rates are in line with market rates for specialized legal expertise. The legal fees will be paid by CAT LLC to Jenner.

During the CAT Fee 2026–1 Period, it is anticipated that Jenner will continue to provide legal assistance to CAT LLC regarding certain litigation matters, including: (1) CAT LLC’s defense against a lawsuit filed in the Western District of Texas against the SEC Chair, the SEC and CAT LLC challenging the validity of Rule 613 and the CAT and alleging various constitutional, statutory, and common law claims;⁶⁵ (2) CAT LLC’s intervention in a lawsuit in the Eleventh Circuit filed by various parties against the SEC challenging the SEC’s approval of the CAT Funding Model;⁶⁶ and (3) a lawsuit in the Eleventh Circuit filed by Citadel Securities LLC seeking review of the SEC’s May 20, 2024 order⁶⁷ granting the

Participants temporary conditional exemptive relief related to the reporting of bids and/or offers made in response to a request for quote or other form of solicitation response provided in standard electronic format that is not immediately actionable.⁶⁸ Litigation involving CAT LLC is an expense of operating the CAT, and, therefore, is appropriately an obligation of both Participants and Industry Members under the CAT Funding Model. Jenner also will continue to provide legal counseling to CAT LLC related to the above-listed litigation and other litigation risk.

CAT LLC estimated the budget for the legal costs for Jenner for the CAT Fee 2026–1 Period through an analysis of a variety of factors, including Jenner’s fee rates, historical legal fees, and information related to pending legal issues and potential future legal issues.

Legal Cost Estimates. CAT LLC estimates that the budget for legal services during the CAT Fee 2026–1 Period will be approximately \$5,670,452.⁶⁹ The budget for legal services during the CAT Fee 2026–1 Period is calculated based on the Updated 2026 CAT Budget. Specifically, this estimate was calculated by adding budgeted costs for two-thirds of the legal costs for the second quarter and the legal costs for the third and fourth quarters of 2026 included in the Updated 2026 CAT Budget.⁷⁰

CAT LLC estimated the budget for the legal services for the CAT Fee 2026–1 Period based on an analysis of a variety of factors, including law firm fee rates, historical legal fees, and information related to pending legal issues and potential future legal issues. This process for estimating the budget for the legal services for CAT Fee 2026–1 Period is the same process by which CAT LLC estimated the legal cost for the Original 2026 CAT Budget. The Original 2026 CAT Budget estimated a budget for legal costs of \$1,424,166 for January and February of 2026. The actual costs for legal services for January and February 2026, which are included in the Updated 2026 Budget, were \$1,838,617.⁷¹ The increase of \$414,451 was due to unanticipated issues that required additional legal efforts on behalf of CAT LLC that developed after the budget was created. Such additional

⁶⁸ *Citadel Securities v. SEC*, Case No. 24–12300 (11th Cir.).

⁶⁹ See chart entitled “Budgeted CAT Costs 2026–1” in Section 3(a)(2)(C) above.

⁷⁰ This calculation is $(\frac{2}{3} \times \$2,145,170) + \$2,125,170 + \$2,115,170 = \$5,670,452$.

⁷¹ See chart entitled “Comparison of Budgeted and Actual Costs for January & February 2026” in Section 3(a)(2)(C) above.

⁶⁵ *Davidson et al. v. Atkins et al.*, Case No. 6:24-cv-197 (W.D. Tex.).

⁶⁶ *Am. Sec. Ass’n v. SEC*, Case No. 26–10936 (11th Cir.).

⁶⁷ Securities Exchange Act Rel. No. 100181 (May 20, 2024), 89 FR 45715 (May 23, 2024).

costs were primarily due to additional legal work related to litigation matters as well as regulatory and corporate legal matters. Accordingly, CAT LLC believes that the process for estimating the budgeted legal costs for the CAT Fee 2026–1 Period is reasonable.

(b) Changes From Prior Fee Filing

Section 11.3(a)(iii)(B)(B) of the CAT NMS Plan requires the fee filing for a Prospective CAT Fee to describe the reason for changes in the line item for legal costs from the prior CAT Fee filing. As this is the first Prospective CAT Fee filing under this CAT Funding Model, this filing describes the changes in the legal costs from the Original 2026 Budget. Specifically, the following describes the differences in the legal costs included in the Original 2026 CAT Budget versus the Updated 2026 CAT Budget, and the reasons for any changes.

The annual 2026 budgeted legal costs included in the Original 2026 CAT Budget were \$8,485,000, and the annual 2026 budgeted legal costs included in the Updated 2026 CAT Budget are \$8,939,184.⁷² Accordingly, the annual budget for legal costs increased by \$454,184 from the Original 2026 CAT Budget to the Updated 2026 CAT Budget for the full year of 2026, which is an approximate 5% increase in the legal costs for the full year of 2026. This budgeted increase in the legal costs in the Updated 2026 CAT Budget from the Original 2026 Budget was primarily due to an anticipated increase in legal costs related to litigation matters as well as regulatory and corporate legal matters.

(vii) Consulting Costs

(a) Description of Consulting Costs

Section 11.3(a)(iii)(B)(B)(3) of the CAT NMS Plan requires the fee filing for a Prospective CAT Fee to provide a brief description of the consulting costs set forth in the budget. The Operating Committee approved an operating budget for the CAT pursuant to Section 11.1(a) of the CAT NMS Plan that included \$1,025,957 in consulting costs for the CAT Fee 2026–1 Period. The consulting costs represent the fees estimated to be paid to the consulting firm Deloitte & Touche LLP (“Deloitte”) as project manager during the CAT Fee 2026–1 Period. The services provided by Deloitte to the CAT include advisory services related to the operation of the CAT, and meeting facilitation and communications coordination, vendor support and financial analyses. In addition, the consulting costs include

the compensation for the Chair of the CAT Operating Committee.

It is anticipated that the costs for CAT during the CAT Fee 2026–1 Period will include costs related to consulting services performed by Deloitte. CAT LLC anticipates that it will continue to employ Deloitte during the CAT Fee 2026–1 Period based on, among other things, their expertise, long history with the project, and the recognition that it is anticipated that the consulting fees will remain in line with market rates for this type of specialized consulting work. Deloitte’s fee rates are negotiated on an annual basis. CAT LLC assesses Deloitte’s performance and reviews prospective budgets and staffing plans submitted by Deloitte on an annual basis. The consulting fees will be paid by CAT LLC to Deloitte.

It is anticipated that Deloitte will provide a variety of consulting services to the CAT during the CAT Fee 2026–1 Period, including the following:

- Implement program operations for the CAT project;
- Provide support to the Operating Committee, the Chair of the Operating Committee and the Leadership Team, including project management support, coordination and planning for meetings and communications, and interfacing with law firms and the SEC;
- Assist with cost and funding matters for the CAT, including assistance with loans and the CAT bank account for CAT funding;
- Provide support for updating the SEC on the progress of the development of the CAT; and
- Provide support for third party vendors for the CAT, including FCAT, Anchin and the law firms engaged by CAT LLC.

In addition, the consulting costs include the compensation for the Chair of the CAT Operating Committee, which is paid by CAT LLC.

CAT LLC estimates that the budget for consulting costs during the CAT Fee 2026–1 Period will be approximately \$1,025,957.⁷³ The budget for consulting costs during the CAT Fee 2026–1 Period is calculated based on the Updated 2026 CAT Budget. Specifically, this estimate was calculated by adding two-thirds of the consulting costs for the second quarter and the consulting costs for the third and fourth quarters of 2026 included in the Updated 2026 CAT Budget.⁷⁴

CAT LLC estimates the budget for the consulting costs for Deloitte for the CAT

Fee 2026–1 Period based on the current statement of work with Deloitte, which took into consideration past consulting costs, potential future consulting needs, the proposed rates and other contractual issues, and discussions with Deloitte, as well as the compensation arrangement for the Chair. This process for estimating the budget for consulting costs for the CAT Fee 2026–1 Period is the same process by which CAT LLC estimated the consulting costs for the Original 2026 CAT Budget. The Original 2026 CAT Budget estimated a budget for consulting services of \$258,334 for January and February 2026, and the actual costs for consulting services for January and February 2026, which are included in the Updated 2026 CAT Budget, were \$267,554.⁷⁵ Therefore, the variance between budgeted and actual consulting costs for January and February was approximately 4%. Accordingly, CAT LLC believes that the process for estimating the budgeted consulting costs for the CAT Fee 2026–1 Period is reasonable.

(b) Changes From Prior Fee Filing

Section 11.3(a)(iii)(B)(B) of the CAT NMS Plan requires the fee filing for a Prospective CAT Fee to describe the reason for changes in the line item for consulting costs from the prior CAT Fee filing. As this is the first Prospective CAT Fee filing under this CAT Funding Model, this filing describes the changes in the consulting costs from the Original 2026 Budget. Specifically, the following describes the differences (if any) in the consulting costs included in the Original 2026 CAT Budget versus the Updated 2026 CAT Budget, and the reasons for any changes.

The annual 2026 budget for consulting costs included in the Original 2026 CAT Budget was \$1,550,000, and the annual 2026 budget for consulting costs included in the Updated 2026 CAT Budget is \$1,550,000.⁷⁶ Accordingly, the annual budget for consulting costs has not changed from the Original 2026 CAT Budget to the Updated 2026 CAT Budget for the full year of 2026.

(viii) Insurance Costs

(a) Description of Insurance Costs

Section 11.3(a)(iii)(B)(B)(4) of the CAT NMS Plan requires the fee filing for a Prospective CAT Fee to provide a brief description of the insurance costs set forth in the budget. The Operating

⁷² See chart entitled “Comparison of Full Year Budgeted Costs” in Section 3(a)(2)(C) above.

⁷³ See chart entitled “Budgeted CAT Costs 2026–1” in Section 3(a)(2)(C) above.

⁷⁴ This calculation is $(\frac{2}{3} \times \$2,145,170) + \$2,125,170 + \$2,115,170 = \$5,670,452$.

⁷⁵ See chart entitled “Comparison of Budgeted and Actual Costs for January & February 2026” in Section 3(a)(2)(C) above.

⁷⁶ See chart entitled “Comparison of Full Year Budgeted Costs” in Section 3(a)(2)(C) above.

Committee approved an operating budget for the CAT pursuant to Section 11.1(a) of the CAT NMS Plan that included \$852,768 in insurance costs for the CAT Fee 2026–1 Period.⁷⁷ The insurance costs represent the costs to be incurred for insurance for the CAT during the CAT Fee 2026–1 Period.

It is anticipated that the insurance costs for CAT during the CAT Fee 2026–1 Period will include costs related to cyber security liability insurance, directors' and officers' liability insurance, and errors and omissions liability insurance brokered by USI Insurance Services LLC ("USI"). Such policies are standard for corporate entities, and cyber security liability insurance is important for the CAT System. CAT LLC anticipates that it will continue to maintain this insurance during the CAT Fee 2026–1 Period, and notes that the annual premiums for these policies were competitive for the coverage provided. CAT LLC estimated the budget for the insurance costs for the CAT Fee 2026–1 Period based on the insurance estimate from USI for 2026. The annual premiums would be paid by CAT LLC to USI.

The budgeted insurance costs for the CAT Fee 2026–1 Period are based on an insurance cost estimate from USI for 2026. Accordingly, CAT LLC believes that the process for estimating the budgeted insurance costs for the CAT Fee 2026–1 Period is reasonable.

(b) Changes From Prior Fee Filing

Section 11.3(a)(iii)(B)(B) of the CAT NMS Plan requires the fee filing for a Prospective CAT Fee to describe the reason for changes in the line item for insurance costs from the prior CAT Fee filing. As this is the first Prospective CAT Fee filing under this CAT Funding Model, this filing describes the changes in the insurance costs from the Original 2026 Budget. Specifically, the following describes the differences in the insurance costs included in the Original 2026 CAT Budget versus the Updated 2026 CAT Budget, and the reasons for any changes.

The annual 2026 budgeted insurance costs included in the Original 2026 CAT Budget were \$1,505,625, and the annual 2026 budgeted insurance costs included in the Updated 2026 CAT Budget are \$1,254,070.⁷⁸ Accordingly, the annual budget for insurance costs decreased by \$251,555 from the Original 2026 CAT Budget to the Updated 2026 CAT Budget for the full year of 2026, which

is an approximate 16% decrease in the insurance costs for the full year of 2026. This budgeted decrease in the insurance costs in the Updated 2026 CAT Budget from the Original 2026 Budget was primarily due to an anticipated decrease in insurance premiums.

(ix) Professional and Administration Costs

(a) Description of Professional and Administration Costs

Section 11.3(a)(iii)(B)(B)(5) of the CAT NMS Plan requires the fee filing for a Prospective CAT Fee to provide a brief description of the professional and administration costs set forth in the budget. The Operating Committee approved an operating budget for the CAT pursuant to Section 11.1(a) of the CAT NMS Plan that included \$749,151 in professional and administration costs for the CAT Fee 2026–1 Period. In adopting the CAT NMS Plan, the Commission amended the Plan to add a requirement that CAT LLC's financial statements be prepared in compliance with GAAP, audited by an independent public accounting firm, and made publicly available.⁷⁹ The professional and administration costs would include costs related to accounting and accounting advisory services to support the operating and financial functions of CAT, financial statement audit services by an independent accounting firm, preparation of tax returns, and various cash management and treasury functions. The professional and administration costs represent the fees to be paid to Anchin, Block & Anchin ("Anchin") and Grant Thornton LLP ("Grant Thornton") for financial services during the CAT Fee 2026–1 Period.

Financial Advisory Firm: Anchin. It is anticipated that the professional and administration costs for the CAT Fee 2026–1 Period will include costs related to financial advisory services performed by Anchin. CAT LLC anticipates that it will continue to employ Anchin during the CAT Fee 2026–1 Period based on, among other things, the firm's relevant expertise and fees, which are anticipated to remain in line with market rates for these financial advisory services. The fees for these services will be paid by CAT LLC to Anchin.

It is anticipated that Anchin will provide a variety of services to the CAT during the CAT Fee 2026–1 Period, including the following:

- Update and maintain internal controls;
- Provide cash management and treasury functions;

- Facilitate bill payments to vendors;
- Facilitate repayments of promissory notes to Participants;
- Provide monthly bookkeeping;
- Review vendor invoices and documentation in support of cash disbursements;
- Review documentation to ensure that repayments of promissory notes to Participants are in accordance with established policies and procedures;
- Provide accounting research and consultations on various accounting, financial reporting and tax matters;
- Address not-for-profit tax and accounting considerations;
- Prepare tax returns;
- Address various accounting, financial reporting and operating inquiries from Participants;
- Develop and maintain annual and interim operating and financial budgets, including budget to actual and budget to budget fluctuation analyses;
- Support compliance with the CAT NMS Plan;
- Work with and provide support to the Operating Committee, Leadership Team and various CAT working groups;
- Prepare monthly, quarterly and annual financial statements;
- Review and reconcile the monthly FINRA CAT reports/analyses related to billings, collections, outstanding accounts receivable and cash account;
- Perform certain verification, completeness, and validation testing related to the monthly FINRA CAT reports/analyses related to billings;
- Support the annual financial statement audits by an independent auditor;
- Review historical costs from inception;
- Provide accounting and financial information in support of SEC filings; and
- Perform additional ad hoc accounting and financial advisory services, as requested by CAT LLC.

CAT LLC estimated the annual budget for the costs for Anchin based on historical costs adjusted for cost of living rate increases, and projected incremental advisory and support services.

Accounting Firm: Grant Thornton. It is anticipated that the professional and administration costs for the CAT Fee 2026–1 Period will include costs related to accounting services performed by Grant Thornton. CAT LLC anticipates that it will continue to employ Grant Thornton during the CAT Fee 2026–1 Period based on, among other things, the firm's relevant expertise and fees, which are anticipated to remain in line with market rates for these financial advisory services. It is anticipated that

⁷⁷ See chart entitled "Budgeted CAT Costs 2026–1" in Section 3(a)(2)(C) above.

⁷⁸ See chart entitled "Comparison of Full Year Budgeted Costs" in Section 3(a)(2)(C) above.

⁷⁹ Section 9.2 of the CAT NMS Plan.

Grant Thornton will continue to be engaged as an independent accounting firm to complete the audit of CAT LLC's financial statements, in accordance with the requirements of the CAT NMS Plan. The fees for these services will be paid by CAT LLC to Grant Thornton. CAT LLC estimated the budget for the accounting costs for Grant Thornton for the CAT Fee 2026–1 Period based on the anticipated hourly rates and the anticipated services plus an administrative fee.

Professional and Administration Cost Estimates. CAT LLC estimates that the budget for professional and administration services during the CAT Fee 2026–1 Period will be approximately \$749,151.⁸⁰ The budget for professional and administration services during the CAT Fee 2026–1 Period is based on the Updated 2026 CAT Budget. CAT LLC estimated the budget for the professional and administration costs for the CAT Fee 2026–1 Period based on a review of past professional and administration costs, potential future professional and administration needs, the proposed rates and other contractual issues, as well as discussions with Anchin and Grant Thornton. This process for estimating the budget for the professional and administration costs for the CAT Fee 2026–1 Period is the same process by which CAT LLC estimated the professional and administration costs for the Original 2026 CAT Budget. The Original 2026 CAT Budget estimated a budget for professional and administration costs of \$190,916 for January and February 2026, and the actual costs for professional and administration services for January and February 2026, which are set forth in the Updated 2026 Budget, were \$149,061.⁸¹ The decrease of \$41,855 was due to a lower than expected professional and administration services costs and to the movement of bank fees from the professional and administration category to the interest income category. Accordingly, CAT LLC believes that the process for estimating the budgeted professional and administration costs for the CAT Fee 2026–1 Period is reasonable.

(b) Changes From Prior Fee Filing

Section 11.3(a)(iii)(B)(B) of the CAT NMS Plan requires the fee filing for a Prospective CAT Fee to describe the reason for changes in the line item for professional and administration costs

from the prior CAT Fee filing. As this is the first Prospective CAT Fee filing under this CAT Funding Model, this filing describes the changes in the professional and administration costs from the Original 2026 Budget. Specifically, the following describes the differences in the professional and administration costs included in the Original 2026 CAT Budget versus the Updated 2026 CAT Budget, and the reasons for any changes.

The annual 2026 budgeted professional and administration costs as included in the Original 2026 CAT Budget were \$1,145,500, and the annual 2026 budgeted professional and administration costs included in the Updated 2026 CAT Budget are \$1,085,500.⁸² Accordingly, the budgeted annual costs for professional and administration services decreased by \$60,000 from the Original 2026 CAT Budget to the Updated 2026 CAT Budget for the full year of 2026. This budgeted decrease in the professional and administration costs in the Updated 2026 CAT Budget from the Original 2026 Budget was due to the movement of bank fees from the professional and administration category to the interest income category, and not a change in costs related to Anchin and Grant Thornton services.

(x) Public Relations Costs

(a) Description of Public Relations Costs

Section 11.3(a)(iii)(B)(B)(6) of the CAT NMS Plan requires the fee filing for a Prospective CAT Fee to provide a brief description of the public relations costs set forth in the budget. The Operating Committee approved an operating budget for the CAT pursuant to Section 11.1(a) of the CAT NMS Plan that included \$0 in public relations costs for the CAT Fee 2026–1 Period. The public relations costs would represent the fees paid to a public relations firm for professional communications services to CAT, including media relations consulting, strategy and execution. Because CAT LLC anticipates that it will not engage a public relations firm for the CAT Fee Period 2026–1, the budget for public relations costs for this period is \$0.⁸³

(b) Changes From Prior Fee Filing

Section 11.3(a)(iii)(B)(B) of the CAT NMS Plan requires the fee filing for a Prospective CAT Fee to describe the reason for changes in the line item for public relations costs from the prior

CAT Fee filing. As this is the first Prospective CAT Fee filing under this CAT Funding Model, this filing describes the changes in the public relations costs from the Original 2026 Budget. Specifically, the following describes the differences (if any) in public relations costs included in the Original 2026 CAT Budget versus the Updated 2026 CAT Budget, and the reasons for any changes.

The annual budgeted public relations costs for 2026 included in the Original 2026 CAT Budget were \$0, and the annual budgeted public relations costs for 2026 included in the Updated 2026 CAT Budget are \$0.⁸⁴ Accordingly, the annual budgeted public relations costs for 2026 are the same for both the Original 2026 CAT Budget and the Updated 2026 CAT Budget.

(xi) Interest Income

(a) Description of Interest Income

Section 11.1(a) of the CAT NMS Plan requires the CAT budget to include “the sources of all revenues to cover costs.” Accordingly, the Updated 2026 CAT Budget includes a line item for interest income. Specifically, the Operating Committee approved an operating budget for the CAT pursuant to Section 11.1(a) of the CAT NMS Plan that included \$1,453,382 in interest income for the CAT Fee 2026–1 Period.⁸⁵ Interest income represents the interest earned on the surplus reserve and other funds held by CAT LLC. Such income would be used to reduce the amount to be collected to fund the CAT.

CAT LLC estimates the budget for the interest income for the CAT Fee 2026–1 Period based on the estimate of the funds held by CAT LLC and the expected interest rates on such funds. The Original 2026 CAT Budget estimated interest income of \$758,343 for January and February 2026, and the actual interest income for January and February 2026, which are included in the Updated 2026 CAT Budget, were \$757,527.⁸⁶ As mentioned above, bank fees were moved from the professional and administration category in the Original 2026 CAT Budget to the interest income category in the Updated 2026 CAT Budget. Accordingly, the interest income amount for the Updated 2026 CAT Budget was net of \$10,000 in bank fees. Therefore, the variance between budgeted and actual interest

⁸⁰ See chart entitled “Budgeted CAT Costs 2026–1” in Section 3(a)(2)(C) above.

⁸¹ See chart entitled “Comparison of Budgeted and Actual Costs for January & February 2026” in Section 3(a)(2)(C) above.

⁸² See chart entitled “Comparison of Full Year Budgeted Costs” in Section 3(a)(2)(C) above.

⁸³ See chart entitled “Budgeted CAT Costs 2026–1” in Section 3(a)(2)(C) above.

⁸⁴ See chart entitled “Comparison of Full Year Budgeted Costs” in Section 3(a)(2)(C) above.

⁸⁵ See chart entitled “Budgeted CAT Costs 2026–1” in Section 3(a)(2)(C) above.

⁸⁶ See chart entitled “Comparison of Budgeted and Actual Costs for January & February 2026” in Section 3(a)(2)(C) above.

income (aside from bank fees) for January and February 2026 was approximately \$10,000. Accordingly, CAT LLC believes that the process for estimating the budgeted interest income for the CAT Fee 2026–1 Period is reasonable.

(b) Changes From Prior Fee Filing

Section 11.3(a)(iii)(B)(B) of the CAT NMS Plan requires the fee filing for a Prospective CAT Fee to describe the reason for changes in each line item from the prior CAT Fee filing. As this is the first Prospective CAT Fee filing under this CAT Funding Model, this filing describes the changes in interest income from the Original 2026 CAT Budget. Specifically, the following describes the differences in the interest income included in the Original 2026 CAT Budget versus the Updated 2026 CAT Budget, and the reasons for any changes.

The annual 2026 budgeted interest income as included in the Original 2026 CAT Budget was \$1,995,958, and the annual 2026 budgeted interest income included in the Updated 2026 CAT Budget is \$2,806,325.⁸⁷ Accordingly, the budgeted interest income (not including bank fees) increased by \$810,367 from the Original 2026 CAT Budget to the Updated 2026 CAT Budget for the full year of 2026, which is an approximate 40% increase in the interest income for the full year of 2026. This budgeted increase in the interest income in the Updated 2026 CAT Budget from the Original 2026 Budget was primarily due to higher than expected cash balances being maintained after the approval of the Original 2026 Budget.

(xii) Reserve

(a) Description of Reserve

Section 11.3(a)(iii)(B)(B) of the CAT NMS Plan requires the fee filing for a Prospective CAT Fee to provide a brief description of the reserve costs set forth in the budget. The Operating Committee approved an operating budget for the CAT pursuant to Section 11.1(a) of the CAT NMS Plan that includes a reserve amount for 2026. Section 11.1(a)(i) of the CAT NMS Plan states that the budget shall include a reserve. Section 11.1(a)(ii) of the CAT NMS Plan further describes the reserve as follows:

For the reserve referenced in paragraph (a)(i) of this Section, the budget will include an amount reasonably necessary to allow the Company to maintain a reserve of not more than 25% of the annual budget. To the extent collected CAT fees exceed

CAT costs, including the reserve of 25% of the annual budget, such surplus shall be used to offset future fees. For the avoidance of doubt, the Company will only include an amount for the reserve in the annual budget if the Company does not have a sufficient reserve (which shall be up to but not more than 25% of the annual budget). For the avoidance of doubt, the calculation of the amount of the reserve would exclude the amount of the reserve from the budget.

CAT LLC determined to maintain a reserve in the amount of 25% of the total expenses set forth in the Updated 2026 CAT Budget (which does not include the reserve amount). Accordingly, the total 25% reserve of \$23,508,157 was calculated by multiplying the total expenses set forth in the Updated 2026 CAT Budget (other than the reserve) by 25%.⁸⁸

The Updated 2026 CAT Budget estimates that CAT LLC will have \$102,391,135 in reserve as of the beginning of the CAT Fee Period 2026–1. Such reserve is related, in part, to (i) the collection of CAT fees in excess of the budgeted CAT costs in light of the greater actual executed equivalent share volume than the projected executed equivalent share volume for prior CAT Fees, and (ii) a reduction in anticipated budgeted costs associated with the implementation of certain cost savings measures. This reserve balance of \$102,391,135 would be used to offset a portion of CAT costs for CAT Fee Period 2026–1, thereby reducing the fee rate to be paid for CAT Fee 2026–1. Specifically, the total costs (including the 25% reserve) for CAT Fee 2026–1 of \$117,540,783 would be reduced by the \$102,391,135 in reserve. Therefore, the Total Budgeted CAT Costs 2026–1 would be \$15,149,648.

Accordingly, the fee rate for CAT Fee 2026–1 is calculated based on this reduced amount of \$15,149,648, resulting in a fee rate of \$0.000001 per executed equivalent share. If the fee rate for CAT Fee 2026–1 were calculated solely based on the reasonably budgeted costs for CAT for May–December 2026, excluding the reduction in that amount due to the surplus reserve offset, the fee rate would be the higher rate of \$0.000010.⁸⁹

(b) Changes From Prior Fee Filing

Section 11.3(a)(iii)(B)(B) of the CAT NMS Plan requires the fee filing for a Prospective CAT Fee to describe the

reason for changes in the line item for a reserve from the prior CAT Fee filing. As this is the first Prospective CAT Fee filing under this CAT Funding Model, this filing describes the changes in reserve from the Original 2026 CAT Budget. Specifically, the following describes the differences in the reserve included in the Original 2026 CAT Budget versus the Updated 2026 CAT Budget, and the reasons for any changes.

The accrued liquidity reserve balance at the beginning of the year included in the Original 2026 CAT Budget was \$119,128,336. The Original 2026 CAT Budget contemplated using the reserve to pay CAT bills throughout the year as no CAT fee was in effect. The accrued liquidity reserve balance at the beginning of the year included in the Updated 2026 CAT Budget was \$155,403,378. The increase in the accrued liquidity reserve balance at the beginning of the year from the Original 2026 CAT Budget to the Updated 2026 CAT Budget reflected the additional CAT Fees that had been received after the approval of the Original 2026 CAT Budget. In addition, the Updated 2026 CAT Budget not only reflected the use of the surplus reserve to pay CAT bills but also the accrual of additional reserve to establish a 25% reserve through CAT Fee 2026–1. Accordingly, the estimated liquidity reserve balance increased from a deficit of \$37,304,661 included in the Original 2026 CAT Budget to a reserve balance of \$23,508,157 included in the Updated 2026 CAT Budget for the full year of 2026.

(D) Projected Total Executed Equivalent Share Volume

The calculation of Fee Rate 2026–1 also requires the determination of the projected total executed equivalent share volume of transactions in Eligible Securities for the CAT Fee 2026–1 Period. Under the CAT NMS Plan, the Operating Committee is required to “reasonably determine the projected total executed equivalent share volume of all transactions in Eligible Securities for each relevant period based on the executed equivalent share volume of all transactions in Eligible Securities for the prior twelve months.”⁹⁰ The Operating Committee is required to base its projection on the prior twelve months, but it may use its discretion to analyze the likely volume for the upcoming year. Such discretion would allow the Operating Committee to use its judgment when estimating projected total executed equivalent share volume if the volume over the prior twelve months was unusual or otherwise unfit

⁸⁷ See chart entitled “Comparison of Full Year Budgeted Costs” in Section 3(a)(2)(C) above.

⁸⁸ The reserve was calculated by multiplying \$94,032,626 by 25%, which equals approximately \$23,508,157.

⁸⁹ See CAT Fee Alert 2026–1 (Apr. 1, 2026).

⁹⁰ Section 11.3(a)(i)(D) of the CAT NMS Plan.

to serve as the basis of a future volume estimate.⁹¹

The total executed equivalent share volume of transactions in Eligible Securities for the 12-month period from March 2025 through February 2026 was 5,980,937,549,360.49 executed equivalent shares. The Operating Committee has determined to calculate the projected total executed equivalent share volume for the eight-month recovery period for CAT Fee 2026–1 by multiplying by 8/12ths the executed equivalent share volume for the 12-month period from March 2025 through February 2026. The Operating Committee determined that such an approach was reasonable as the CAT's annual executed equivalent share volume has increased from prior years (e.g., the executed equivalent share volume for 2024 was 4,295,884,600,069.41), and the Operating Committee believes that it is reasonable to conclude that the annual executed equivalent share volume will remain at the higher level. Accordingly, the projected total executed equivalent share volume for the eight-month period for CAT Fee 2026–1 is projected to be 3,987,291,699,573.66 executed equivalent shares.⁹²

The projected total executed equivalent share volume of all transactions in Eligible Securities for the eight-month recovery period for CAT Fee 2026–1 and a description of the calculation of the projection is provided in this filing in accordance with the requirement in the CAT NMS Plan to provide such information in a fee filing for a CAT Fee.⁹³

(E) Fee Rate 2026–1

Fee Rate 2026–1 would be calculated by dividing the Budgeted CAT Costs 2026–1 by the reasonably projected total executed equivalent share volume of all transactions in Eligible Securities for the eight-month recovery period for CAT Fee 2026–1, as described in detail above.⁹⁴ Specifically, Fee Rate 2026–1 would be calculated by dividing \$15,149,648 by 3,987,291,699,573.66 executed equivalent shares. As a result, Fee Rate 2026–1 would be

\$0.000003799483243631228 per executed equivalent share. Fee Rate 2026–1 is provided in this filing in accordance with the requirement in the CAT NMS Plan to provide the Fee Rate in a fee filing for a CAT Fee.⁹⁵

Fee Rate 2026–1 would be used to calculate the fee rate to be paid by CEBBs and CEBBs for CAT Fee 2026–1. Such fee rate is calculated by multiplying Fee Rate 2026–1 of \$0.000003799483243631228 by one-third, and rounding the result to six decimal places.⁹⁶ Accordingly, the fee rate to be paid by CEBBs and CEBBs for CAT Fee 2026–1 would be \$0.000001 per executed equivalent share.

(3) Monthly Fees

CEBBs and CEBBs would be required to pay fees for CAT Fee 2026–1 on a monthly basis for eight months, from July 2026 until January 2027. A CEBB's or CEBB's fee for each month would be calculated based on the transactions in Eligible Securities executed by the CEBB or CEBB from the prior month.⁹⁷ Proposed paragraph (a)(6)(A) of the fee schedule would state that each CAT Executing Broker would receive its first invoice for CAT Fee 2026–1 in June 2026, and would receive an invoice for CAT Fee 2026–1 each month thereafter until January 2027. Proposed paragraph (a)(6)(B) of the fee schedule would state that "Consolidated Audit Trail, LLC shall provide each CAT Executing Broker with an invoice for CAT Fee 2026–1 on a monthly basis." In addition, paragraph (b)(1) of the fee schedule states that each CEBB and CEBB is required to pay its CAT fees "each month."

(4) Consolidated Audit Trail Funding Fees

To implement CAT Fee 2026–1, the Exchange proposes to add a new paragraph to the "Consolidated Audit Trail Funding Fees" section of the Exchange's fee schedule, to include the proposed paragraphs described below.

(A) Fee Schedule for CAT Fee 2026–1

The CAT NMS Plan states that:

Each Industry Member that is the CAT Executing Broker for the buyer in a transaction in Eligible Securities ("CAT Executing Broker for the Buyer" or "CEBB") and each Industry Member

that is the CAT Executing Broker for the seller in a transaction in Eligible Securities ("CAT Executing Broker for the Seller" or "CEBS") will be required to pay a CAT Fee for each such transaction in Eligible Securities in the prior month based on CAT Data. The CEBB's CAT Fee or CEBB's CAT Fee (as applicable) for each transaction in Eligible Securities will be calculated by multiplying the number of executed equivalent shares in the transaction by one-third and by the Fee Rate reasonably determined pursuant to paragraph (a)(i) of this Section 11.3.⁹⁸

Accordingly, based on the factors discussed above, the Exchange proposes to add paragraph (a)(6) to the Consolidated Audit Trail Funding Fees section of its fee schedule. Proposed paragraph (a)(6) would state the following:

(A) Each CAT Executing Broker shall receive its first invoice for CAT Fee 2026–1 in June 2026, which shall set forth the CAT Fee 2026–1 fees calculated based on transactions in May 2026, and shall receive an invoice for CAT Fee 2026–1 for each month thereafter until January 2027.

(B) Consolidated Audit Trail, LLC shall provide each CAT Executing Broker with an invoice for CAT Fee 2026–1 on a monthly basis. Each month, such invoices shall set forth a fee for each transaction in Eligible Securities executed by the CAT Executing Broker in its capacity as a CAT Executing Broker for the Buyer ("CEBB") and/or the CAT Executing Broker for the Seller ("CEBS") (as applicable) from the prior month as set forth in CAT Data. The fee for each such transaction will be calculated by multiplying the number of executed equivalent shares in the transaction by the fee rate of \$0.000001 per executed equivalent share.

(C) Notwithstanding the last invoice date of January 2027 for CAT Fee 2026–1 in paragraph 6(A), CAT Fee 2026–1 shall continue in effect after January 2027, with each CAT Executing Broker receiving an invoice for CAT Fee 2026–1 each month, until a new subsequent CAT Fee is in effect with regard to Industry Members in accordance with Section 19(b) of the Exchange Act. Consolidated Audit Trail, LLC will provide notice when CAT Fee 2026–1 will no longer be in effect.

(D) Each CAT Executing Broker shall be required to pay each invoice for CAT Fee 2026–1 in accordance with paragraph (b).

As noted in the Plan amendment for the CAT Funding Model, "[a]s a practical matter, the fee filing would

⁹⁸ Section 11.3(a)(iii)(A) of the CAT NMS Plan.

⁹¹ CAT Funding Model Approval Order at 13452.

⁹² This projection was calculated by multiplying 5,980,937,549,360.49 executed equivalent shares by 8/12ths.

⁹³ Section 11.3(a)(iii)(B) of the CAT NMS Plan.

⁹⁴ In approving the CAT Funding Model, the Commission stated that "[t]he manner in which the Fee Rate for Prospective CAT Costs will be calculated (*i.e.*, by dividing the CAT costs reasonably budgeted for the upcoming year by the reasonably projected total executed equivalent share volume of all transactions in Eligible Securities for the year) is appropriate." CAT Funding Model Approval Order at 13435.

⁹⁵ See Section 11.3(a)(iii)(B)(A) of the CAT NMS Plan.

⁹⁶ This fee rate of \$0.000001 is calculated by multiplying the Fee Rate of \$0.000003799483243631228 by one-third and rounding this result (which equals \$0.000001266494414543743) to 6 decimal places.

⁹⁷ See proposed paragraph (a)(6)(B) of the fee schedule.

provide the exact fee per executed equivalent share to be paid for the CAT Fees, by multiplying the Fee Rate by one-third and describing the relevant number of decimal places for the fee.”⁹⁹ Accordingly, proposed paragraph (a)(6)(B) of the fee schedule would set forth a fee rate of \$0.000001 per executed equivalent share. This fee rate is calculated by multiplying Fee Rate 2026–1 of \$0.000003799483243631228 by one-third, and rounding the result to six decimal places.¹⁰⁰ The Operating Committee determined to use six decimal places to balance the accuracy of the calculation with the potential systems and other impracticalities of using additional decimal places in the calculation.

The proposed language in paragraph (a)(6)(A) of the fee schedule would describe when CAT Executing Brokers would receive their first monthly invoice for CAT Fee 2026–1. Specifically, CAT Executing Brokers would receive their first monthly invoice for CAT Fee 2026–1 in June 2026 and the fees set forth in that invoice would be calculated based on transactions executed in May 2026. The payment for the first invoice would be required within 30 days after the receipt of the first invoice (unless a longer period is indicated), as described in paragraph (b)(2) of the fee schedule.

Proposed paragraph (a)(6)(A) of the fee schedule also would describe the monthly cadence of the invoices for CAT Fee 2026–1. Specifically, after the first invoices are provided to CAT Executing Brokers in June 2026, invoices will be sent to CAT Executing Brokers each month thereafter until January 2027.

Proposed paragraph (a)(6)(B) of the fee schedule would describe the invoices for CAT Fee 2026–1. Proposed paragraph (a)(6)(B) of the fee schedule would state that “Consolidated Audit Trail, LLC shall provide each CAT Executing Broker with an invoice for CAT Fee 2026–1 on a monthly basis.” Proposed paragraph (a)(6)(B) of the fee schedule also would describe the fees to be set forth in the invoices for CAT Fee 2026–1. Specifically, it would state that “[e]ach month, such invoices shall set forth a fee for each transaction in Eligible Securities executed by the CAT Executing Broker in its capacity as a CAT Executing Broker for the Buyer (‘CEBB’) and/or the CAT Executing

Broker for the Seller (‘CEBS’) (as applicable) from the prior month as set forth in CAT Data. The fee for each such transaction will be calculated by multiplying the number of executed equivalent shares in the transaction by the fee rate of \$0.000001 per executed equivalent share.”

Since CAT Fee 2026–1 is a monthly fee based on actual transaction volume from the prior month, CAT Fee 2026–1 may collect more or less than two-thirds of the Budgeted CAT Costs 2026–1. To the extent that CAT Fee 2026–1 collects more than two-thirds of the Budgeted CAT Costs 2026–1, any excess money collected will be used to offset future fees and/or to fund the reserve for the CAT. To the extent that CAT Fee 2026–1 collects less than two-thirds of the Budgeted CAT Costs 2026–1, the budget for the CAT in the ensuing months will reflect such shortfall.

Furthermore, proposed paragraph (a)(6)(C) of the fee schedule would describe how long CAT Fee 2026–1 would remain in effect. It would state that “[n]otwithstanding the last invoice date of January 2027 for CAT Fee 2026–1 in paragraph 6(A), CAT Fee 2026–1 shall continue in effect after January 2027, with each CAT Executing Broker receiving an invoice for CAT Fee 2026–1 each month, until a new subsequent CAT Fee is in effect with regard to Industry Members in accordance with Section 19(b) of the Exchange Act. Consolidated Audit Trail, LLC will provide notice when CAT Fee 2026–1 will no longer be in effect.”

Finally, proposed paragraph (a)(6)(D) of the fee schedule would set forth the requirement for the CAT Executing Brokers to pay the invoices for CAT Fee 2026–1. It would state that “[e]ach CAT Executing Broker shall be required to pay each invoice for CAT Fee 2026–1 in accordance with paragraph (b).”

(B) Manner of Payment

Paragraph (b)(1) of the “Consolidated Audit Trail Funding Fees” section of the fee schedule describes the manner of payment of Industry Member CAT fees. It states that “[e]ach CAT Executing Broker shall pay its CAT fees as required pursuant to paragraph (a) each month to the Consolidated Audit Trail, LLC in the manner prescribed by the Consolidated Audit Trail, LLC.” The CAT NMS Plan requires the Operating Committee to establish a system for the collection of CAT fees.¹⁰¹ The Plan Processor has established a billing system for CAT fees.¹⁰² Accordingly,

CAT Executing Brokers would be required to pay CAT Fee 2026–1 in accordance with such system.

(C) Failure to Pay CAT Fees

The CAT NMS Plan further states that:

Participants shall require each Industry Member to pay all applicable fees authorized under this Article XI within thirty (30) days after receipt of an invoice or other notice indicating payment is due (unless a longer payment period is otherwise indicated). If an Industry Member fails to pay any such fee when due (as determined in accordance with the preceding sentence), such Industry Member shall pay interest on the outstanding balance from such due date until such fee is paid at a per annum rate equal to the lesser of: (a) the Prime Rate plus 300 basis points; or (b) the maximum rate permitted by applicable law.¹⁰³

Paragraph (b)(2) of the fee schedule states that:

Each CAT Executing Broker shall pay the CAT fees required pursuant to paragraph (a) within thirty days after receipt of an invoice or other notice indicating payment is due (unless a longer payment period is otherwise indicated). If a CAT Executing Broker fails to pay any such CAT fee when due, such CAT Executing Broker shall pay interest on the outstanding balance from such due date until such fee is paid at a per annum rate equal to the lesser of (i) the Prime Rate plus 300 basis points, or (ii) the maximum rate permitted by applicable law.

The requirements of paragraph (b)(2) would apply to CAT Fee 2026–1.

(5) CAT Fee Details

The CAT NMS Plan states that:

Details regarding the calculation of a Participant or CAT Executing Broker’s CAT Fees will be provided upon request to such Participant or CAT Executing Broker. At a minimum, such details would include each Participant or CAT Executing Broker’s executed equivalent share volume and corresponding fee by (1) Listed Options, NMS Stocks and OTC Equity Securities, (2) by transactions executed on each exchange and transactions executed otherwise than on an exchange, and (3) by buy-side transactions and sell-side transactions.¹⁰⁴

related to the billing of CAT fees, the Industry Member CAT Reporter Portal User Guide, the FCAT Industry Member Onboarding Guide, the FCAT Connectivity Supplement for Industry Members and the CAT Billing Webinars (dated Sept. 28, 2023 and Nov. 7, 2023), each available on the CAT website.

¹⁰³ Section 11.4 of the CAT NMS Plan.

¹⁰⁴ Section 11.3(a)(iv)(A) of the CAT NMS Plan.

⁹⁹ CAT Funding Model Approval Order at 13445, n.677.

¹⁰⁰ This fee rate of \$0.000001 is calculated by multiplying the Fee Rate of \$0.000003799483243631228 by one-third, and rounding this result (which equals \$0.000001266494414543743) to 6 decimal places.

¹⁰¹ Section 11.4 of the CAT NMS Plan.

¹⁰² The billing process and system are described in CAT Alert 2023–02 as well as in the CAT FAQs

Such information would provide CEBBs and CEBBs with the ability to understand the details regarding the calculation of their CAT Fee.¹⁰⁵ CAT LLC will provide CAT Executing Brokers with these details regarding the calculation of their CAT Fees on their monthly invoice for the CAT Fees.

In addition, CAT LLC will make certain aggregate statistics regarding CAT Fees publicly available. Specifically, the CAT NMS Plan states that, “[f]or each CAT Fee, at a minimum, CAT LLC will make publicly available the aggregate executed equivalent share volume and corresponding aggregate fee by (1) Listed Options, NMS Stocks and OTC Equity Securities, (2) by transactions executed on each exchange and transactions executed otherwise than on an exchange, and (3) by buy-side transactions and sell-side transactions.”¹⁰⁶ Such aggregate statistics will be available on the CAT website.

Furthermore, CAT LLC will make publicly available on the CAT website the total amount invoiced each month that CAT Fee 2026–1 is in effect as well as the total amount invoiced for CAT Fee 2026–1 for all months since its commencement. CAT LLC also will make publicly available on the CAT website the total costs to be collected from Industry Members for CAT Fee 2026–1.

(6) Financial Accountability Milestones

The CAT NMS Plan states that “[n]o Participant will make a filing with the SEC pursuant to Section 19(b) of the Exchange Act regarding any CAT Fee related to Prospective CAT Costs until the Financial Accountability Milestone related to Period 4 described in Section 11.6 has been satisfied.”¹⁰⁷ Under Section 1.1 of the CAT NMS Plan, a Financial Accountability Milestone is considered complete as of the date identified in the Participants’ Quarterly Progress Reports. As indicated by the Participants’ Quarterly Progress Report for the second and third quarter of

2024,¹⁰⁸ the Financial Accountability Milestone related to Period 4 was satisfied on July 15, 2024. In addition, the satisfaction of the Financial Accountability Milestone related to Period 4 was described in detail in the fee filing for the first Prospective CAT Fee, CAT Fee 2024–1.¹⁰⁹

(7) Participant Invoices

While CAT Fees charged to Industry Members become effective in accordance with the requirements of Section 19(b) of the Exchange Act,¹¹⁰ CAT fees charged to Participants are implemented via an approval of the CAT fees by the Operating Committee in accordance with the requirements of the CAT NMS Plan.¹¹¹ On March 31, 2026, the Operating Committee approved the Participant fee related to CAT Fee 2026–1. Specifically, pursuant to the requirements of CAT NMS Plan,¹¹² each Participant would be required to pay a CAT fee calculated using the fee rate of \$0.000001 per executed equivalent share, which is the same fee rate that applies to CEBBs and CEBBs. Like CEBBs and CEBBs, each Participant would be invoiced such CAT fees on a monthly basis for eight months, from June 2026 until January 2027, and each Participant’s fee for each month would be calculated based on the transactions in Eligible Securities executed on the applicable exchange (for the Participant exchanges) or otherwise than on an exchange (for FINRA) in the prior month. Accordingly, each Participant will receive its first invoice in June 2026, and would receive an invoice each month thereafter until January 2027. Like with the CAT Fee 2026–1 applicable to CEBBs and CEBBs as described in proposed paragraph (a)(6)(C) of the fee schedule, notwithstanding the last invoice date of January 2027, Participants will continue to receive invoices for this fee each month until a new subsequent CAT Fee is in effect with regard to Industry Members. Furthermore, Section 11.4 of the CAT NMS Plan states that each Participant is required to pay such invoices as required by Section 3.7(b) of the CAT NMS Plan. Section 3.7(b) states, in part, that [e]ach Participant shall pay all fees or other amounts required to be paid under this Agreement within thirty (30) days after receipt of an invoice or other

notice indicating payment is due (unless a longer payment period is otherwise indicated) (the “Payment Date”). The Participant shall pay interest on the outstanding balance from the Payment Date until such fee or amount is paid at a per annum rate equal to the lesser of: (i) Prime Rate plus 300 basis points; or (ii) the maximum rate permitted by applicable law.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the requirements of the Exchange Act. The Exchange believes that the proposed rule change is consistent with Section 6(b)(5) of the Act,¹¹³ which requires, among other things, that the Exchange’s rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest, and not designed to permit unfair discrimination between customers, issuers, brokers and dealers. The Exchange also believes that the proposed rule change is consistent with the provisions of Section 6(b)(4) of the Act,¹¹⁴ because it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers. The Exchange further believes that the proposed rule change is consistent with Section 6(b)(8) of the Act,¹¹⁵ which requires that the Exchange’s rules not impose any burden on competition that is not necessary or appropriate in furtherance of the purpose of the Exchange Act. These provisions also require that the Exchange be “so organized and [have] the capacity to be able to carry out the purposes” of the Act and “to comply, and . . . to enforce compliance by its members and persons associated with its members,” with the provisions of the Exchange Act.¹¹⁶ Accordingly, a reasonable reading of the Act indicates that it intended that regulatory funding be sufficient to permit an exchange to fulfill its statutory responsibility under the Act, and contemplated that such funding would be achieved through equitable assessments on the members, issuers, and other users of an exchange’s facilities.

The Exchange believes that this proposal is consistent with the Act

¹⁰⁵ In approving the CAT Funding Model, the Commission stated that, “[i]n the Commission’s view, providing CAT Execut[ing] Brokers information regarding the calculation of their CAT Fees will aid in transparency and permit CAT Execut[ing] Brokers to confirm the accuracy of their invoices for CAT Fees.” CAT Funding Model Approval Order at 13454.

¹⁰⁶ Section 11.3(a)(iv)(B) of the CAT NMS Plan. In approving the CAT Funding Model, the Commission stated that “[t]he publication of the aggregate executed equivalent share volume and aggregate fee is appropriate because it would allow Participants and CAT Executing Brokers a high-level validation of executed volume and fees.” CAT Funding Model Approval Order at 13454.

¹⁰⁷ Section 11.3(a)(iii)(C) of the CAT NMS Plan.

¹⁰⁸ Q2 & Q3 2024 Quarterly Progress Report (July 29, 2024).

¹⁰⁹ See Securities Exchange Act Rel. No. 100866, (Aug. 28, 2024), 89 FR 72009, (Sep. 4, 2024).

¹¹⁰ Section 11.3(a)(i)(A)(I) of the CAT NMS Plan.

¹¹¹ CAT Funding Model Approval Order at 13448.

¹¹² See Section 11.3(a)(ii) and Appendix B of the CAT NMS Plan.

¹¹³ 15 U.S.C. 78f(b)(6).

¹¹⁴ 15 U.S.C. 78f(b)(4).

¹¹⁵ 15 U.S.C. 78f(b)(8).

¹¹⁶ See 15 U.S.C. 78f(b)(1).

because it implements provisions of the Plan and is designed to assist the Exchange in meeting regulatory obligations pursuant to the Plan. In approving the Plan, the SEC noted that the Plan “is necessary and appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanism of a national market system, or is otherwise in furtherance of the purposes of the Act.”¹¹⁷ To the extent that this proposal implements the Plan and applies specific requirements to Industry Members, the Exchange believes that this proposal furthers the objectives of the Plan, as identified by the SEC, and is therefore consistent with the Act.

The Exchange believes that the proposed fees to be paid by the CEBBs and CEBs are reasonable, equitably allocated and not unfairly discriminatory. First, the CAT Fee 2026–1 fees to be collected are directly associated with the budgeted costs of establishing and maintaining the CAT, where such costs include Plan Processor costs and costs related to technology, legal, consulting, insurance, and professional and administration costs.

The proposed CAT Fee 2026–1 fees would be charged to Industry Members in support of the maintenance of a consolidated audit trail for regulatory purposes. The proposed fees, therefore, are consistent with the Commission’s view that regulatory fees be used for regulatory purposes and not to support the Exchange’s business operations. The proposed fees would not cover Exchange services unrelated to the CAT. In addition, any surplus would be used as a reserve to offset future fees. Given the direct relationship between CAT fees and CAT costs, the Exchange believes that the proposed fees are reasonable, equitable and not unfairly discriminatory.

As further discussed below, the SEC approved the CAT Funding Model, finding it was reasonable and that it equitably allocates fees among Participants and Industry Members. The Exchange believes that the proposed fees adopted pursuant to the CAT Funding Model approved by the SEC are reasonable, equitably allocated and not unfairly discriminatory.

(1) Implementation of CAT Funding Model in CAT NMS Plan

Section 11.1(b) of the CAT NMS Plan states that “[t]he Participants shall file with the SEC under Section 19(b) of the Exchange Act any such fees on Industry

Members that the Operating Committee approves.” Per Section 11.1(b) of the CAT NMS Plan, the Exchange has filed this fee filing to implement the Industry Member CAT fees included in the CAT Funding Model. The Exchange believes that this proposal is consistent with the Exchange Act because it is consistent with, and implements, the CAT Funding Model in the CAT NMS Plan, and is designed to assist the Exchange and its Industry Members in meeting regulatory obligations pursuant to the CAT NMS Plan. In approving the CAT NMS Plan, the SEC noted that the Plan “is necessary and appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanism of a national market system, or is otherwise in furtherance of the purposes of the Act.”¹¹⁸ Similarly, in approving the CAT Funding Model, the SEC concluded that the CAT Funding Model met this standard.¹¹⁹ As this proposal implements the Plan and the CAT Funding Model described therein, and applies specific requirements to Industry Members in compliance with the Plan, the Exchange believes that this proposal furthers the objectives of the Plan, as identified by the SEC, and is therefore consistent with the Exchange Act.

(2) Calculation of Fee Rate for CAT Fee 2026–1 is Reasonable

The SEC has determined that the CAT Funding Model satisfies the requirements of the Exchange Act. Specifically, the SEC has concluded that the method for determining CAT Fees as set forth in Section 11.3 of the CAT NMS Plan, including the formula for calculating the Fee Rate, the identification of the parties responsible for payment and the transactions subject to the fee rate for CAT Fees, satisfies the Exchange Act.¹²⁰ In each respect, as discussed above, CAT Fee 2026–1 is calculated, and would be applied, in accordance with the requirements applicable to CAT Fees as set forth in the CAT NMS Plan. Furthermore, as discussed below, the Exchange believes that each of the figures for the variables in the SEC-approved formula for calculating the fee rate for CAT Fee 2026–1 is reasonable and consistent with the Exchange Act. The calculation of Fee Rate 2026–1 for CAT Fee 2026–1 requires the figures for Budgeted CAT Costs 2026–1, the executed equivalent share volume for the prior twelve

months, the determination of the CAT Fee 2026–1 Period, and the projection of the executed equivalent share volume for the CAT Fee 2026–1 Period. Each of these variables is reasonable and satisfies the Exchange Act, as discussed throughout this filing.

(A) Budgeted CAT Costs 2026–1

The formula for calculating a Fee Rate requires the amount of Budgeted CAT Costs to be recovered. Specifically, Section 11.3(a)(iii)(B) of the CAT NMS Plan requires a fee filing to provide: the budget for the upcoming year (or remainder of the year, as applicable), including a brief description of each line item in the budget, including (1) the technology line items of cloud hosting services, operating fees, CAIS operating fees, change request fees, and capitalized developed technology costs, (2) legal, (3) consulting, (4) insurance, (5) professional and administration, and (6) public relations costs, a reserve and/or such other categories as reasonably determined by the Operating Committee to be included in the budget, and the reason for changes in each such line item from the prior CAT fee filing.

In accordance with this requirement, the Exchange has set forth the amount and type of Budgeted CAT Costs 2026–1 for each of these categories above.

Section 11.3(a)(iii)(B) of the CAT NMS Plan also requires that the fee filing provide “sufficient detail to demonstrate that the budget for the upcoming year, or part of year, as applicable, is reasonable and appropriate.” As discussed below, the Exchange believes that the budget for the CAT Fee 2026–1 Period is “reasonable and appropriate.” Each of the costs included in CAT Fee 2026–1 is reasonable and appropriate because the costs are consistent with standard industry practice, based on the need to comply with the requirements of the CAT NMS Plan, incurred subject to negotiations performed on an arm’s length basis, and/or is consistent with the needs of any legal entity, particularly one with no employees.

(i) Technology: Cloud Hosting Services

In approving the CAT Funding Model, the Commission recognized that it is appropriate to recover budgeted costs related to cloud hosting services as a part of CAT Fees.¹²¹ CAT LLC determined that the budgeted costs related to cloud hosting services described in this filing are reasonable and should be included as a part of Budgeted CAT Costs 2026–1. As

¹¹⁸ *Id.*

¹¹⁹ CAT Funding Model Approval Order at 13481.

¹²⁰ *Id.*

¹²¹ Section 11.3(a)(iii)(B)(1) of the CAT NMS Plan.

¹¹⁷ CAT NMS Plan Approval Order at 84697.

described above, the cloud hosting services costs reflect, among other things, the breadth of the CAT cloud activities, data volumes far in excess of the original volume estimates, the need for specialized cloud services given the volume and unique nature of the CAT, the processing time requirements of the Plan, and regular efforts to seek to minimize costs where permissible under the Plan. CAT LLC determined that use of cloud hosting services is necessary for implementation of the CAT, particularly given the substantial data volumes associated with the CAT, and that the fees for cloud hosting services negotiated by FCAT were reasonable, taking into consideration a variety of factors, including the expected volume of data and the breadth of services provided and market rates for similar services.¹²² Indeed, the actual costs of the CAT are far in excess of the original estimated costs of the CAT due to various factors, including the higher volumes and greater complexity of the CAT than anticipated when Rule 613 was originally adopted.

To comply with the requirements of the Plan, the breadth of the cloud activities related to the CAT is substantial. The cloud services not only include the production environment for the CAT, but they also include two industry testing environments, support environments for quality assurance and stress testing and disaster recovery capabilities. Moreover, the cloud storage costs are driven by the requirements of the Plan, which requires the storage of multiple versions of the data, from the original submitted version of the data through various processing steps, to the final version of the data.

Data volume is a significant driver of costs for cloud hosting services. When the Commission adopted the CAT NMS Plan in 2016, it estimated that the CAT would need to receive 58 billion records per day¹²³ and that annual operating costs for the CAT would range from \$36.5 million to \$55 million.¹²⁴ In contrast to the 2016 projections, the actual daily Q3 2025 data volumes averaged 792 billion events per day.

In addition to the effect of the data volume on the cloud hosting costs, the processing timelines set forth in the Plan contribute to the cloud hosting costs. Although CAT LLC has proactively sought to manage cloud hosting costs while complying with the Plan, including through requests to the

Commission for exemptive relief and amendments to the CAT NMS Plan to reduce costs, stringent CAT NMS Plan requirements do not allow for any material flexibility in cloud architecture design choices, processing timelines (e.g., the use of non-peak processing windows), or lower-cost storage tiers. As a result, the required CAT processing timelines contribute to the cloud hosting costs of the CAT.

The costs for cloud hosting services also reflect the need for specialized cloud hosting services given the data volume and unique processing needs of the CAT. The data volume as well as the data processing needs of the CAT necessitate the use of cloud hosting services. The equipment, power and services required for an on-premises data model, the alternative to cloud hosting services, would be cost prohibitive. Moreover, as CAT was being developed, there were limited cloud hosting providers that could satisfy all the necessary CAT requirements, including the operational and security criteria. Over time, more providers offering cloud hosting services that would satisfy these criteria have entered the market. CAT LLC will continue to evaluate alternative cloud hosting services, recognizing that the time and cost to move to an alternative cloud provider would be substantial.

The reasonableness of the cloud hosting services costs is further supported by key cost discipline mechanisms for the CAT—a cost-based funding structure, cost transparency, cost management efforts (including regular efforts to lower compute and storage costs where permitted by the Plan) and oversight. Together, these mechanisms help ensure the ongoing reasonableness of the CAT's costs and the level of fees assessed to support those costs.¹²⁵

(ii) Technology: Operating Fees

In approving the CAT Funding Model, the SEC recognized that it is appropriate to recover budgeted costs related to operating fees as a part of CAT Fees.¹²⁶ CAT LLC determined that the budgeted costs related to operating fees described in this filing are reasonable and should be included as a part of Budgeted CAT Costs 2026–1.

The operating fees would include the negotiated fees paid by CAT LLC to the Plan Processor to operate and maintain the system for order-related information

and to perform business operations related to the system, including compliance, security, testing, training, communications with the industry (e.g., management of the FINRA CAT Helpdesk, FAQs, website and webinars) and program management. CAT LLC determined that the selection of FCAT as the Plan Processor was reasonable and appropriate given its expertise with securities regulatory reporting, after a process of considering other potential candidates.¹²⁷ CAT LLC also determined that the fixed price contract, negotiated on an arm's length basis with the goals of managing costs and receiving services required to comply with the CAT NMS Plan and Rule 613, was reasonable and appropriate, taking into consideration a variety of factors, including the breadth of services provided and market rates for similar types of activity.¹²⁸ The services to be performed by FCAT for CAT Fee 2026–1 Period and the budgeted costs related to such services are described above.¹²⁹

The operating costs also include costs related to the receipt of market data. CAT LLC anticipates receiving certain market data from Algoseek during the CAT Fee 2026–1 Period. CAT LLC anticipates that Algoseek will provide data as set forth in the SIP Data requirements of the CAT NMS Plan and that the fees are reasonable and in line with market rates for market data received.¹³⁰

(iii) Technology: CAIS Operating Fees

In approving the CAT Funding Model, the SEC recognized that it is appropriate to recover budgeted costs related to CAIS operating fees as a part of CAT Fees.¹³¹ CAT LLC determined that the budgeted costs related to CAIS operating fees described in this filing are reasonable and should be included as a part of the Budgeted CAT Costs 2026–1. The CAIS operating fees would include the fees paid to the Plan Processor to operate and maintain the Reference Database and to perform the business operations related to the system, including compliance, security, testing, training, communications with the industry (e.g., management of the FINRA CAT Helpdesk, FAQs, website and webinars) and program management. CAT LLC determined that the fees for FCAT's services related to the Reference Database, negotiated on an arm's length basis with the goals of

¹²² For a discussion of the amount and type of cloud hosting services fees, see Section 3(a)(2)(C)(i) above.

¹²³ Section 1.3 of Appendix D of the CAT NMS Plan at n.262.

¹²⁴ CAT NMS Plan Approval Order at 84801.

¹²⁵ See Securities Exchange Act Rel. No. 97151 (Mar. 15, 2023), 88 FR 17086, 17117 (Mar. 21, 2023) (describing key cost discipline mechanisms for the CAT).

¹²⁶ Section 11.3(a)(iii)(B)(B)(1) of the CAT NMS Plan.

¹²⁷ See Section 3(a)(2)(C)(ii) above.

¹²⁸ *Id.*

¹²⁹ *Id.*

¹³⁰ *Id.*

¹³¹ Section 11.3(a)(iii)(B)(B)(1) of the CAT NMS Plan.

managing costs and receiving services required to comply with the CAT NMS Plan, taking into consideration a variety of factors, including the services to be provided and market rates for similar types of activity, are reasonable and appropriate.¹³² The services to be performed by FCAT for the CAT Fee 2026–1 Period and the budgeted costs for such services are described above.¹³³

(iv) Technology: Change Request Fees

In approving the CAT Funding Model, the SEC recognized that it is appropriate to recover budgeted costs related to change request fees as a part of CAT Fees.¹³⁴ CAT LLC determined that the budgeted costs related to change request fees described in this filing are reasonable and should be included as a part of the Budgeted CAT Costs 2026–1. It is common practice to utilize a change request process to address evolving needs in technology projects. This is particularly true for a project like CAT that is the first of its kind, both in substance and in scale. The substance and costs of each of the change requests are evaluated by the Operating Committee and approved in accordance with the requirements for Operating Committee meetings. In each case, CAT LLC forecasts that the change requests will be necessary to implement the CAT. As described above,¹³⁵ CAT LLC determined that it was reasonable not to include any change request fees in the Budgeted CAT Costs 2026–1.

(v) Capitalized Developed Technology Costs

In approving the CAT Funding Model, the SEC recognized that it is appropriate to recover budgeted costs related to capitalized developed technology costs as a part of CAT Fees.¹³⁶ In general, capitalized developed technology costs would include costs related to, for example, certain development costs, costs related to certain modifications, upgrades and other changes to the CAT and license fees. The amount and type of budgeted capitalized developed technology costs for the CAT Fee 2026–1 Period, which relate to the software license fee and technology changes to be implemented by FCAT, are described in more detail above.¹³⁷

(vi) Legal

In approving the CAT Funding Model, the SEC recognized that it is appropriate to recover budgeted costs related to legal fees as a part of CAT Fees.¹³⁸ CAT LLC determined that the budgeted legal costs described in this filing are reasonable and should be included as a part of the Budgeted CAT Costs 2026–1. Given the unique nature of the CAT, the number of parties involved with the CAT (including, for example, the SEC, Participants, Industry Members, and vendors) and the many regulatory, contractual and other issues associated with the CAT, the scope of the necessary legal services is substantial. CAT LLC determined that the scope of the proposed legal services is necessary to implement and maintain the CAT and that the legal rates reflect the specialized services necessary for such a project. CAT LLC determined to hire and continue to use each law firm based on a variety of factors, including their relevant expertise and fees. In each case, CAT LLC determined that the fee rates were in line with market rates for specialized legal expertise. In addition, CAT LLC determined that the budgeted costs for the legal projects were appropriate given the breadth of the services provided. The services to be performed by each law firm for the CAT Fee 2026–1 Period and the budgeted costs related to such services are described above.¹³⁹

(vii) Consulting

In approving the CAT Funding Model, the SEC recognized that it is appropriate to recover budgeted consulting costs as a part of CAT Fees.¹⁴⁰ CAT LLC determined that the budgeted consulting costs described in this filing are reasonable and should be included as a part of Budgeted CAT Costs 2026–1. Because there are no CAT employees¹⁴¹ and because of the significant number of issues associated with the CAT, the consultants are budgeted to provide assistance in the management of various CAT matters and the processes related to such matters.¹⁴² CAT LLC determined the budgeted consulting costs were appropriate, as the consulting services

were to be provided at reasonable market rates that were comparable to the rates charged by other consulting firms for similar work. Moreover, the total budgeted costs for such consulting services were appropriate in light of the breadth of services provided by Deloitte. The services budgeted to be performed by Deloitte and the budgeted costs related to such services are described above.¹⁴³

(viii) Insurance

In approving the CAT Funding Model, the SEC recognized that it is appropriate to recover budgeted insurance costs as a part of CAT Fees.¹⁴⁴ CAT LLC determined that the budgeted insurance costs described in this filing are reasonable and should be included as a part of the Budgeted CAT Costs 2026–1. CAT LLC determined that it is common practice to have directors' and officers' liability insurance, and errors and omissions liability insurance. CAT LLC further determined that it was important to have cyber security insurance given the nature of the CAT, and such a decision is consistent with the CAT NMS Plan, which states that the cyber incident response plan may include "[i]nsurance against security breaches."¹⁴⁵ As discussed above,¹⁴⁶ CAT LLC determined that the budgeted insurance costs were appropriate given its prior experience with this market and an analysis of the alternative insurance offerings. Based on this analysis, CAT LLC determined that the selected insurance policies provided appropriate coverage at reasonable market rates.¹⁴⁷

(ix) Professional and Administration

In approving the CAT Funding Model, the SEC recognized that it is appropriate to recover budgeted professional and administration costs as a part of CAT Fees.¹⁴⁸ CAT LLC determined that the budgeted professional and administration costs described in this filing are reasonable and should be included as a part of Budgeted CAT Costs 2026–1. Because there are no CAT employees, all required accounting, financial, tax, cash management and treasury functions for CAT LLC have been outsourced at market rates. In addition, the required annual financial statement audit of CAT LLC is included

¹³² Section 11.3(a)(iii)(B)(B)(2) of the CAT NMS Plan.

¹³³ See Section 3(a)(2)(C)(vi) above.

¹³⁴ Section 11.3(a)(iii)(B)(B)(3) of the CAT NMS Plan.

¹³⁵ As stated in the filing of the proposed CAT NMS Plan, "[i]t is the intent of the Participants that the Company have no employees." Securities Exchange Act Rel. No. 77724 (Apr. 27, 2016), 81 FR 30614, 30621 (May 17, 2016).

¹³⁶ CAT LLC uses certain third parties to perform tasks that may be performed by administrators for other NMS Plans. See, e.g., CTA Plan and CQ Plan.

¹³⁷ Section 3(a)(2)(C)(vii) above.

¹³⁸ Section 11.3(a)(iii)(B)(B)(4) of the CAT NMS Plan.

¹³⁹ Section 4.1.5 of Appendix D of the CAT NMS Plan.

¹⁴⁰ See Section 3(a)(2)(C)(viii) above.

¹⁴¹ Id.

¹⁴² Section 11.3(a)(iii)(B)(B)(5) of the CAT NMS Plan.

¹³² See Section 3(a)(2)(C)(iii) above.

¹³³ Id.

¹³⁴ Section 11.3(a)(iii)(B)(B)(1) of the CAT NMS Plan.

¹³⁵ See Section 3(a)(2)(C)(iv) above.

¹³⁶ Section 11.3(a)(iii)(B)(B)(1) of the CAT NMS Plan.

¹³⁷ See Section 3(a)(2)(C)(v) above.

in professional and administration costs, which costs are also at market rates. The services performed by Anchin and Grant Thornton and the costs related to such services are described above.¹⁴⁹

CAT LLC anticipates continuing to make use of Anchin, a financial advisory firm, to assist with financial matters for the CAT. CAT LLC determined that the budgeted costs for Anchin were appropriate, as the financial advisory services were to be provided at reasonable market rates that were comparable to the rates charged by other such firms for similar work. Moreover, the total budgeted costs for such financial advisory services were appropriate in light of the breadth of services provided by Anchin. The services budgeted to be performed by Anchin and the budgeted costs related to such services are described above.¹⁵⁰

CAT LLC anticipates continuing to make use of Grant Thornton, an independent accounting firm, to complete the audit of CAT LLC's financial statements, in accordance with the requirements of the CAT NMS Plan. CAT LLC determined that the budgeted costs for Grant Thornton were appropriate, as the accounting services were to be provided at reasonable market rates that were comparable to the rates charged by other such firms for similar work. Moreover, the total budgeted costs for such accounting services were appropriate in light of the breadth of services provided by Grant Thornton. The services budgeted to be performed by Grant Thornton and the budgeted costs related to such services are described above.¹⁵¹

(x) Public Relations Costs

In approving the CAT Funding Model, the SEC recognized that it is appropriate to recover budgeted public relations costs as a part of CAT Fees.¹⁵² However, as described above,¹⁵³ CAT LLC determined not to include any public relations costs in Budgeted CAT Costs 2026–1. CAT LLC determined that it was reasonable not to include any public relations costs in the Budgeted CAT Costs 2026–1.

(xi) Interest Income

Section 11.1(a) of the CAT NMS Plan requires the CAT budget to include “the sources of all revenues to cover costs.” Accordingly, the Updated 2026 CAT Budget includes a line item for interest

income. Specifically, the Updated 2026 CAT Budget includes \$1,453,382 in interest income for the CAT Fee 2026–1 Period.¹⁵⁴ CAT LLC determined that using interest income to reduce the amount to be collected via CAT Fees is reasonable and should be included as a part of the Budgeted CAT Costs 2026–1.

(xii) Reserve

In approving the CAT Funding Model, the SEC recognized that it is appropriate to recover budgeted reserve costs as a part of CAT Fees.¹⁵⁵ CAT LLC determined that the reserve in the amount of 25% of the Updated 2026 CAT Budget (other than the reserve) complies with the requirements of the CAT NMS Plan related to a reserve, is a reasonable amount, and, therefore, should be included as a part of the Updated 2026 CAT Budget.

In its approval order for the CAT Funding Model, the Commission stated that it would be appropriate for the annual operating budget for the CAT to “include a reserve of not more than 25% of the annual budget.”¹⁵⁶ In making this statement, the Commission noted the following:

Because the CAT is a critical regulatory tool/system, the CAT needs to have a stable funding source to build financial stability to support the Company as a going concern. Funding for the CAT, as noted in Section 11.1(b), is the responsibility of the Participants and the industry. Because CAT fees are charged based on the budget, which is based on anticipated volume, it is appropriate to have a reserve on hand to prevent a shortfall in the event there is an unexpectedly high volume in a given year. A reserve would help to assure that the CAT has sufficient resources to cover costs should there be unanticipated costs or costs that are higher than expected.¹⁵⁷ The SEC also recognized that a reserve would help address the difficulty in predicting certain variable CAT costs, like trading volume.¹⁵⁸ The SEC also recognized that CAT fees will be collected approximately three months after trading activity on which a CAT fee is based, or 25% of the year, and that the reserve would be available to address funding needs related to this three-month delay.¹⁵⁹ The inclusion of the proposed reserve in the Updated

2026 CAT Budget would provide each of these benefits to the CAT. The reserve is discussed further above.¹⁶⁰

As discussed further below,¹⁶¹ however, a surplus reserve balance in excess of the budgeted 25% reserve has been collected as of the beginning of the year of 2026. Accordingly, the Updated 2026 CAT Budget indicates that this surplus would be used to offset a portion of CAT costs for the CAT Fee 2026–1 Period, thereby reducing the fee rate for CAT Fee 2026–1 (\$0.000001 per executed equivalent share). If the fee rate for CAT Fee 2026–1 were calculated solely based on the reasonably budgeted costs for CAT for May–December 2026, excluding the reduction in that amount due to the surplus reserve offset, the fee rate would be \$0.000010 per executed equivalent share.

(B) Reconciliation of Budget to the Collected Fees

The CAT NMS Plan also requires fee filings for Prospective CAT Fees to include “a discussion of how the budget is reconciled to the collected fees.”¹⁶² As discussed above,¹⁶³ this reserve balance of \$102,391,135 collected via prior CAT Fees would be used to offset a portion of CAT costs for CAT Fee Period 2026–1, thereby reducing the fee rate to be paid for CAT Fee 2026–1. Specifically, the total costs (including the 25% reserve) for CAT Fee 2026–1 of \$117,540,783 would be reduced by the \$102,391,135 in reserve. Therefore, the Total Budgeted CAT Costs 2026–1 would be \$15,149,648. Such surplus reserve balance would be used to reduce the fee rate for CAT Fee 2026–1 (\$0.000001 per executed equivalent share).

(C) Total Executed Equivalent Share Volume for the Prior 12 Months

The total executed equivalent share volume of transactions in Eligible Securities for the period from March 2025 through February 2026 was 5,980,937,549,360.49 executed equivalent shares. CAT LLC determined the total executed equivalent share volume for the prior twelve months by counting executed equivalent shares in the same manner as it counts executed equivalent shares for CAT billing purposes.¹⁶⁴

¹⁴⁹ See Section 3(a)(2)(C)(ix) above.

¹⁵⁰ *Id.*

¹⁵¹ *Id.*

¹⁵² Section 11.3(a)(iii)(B)(B)(6) of the CAT NMS Plan.

¹⁵³ See Section 3(a)(2)(C)(x) above.

¹⁵⁴ See chart entitled “Budgeted CAT Costs 2026–1” in Section 3(a)(2)(C) above.

¹⁵⁵ Section 11.3(a)(iii)(B)(B) of the CAT NMS Plan.

¹⁵⁶ CAT Funding Model Approval Order at 13444.

¹⁵⁷ *Id.*

¹⁵⁸ *Id.*

¹⁵⁹ *Id.*

¹⁶⁰ See Section 3(a)(2)(C)(xii) above.

¹⁶¹ See Section 3(b)(2)(B) below.

¹⁶² Section 11.3(a)(iii)(B)(C) of the CAT NMS Plan.

¹⁶³ See Section 3(a)(2)(C)(xii) above.

¹⁶⁴ See Section 3(a)(2)(D) above.

(D) Projected Executed Equivalent Share Volume for the CAT Fee 2026–1 Period

CAT LLC has determined that the projected total executed equivalent share volume for the eight months of the CAT Fee 2026–1 Period by multiplying by 8/12ths the executed equivalent share volume for the prior twelve months: 8/12 times 5,980,937,549,360.49 executed equivalent shares.¹⁶⁵ The Operating Committee determined that such an approach was reasonable as the CAT's annual executed equivalent share volume has increased from prior years (e.g., the executed equivalent share volume for 2024 was 4,295,884,600,069.41), and the Operating Committee believes that it is reasonable to conclude that the annual executed equivalent share volume will remain at the higher level.

(E) Actual Fee Rate for CAT Fee 2026–1

(i) Decimal Places

As noted in the approval order for the CAT Funding Model, as a practical matter, the fee filing for a CAT Fee would provide the exact fee per executed equivalent share to be paid for each CAT Fee, by multiplying the Fee Rate by one-third and describing the relevant number of decimal places for the fee rate.¹⁶⁶ Accordingly, proposed paragraph (a)(6)(B) of the fee schedule would set forth a fee rate of \$0.000001 per executed equivalent share. This fee rate is calculated by multiplying Fee Rate 2026–1 by one-third and rounding the result to six decimal places. CAT LLC determined that the use of six decimal places is reasonable as it balances the accuracy of the calculation with the potential systems and other impracticalities of using additional decimal places in the calculation.¹⁶⁷

(ii) Reasonable Fee Level

The Exchange believes that charging CAT Fee 2026–1 with a fee rate of \$0.000001 per executed equivalent share is reasonable because it provides for a revenue stream for the Company that is aligned with the Budgeted CAT Costs 2026–1. Moreover, the Exchange believes that the level of the fee rate is reasonable, as it is less than CAT Fee 2025–2 and is comparable to other transaction-based fees, including fees assessed pursuant to Section 31.¹⁶⁸ As

a result, the magnitude of CAT Fee 2026–1 is small, and therefore will mitigate any potential adverse economic effects or inefficiencies.¹⁶⁹

(3) CAT Fee 2026–1 Provides for an Equitable Allocation of Fees

CAT Fee 2026–1 provides for an equitable allocation of fees, as it equitably allocates CAT costs between and among the Participants and Industry Members. The SEC approved the CAT Funding Model, finding that each aspect of the CAT Funding Model satisfied the requirements of the Exchange Act, including the formula for calculating CAT Fees as well as the Industry Members to be charged the CAT Fees.¹⁷⁰ In approving the CAT Funding Model, the SEC stated that “[t]he Participants have sufficiently demonstrated that the proposed allocation of fees is appropriate and meets the Rule 608(b) approval standard.”¹⁷¹ Accordingly, the CAT Funding Model sets forth the requirements for allocating fees related to Budgeted CAT Costs among Participants and Industry Members, and the fee filings for CAT Fees must comply with those requirements.

CAT Fee 2026–1 provides for an equitable allocation of fees as it complies with the requirements regarding the calculation of CAT Fees as set forth in the CAT NMS Plan. For example, as described above, the calculation of CAT Fee 2026–1 complies with the formula set forth in Section 11.3(a) of the CAT NMS Plan. In addition, CAT Fee 2026–1 would be charged to CEBBs and CEBs in accordance with Section 11.3(a) of the CAT NMS Plan. Furthermore, the Participants would be charged for their designated share of the Budgeted CAT Costs 2026–1 through a fee implemented via the CAT NMS Plan, which would have the same fee rate as CAT Fee 2026–1.

In addition, as discussed above, each of the inputs into the calculation of CAT Fee 2026–1—the Budgeted CAT Costs 2026–1, the count for the executed equivalent share volume for the prior 12 months, and the projected executed equivalent share volume for the CAT Fee 2026–1 Period—is reasonable. Moreover, these inputs lead to a reasonable fee rate for CAT Fee 2026–1 that is lower than other fee rates for transaction-based fees. A reasonable fee rate allocated in accordance with the

requirements of the CAT Funding Model provides for an equitable allocation of fees.

(4) CAT Fee 2026–1 is Not Unfairly Discriminatory

CAT Fee 2026–1 is not an unfairly discriminatory fee. The SEC approved the CAT Funding Model, finding that each aspect of the CAT Funding Model satisfies the requirements of the Exchange Act. In reaching this conclusion, the SEC analyzed the potential effect of CAT Fees calculated pursuant to the CAT Funding Model on affected categories of market participants, including Participants (including exchanges and FINRA), Industry Members (including subcategories of Industry Members, such as alternative trading systems, CAT Executing Brokers and market makers), and investors generally, and considered market effects related to equities and options, among other things. CAT Fee 2026–1 complies with the requirements regarding the calculation of CAT Fees as set forth in the CAT NMS Plan. In addition, as discussed above, each of the inputs into the calculation of CAT Fee 2026–1 and the resulting fee rate for CAT Fee 2026–1 is reasonable. Therefore, CAT Fee 2026–1 does not impose an unfairly discriminatory fee on Industry Members.

The Exchange believes the proposed fees established pursuant to the CAT Funding Model promote just and equitable principles of trade, and, in general, protect investors and the public interest, and are provided in a transparent manner and with specificity in the fee schedule. The Exchange also believes that the proposed fees are reasonable because they would provide ease of calculation, ease of billing and other administrative functions, and predictability of a fee based on fixed rate per executed equivalent share. Such factors are crucial to estimating a reliable revenue stream for CAT LLC and for permitting Exchange members to reasonably predict their payment obligations for budgeting purposes.

B. Self-Regulatory Organization's Statement on Burden on Competition

Section 6(b)(8) of the Act¹⁷² requires that the Exchange's rules not impose any burden on competition that is not necessary or appropriate in furtherance of the purpose of the Exchange Act. The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The

¹⁶⁵ *Id.*

¹⁶⁶ CAT Funding Model Approval Order at 13445, n.677.

¹⁶⁷ See Section 3(a)(5)(A) above.

¹⁶⁸ For example, as the SEC noted in the CAT Funding Model Approval Order, recent Section 31 fees ranged from \$0.00007 per share to \$0.00072 per

share. CAT Funding Model Approval Order at 13469.

¹⁶⁹ *Id.*

¹⁷⁰ See Section 11.3(a) of the CAT NMS Plan.

¹⁷¹ CAT Funding Model Approval Order at 13412.

¹⁷² 15 U.S.C. 78f(b)(8).

Exchange notes that CAT Fee 2026–1 implements provisions of the CAT NMS Plan that were approved by the Commission and is designed to assist the Exchange in meeting its regulatory obligations pursuant to the Plan.

In addition, all Participants (including exchanges and FINRA) are proposing to introduce CAT Fee 2026–1 on behalf of CAT LLC to implement the requirements of the CAT NMS Plan. Therefore, this is not a competitive fee filing, and, therefore, it does not raise competition issues between and among the Participants.

Furthermore, in approving the CAT Funding Model, the SEC analyzed the potential competitive impact of the CAT Funding Model, including competitive issues related to market services, trading services and regulatory services, efficiency concerns, and capital formation.¹⁷³ The SEC also analyzed the potential effect of CAT fees calculated pursuant to the CAT Funding Model on affected categories of market participants, including Participants (including exchanges and FINRA), Industry Members (including subcategories of Industry Members, such as alternative trading systems, CAT Executing Brokers and market makers), and investors generally, and considered market effects related to equities and options, among other things. Based on this analysis, the SEC approved the CAT Funding Model as compliant with the Exchange Act. CAT Fee 2026–1 is calculated and implemented in accordance with the CAT Funding Model as approved by the SEC.

As discussed above, each of the inputs into the calculation of CAT Fee 2026–1 is reasonable and the resulting fee rate for CAT Fee 2026–1 calculated in accordance with the CAT Funding Model is reasonable. Therefore, CAT Fee 2026–1 would not impose any burden on competition that is not necessary or appropriate in furtherance of the purpose of the Exchange Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.¹⁷⁴

¹⁷³ CAT Funding Model Approval Order at 13457–81.

¹⁷⁴ 15 U.S.C. 78s(b)(3)(A)(ii).

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR–GEMX–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–GEMX–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–GEMX–2026–16 and should be submitted on or before June 4, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁷⁵

J. Matthew DeLesDernier,
Deputy Secretary.

[FR Doc. 2026–09598 Filed 5–13–26; 8:45 am]

BILLING CODE 8011–01–P

¹⁷⁵ 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 36145; 812–15766]

Precidian ETF Trust II, et al.

May 11, 2026.

AGENCY: Securities and Exchange Commission (“Commission”).

ACTION: Notice of an application to amend a prior order for exemptive relief.

SUMMARY OF APPLICATION: Applicants request an order (“Amended Order”) that would amend a prior order to (i) modify the conditions a Fund must meet to use Creation Baskets that include instruments that are not included, or are included with different weightings, in the Fund's Pro Rata Basket (as defined below) and (ii) to expand the instances in which a Fund is permitted to use cash in the Fund's Pro Rata Basket.

APPLICANTS: Precidian ETF Trust II (“Trust”) and Precidian Funds LLC (the “Applicants”).

FILING DATES: The application was filed on April 25, 2025, and amended on July 30, 2025, December 23, 2025, February 6, 2026, and April 20, 2026.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by emailing the Commission's Secretary at Secretaries-Office@sec.gov and serving Applicants with a copy of the request by email, if an email address is listed for the relevant Applicant below, or personally or by mail, if a physical address is listed for the relevant Applicant below. Hearing requests should be received by the Commission by 5:30 p.m. Eastern time on June 5, 2026 and should be accompanied by proof of service on the Applicants in the form of an affidavit, or, for lawyers, a certificate of service. Pursuant to rule 0–5 under the Investment Company Act of 1940 (“Act”), hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by emailing the Commission's Secretary at Secretaries-Office@sec.gov.

ADDRESSES:

The Commission: Commission's Secretary, Secretaries-Office@sec.gov.

Applicants: W. John McGuire, Morgan, Lewis & Bockius LLP, 1111 Pennsylvania Avenue NW, Washington,

DC 20004, john.mcguire@morganlewis.com.

FOR FURTHER INFORMATION CONTACT: Kris Easter Guidroz, Senior Counsel; Daniele Marchesani, Assistant Chief Counsel, at (202) 551-6825 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: For Applicants' representations, legal analysis, and conditions, please refer to Applicants' fourth amended and restated application, dated April 20, 2026, which may be obtained via the Commission's website by searching for the file number at the top of this document, or for an Applicant using the Company name search field on the SEC's EDGAR system. The SEC's EDGAR system may be searched at <https://www.sec.gov/search-filings>. You may also call the SEC's Office of Investor Education and Advocacy at (202) 551-8090.

I. Introduction

1. On December 10, 2024, the Commission issued an order to the Applicants under section 6(c) of the Investment Company Act of 1940 granting an exemption from sections 2(a)(32), 5(a)(1), and 22(d) of the Act and rule 22c-1 thereunder, and under sections 6(c) and 17(b) of the Act granting an exemption from sections 17(a)(1) and 17(a)(2) of the Act (the "2024 Order"),¹ which amended a previous order issued by the Commission on May 20, 2019² (the "Initial Order" and, as amended by the 2024 Order, the "Prior Order"). The Prior Order allows Applicants to operate actively-managed exchange-traded funds ("ETFs") that are not required to disclose their full portfolio holdings on a daily basis (each, a "Fund"). Rather, each Fund disseminates a "verified intraday indicative value," or "VIIV," reflecting the value of its portfolio holdings, calculated every second throughout the trading day.

2. In addition to publishing a VIIV, the Prior Order requires a Fund to offer a Creation Basket³ each Business Day

comprised of names and quantities of instruments that correspond *pro rata* to the Fund's portfolio holdings used to calculate the Fund's NAV for that day except for certain specifically permitted cash substitutions ("Pro Rata Basket").⁴

3. The Prior Order allows a Fund to offer a Creation Basket that includes instruments that are not included in, or are included in different weightings than, the Fund's Pro Rata Basket (a "Custom Basket") subject to the condition that, on any day the Fund offers a Custom Basket, the Fund must first publicly disclose an Optimized Basket and an Optimized Basket Overlap metric to provide market participants with additional information to evaluate arbitrage transactions involving a Custom Basket.⁵

4. Applicants now seek to amend the Prior Order to permit a Fund to use Custom Baskets without disclosing an Optimized Basket and the Optimized Basket Overlap. The requested amendment would also permit a Fund to substitute cash in lieu of an instrument that would otherwise be part of the Fund's Pro Rata Basket in instances in which the Fund or its investment adviser is restricted from transacting in that instrument. As a condition to Applicants' requested amendment, the Funds would comply with additional disclosure and record retention requirements.⁶

II. The Application

5. Upon amending the Prior Order, each Fund will be able to offer a Custom Basket without publishing an Optimized Basket and Optimized Basket Overlap metric.⁷ A Fund will continue to offer

the Prior Order. Further, except as specifically noted in the Application, all representations and conditions under the Prior Order will remain applicable to the operation of the Funds and will apply to any Funds relying on the Amended Order requested in the Application.

⁴ See the Initial Notice at note 19. The Funds are not able to operate in reliance on rule 6c-11 because they do not disclose their portfolio holdings on a daily basis as required by the rule. See rule 6c-11(c)(1)(i) (requiring an ETF to disclose prominently on its website, publicly available and free of charge, the portfolio holdings that will form the basis for the Fund's calculation of per share NAV).

⁵ An "Optimized Basket" is a basket of securities and cash that is designed to closely track the daily performance of the Fund's actual portfolio. "Optimized Basket Overlap" is a metric that measures the overlap between the Optimized Basket and the Fund's actual portfolio.

⁶ See the application to amend the Prior Order, as amended and restated and filed by Precidian ETF Trust II, *et al.*, filed April 20, 2026 (File Number 812-1576) (the "Application").

⁷ As under the Prior Order, the Funds will continue to use basket flexibility only in circumstances in which Applicants believe there will be no harm to the Funds or their shareholders and in order to benefit the Funds and their

a Pro Rata Basket on any day the Fund offers a Custom Basket to provide Authorized Participants the option to transact in either basket. In addition, each Fund will continue to publish its VIIV every second throughout every trading day. Under the requested Amended Order, on each Business Day before trading opens on the Exchange where the Fund is listed, the Fund will continue to publish on its website the composition of any Custom Basket exchanged with an Authorized Participant on the previous Business Day.

6. Pursuant to the requested Amended Order, on any Business Day on which the Fund's Adviser determines the Fund should use a Custom Basket, the Adviser will cause the Fund to disclose to Authorized Participants the names and quantities of instruments that make up the Custom Basket. Applicants represent that this information will allow an Authorized Participant to compare the performance of the Custom Basket to the Fund's VIIV, and hedge potential risks of transacting in the Custom Basket that may result from differences between the value of the Custom Basket and the value of Fund's actual portfolio as reflected by the VIIV. Applicants represent that, though arbitrage may be slightly less efficient without an Optimized Basket, the VIIV combined with other publicly available information about a Fund will provide enough information to support efficient arbitrage on days that a Fund uses a Custom Basket. Applicants further note that Authorized Participants will continue to have the option to transact in a Fund's Pro Rata Basket and thereby eliminate intraday risk related to an arbitrage transaction, which makes arbitrage more efficient.

7. Applicants also seek expanded flexibility to substitute cash for one or more instruments in the Fund's Pro Rata Basket in the event a Fund or its Adviser is restricted from transacting in the instrument on that day. Applicants represent that a Fund or its Adviser may be restricted from transacting in an instrument for a number of reasons that include restrictions directly on the Fund ("Fund Level Restrictions") and restrictions on the Adviser or one of its affiliates that impact the Fund ("Sponsor Level Restrictions"). As further discussed in the Application, Fund Level Restrictions can include regulatory requirements imposed by the Act or limits imposed by fundamental or non-fundamental investment policies that preclude a Fund from acquiring

shareholders by reducing costs, increasing efficiency, and improving trading.

¹ See Precidian ETFs Trust II, *et al.*, Investment Company Act Release No. 35386 (Nov. 14, 2024) (the "2024 Notice") and Investment Company Act Release No. 35411 (Dec. 10, 2024).

² See Precidian ETFs Trust, *et al.*, Investment Company Act Release No. 33440 (April 8, 2019) (the "Initial Notice") and Investment Company Act Release No. 33477 (May 20, 2019). The Initial Order also granted, under section 12(d)(1)(J) of the Act, an exemption from sections 12(d)(1)(A) and 12(d)(1)(B) of the Act (the "Section 12(d)(1) Relief"). The Section 12(d)(1) Relief expired on January 19, 2022. See Fund of Funds Arrangements, Investment Company Act Rel. No. 10871 (Oct. 7, 2020), at III.

³ All capitalized terms not otherwise defined in this notice have the meanings ascribed to them in

additional interests in a particular instrument. Sponsor Level Restrictions instead arise, for example, when the Fund's Adviser or an affiliate of the Adviser has material non-public information about the issuer of an instrument that would restrict the Adviser and the Fund from transacting in that instrument, or if the Fund's Adviser or an affiliate of the Adviser (including a Fund) is restricted from acquiring more shares of an issuer due to legal restrictions on investments in certain industries.⁸

8. Under the Prior Order, a Fund may substitute cash for one or more instruments that otherwise would be included in its Pro Rata Basket only if the Fund substitutes cash for all instruments in its Pro Rata Basket (*i.e.*, uses an all-cash Creation Basket), the instrument is not available in sufficient quantity, the Authorized Participant is unable to transact in the instrument, or the instrument is not eligible for transfer through clearing agencies' settlement processes. If a Fund's Pro Rata Basket contains an instrument that becomes subject to a Fund Level Restriction or Sponsor Level Restriction, the Fund currently must either transact in an all-cash Creation Basket or use a Custom Basket to substitute cash for the instruments that are subject to the restriction. The requested relief will modify the definition of a Pro Rata Basket to include cash substitutions for an instrument that becomes subject to a Fund Level Restriction or Sponsor Level Restriction.

9. As part of the requested amendment, Applicants will maintain additional records each time that a Fund substitutes cash for restricted instruments in its Pro Rata Basket. Specifically, pursuant to condition 6, for any Creation Basket that includes cash in lieu of an instrument subject to a Fund Level Restriction or a Sponsor Level Restriction, the Fund will include in its records the nature of the restriction.

II. Requested Exemptive Relief

Applicants believe that the Prior Order continues to meet the relevant standards for relief pursuant to section 6(c) of the Act for an exemption from sections 2(a)(32), 5(a)(1), and 22(d) of the Act and rule 22c-1 under the Act, and under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and 17(a)(2) of the Act.

⁸ As an example, the Application notes that the purchase of 10% or more of the common equity of certain public utilities requires prior FERC approval under Section 203 of the Federal Power Act.

III. Applicants' Conditions

Applicants agree that any Order of the Commission granting the requested relief will be subject to all of the conditions in the Prior Order, except condition 2 and condition 6 which are replaced with revised and restated conditions 2 and 6 below:

2. The website for the Trust, which will be publicly accessible at no charge, will contain, on a per Share basis for each Fund, the prior Business Day's NAV and market closing price or Bid/Ask Price of the Shares, a calculation of the premium or discount of the market closing price or Bid/Ask Price against such NAV, and any other information regarding premiums and discounts as may be required for other ETFs under Rule 6c-11 under the Act. The website will also disclose the median bid-ask spread for each Fund's most recent fiscal year based on the National Best Bid and Offer at the time of calculation of NAV (or such other spread measurement as may be required for other ETFs under Rule 6c-11 under the Act).

6. Each Fund will comply with the recordkeeping requirements of Rule 6c-11 under the Act, except that for purposes of this condition, only a Creation Basket different from the Fund's Pro Rata Basket will be treated as a "custom basket" under Rule 6c-11(d)(2)(ii). For any Creation Basket that includes cash in lieu of instruments subject to a Fund Level Restriction or a Sponsor Level Restriction, the Fund's records will note the nature of the restriction. In addition, each Fund will maintain and preserve, for a period of not less than five years, in an easily accessible place, (i) all written agreements (or copies thereof) between the Fund and each AP Representative related to the AP Representative's role as such; and (ii) a copy of each Creation Basket made available on a given day.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Vanessa A. Countryman,
Secretary.

[FR Doc. 2026-09577 Filed 5-13-26; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 36149; File No. 812-15904]

GoldenTree Opportunistic Credit Fund, et al.

May 12, 2026.

AGENCY: Securities and Exchange Commission ("Commission" or "SEC").
ACTION: Notice.

Notice of application for an order under sections 17(d) and 57(i) of the Investment Company Act of 1940 (the "Act") and rule 17d-1 under the Act to permit certain joint transactions otherwise prohibited by sections 17(d) and 57(a)(4) of the Act and rule 17d-1 under the Act.

SUMMARY OF APPLICATION: Applicants request an order to permit certain business development companies ("BDCs") and closed-end management investment companies to co-invest in portfolio companies with each other and with certain affiliated investment entities.

APPLICANTS: GoldenTree Opportunistic Credit Fund, GoldenTree Asset Management Credit Advisor LLC, GoldenTree Asset Management LP, GoldenTree Loan Management, LP, GLM LP, GoldenTree Loan Management II, LP, GoldenTree Loan Management III, LP, GoldenTree Opportunistic Credit Fund Cayman LP, GoldenTree Opportunistic Credit Fund Cayman LLC, and certain of their affiliated entities as described in Schedule A to the Application.

FILING DATES: The application was filed on September 25, 2025, and amended on March 24, 2026.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing on any application by emailing the SEC's Secretary at Secretarys-Office@sec.gov and serving the Applicants with a copy of the request by email, if an email address is listed for the relevant Applicant below, or personally or by mail, if a physical address is listed for the relevant Applicant below. The email should include file number referenced above. Hearing requests should be received by the Commission by 5:30 p.m. on June 8, 2026, and should be accompanied by proof of service on the Applicants, in the form of an affidavit or, for lawyers, a certificate of service. Pursuant to rule 0-5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the

desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by emailing the Commission's Secretary at *Secretaries-Office@sec.gov*.

ADDRESSES: The Commission: *Secretaries-Office@sec.gov*. Applicants: Peter Alderman, GoldenTree Asset Management LP, 300 Park Avenue, 21st Floor, New York, New York 10022; William J. Bielefeld, Esq. and Alexander C. Karampatsos, Esq., Dechert LLP, 1900 K Street NW, Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: Adam Large, Senior Special Counsel, or Deepak T. Pai, Senior Counsel at (202) 551-6825 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: For Applicants' representations, legal analysis, and conditions, please refer to Applicants' first amended application, filed March 24, 2026, which may be obtained via the Commission's website by searching for the file number at the top of this document, or for an Applicant using the Company name search field, on the SEC's EDGAR system.

The SEC's EDGAR system may be searched at <https://www.sec.gov/search-filings>. You may also call the SEC's Office of Investor Education and Assistance at (202) 551-8090.

For the Commission, by the Division of Investment Management, under delegated authority.

Vanessa A. Countryman,
Secretary.

[FR Doc. 2026-09681 Filed 5-13-26; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-105427; File No. SR-NSCC-2026-007]

Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Facilitate the Exchange of a Mutual Fund Share to an Exchange-Traded Fund Share, Shorten the Settlement Time for Certain Networking Payments, and Clarify Certain Fees

May 11, 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 May 1, 2026, National Securities Clearing Corporation ("NSCC") 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. NSCC 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

The proposed rule change⁵ consists of amendments to the NSCC Rules to (i) update Fund/SERV[®] to facilitate the exchange of a mutual fund share to an exchange-traded fund ("ETF") share class, (ii) shorten the settlement time for certain Networking Payments to the same day NSCC is notified of the payment and (iii) clarify the Fund/SERV transaction fees charged to NSCC Members.⁷

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

NSCC is proposing to change the NSCC Rules to (i) update Fund/SERV to facilitate the exchange of a mutual fund share to an ETF share class, (ii) shorten the settlement time for certain Networking Payments to the same day NSCC is notified of the payment and (iii) clarify the Fund/SERV transaction fees charged to NSCC Members.

¹ 15 U.S.C. 78s(b)(3)(A).

² 17 CFR 240.19b-4(f)(4).

³ Terms not defined herein are defined in the NSCC Rules & Procedures ("Rules"), available at www.dtcc.com/legal/rules-and-procedures.

⁴ See Rule 52, Part A, *supra* note 5.

⁵ For purposes of this filing, "NSCC Members" refers to the Members and Limited Members of NSCC that are entitled to use the services set forth in Rule 52.

Background

Dual-Share-Class Structures

ETFs continue to grow in market adoption due to their intra-day liquidity, tax efficiency, and generally lower operating costs relative to traditional mutual funds. ETFs are market traded securities designed to track indices, commodities, bonds, or other baskets of assets, and are bought and sold throughout the trading day like any other exchange-listed security.

An increasing number of mutual funds ("Funds") are now introducing ETF share classes within the same portfolio as their existing mutual fund share classes. This trend follows the expiration of a patent originally obtained by The Vanguard Group, Inc. ("Vanguard") relating to a dual share class structure, which previously prevented other Funds from offering ETF and mutual fund share classes within a single fund without exemptive relief. Under the Investment Company Act of 1940, a Fund may not operate both mutual fund and ETF share classes in a single portfolio unless it first obtains exemptive relief from the Commission. Vanguard secured such exemptive relief in 2000 and patented the structure in 2003. While the patent remained effective, other asset managers could not rely on a similar structure. Since the patent's expiration in 2023, other Funds have begun applying for—and the Commission has begun granting—exemptive relief to permit the operation of dual share class structures.⁸

The exemptive relief sought generally includes authorization for Funds to offer both mutual fund shares and ETF shares within the same portfolio and, in certain cases, also includes permission to provide an "exchange privilege" allowing mutual fund shareholders to exchange their mutual fund shares for ETF shares under specified conditions.⁹

To support this developing industry model and to facilitate the operational processing of mutual fund to ETF share class exchanges, NSCC proposes to amend its Rules governing Fund/SERV.¹⁰ The proposed amendments

⁸ As of March 17, 2026, approximately, 100 Funds have sought exemptive relief to offer a dual-share-class structure. See Securities Exchange Act Release No. 105028 (Mar. 17, 2026), 91 FR 13675 (Mar. 20, 2026) (granting conditional exemptive relief under Section 11(d)(1) of the Act for ETF share classes of multi-class funds).

⁹ See, e.g., DFA Investment Dimensions Group Inc., et al., Investment Company Act Release No. 35770 (Sept. 29, 2025), 90 FR 47412 (Oct. 1, 2025) (File No. 812-15484).

¹⁰ Fund/SERV is NSCC's automated platform for processing mutual fund transactions, including purchases, redemptions, and conversions. See Rule 52, Part A, *supra* note 5.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

would permit Funds¹¹ and ETF agents (“ETF Agents”)—which facilitate the creation and redemption processes for ETFs—that are NSCC Members to transmit ETF exchange data through Fund/SERV for purposes of supporting an exchange from a mutual fund share class to an ETF share class. This enhancement to Fund/SERV is intended to provide a standardized and automated mechanism for communicating the ETF exchange details necessary to complete such transactions and to ensure that both Funds and ETF Agents can rely on existing NSCC infrastructure for these newly permitted dual share class operations. Fund/SERV does not currently have data fields or a process in place specifically for mutual fund to ETF share class exchanges, and processing of ETF exchange data is done manually outside of Fund/SERV.

Networking Activity Settlement

NSCC proposes to amend its Rules to modify the settlement timing for Networking Payments, which will include residual cash amounts arising from fractional share differences when mutual fund shares are converted into ETF share class shares. Networking is an NSCC service that facilitates the communication of customer account data and the settlement of certain payment obligations between NSCC Members.¹² In certain transactions in which mutual fund shares are converted into ETF share class shares, residual cash amounts may arise as a result of fractional share differences. NSCC Members have indicated a preference to settle such residual cash amounts as Networking Payments and to accelerate the settlement of all Networking Payments.

Under the current Rules, Networking Payments settle on the Business Day (“Debit Day”) following the day on which NSCC is notified of the applicable dollar amounts to be debited (“Other Payable Amounts”).¹³ NSCC receives notification of the Other Payable Amounts one Business Day following the transaction date. As a result, settlement generally occurs two Business Days after the transaction date. Although a “Business Day” is defined as any day NSCC is open for business,

NSCC does not process payments of money, including Networking Payments, on days when banks in New York are closed.¹⁴ In addition, current NSCC procedures require NSCC Members to notify NSCC of Networking Payment Other Payable Amounts between 1:00 a.m. ET and 5:00 a.m. ET, Monday through Saturday, with Debit Day occurring Monday through Friday on Business Days on days when banks in New York are open. Accordingly, the Debit Day is at least one Business Day after notice of the Other Payable Amounts have been submitted to NSCC and at least two Business Days following the transaction date.

NSCC Members have requested the ability to accelerate this process so that Debit Day be the same day that NSCC is notified of the Other Payable Amounts and one Business Day after the transaction date, provided that (i) the Debit Day is a Business Day, (ii) banks in New York are open, and (iii) NSCC receives notice of the Other Payable Amounts during the time period specified by NSCC (currently between 1:00 a.m. ET and 5:00 a.m. ET).

Accordingly, NSCC is proposing to amend its Rules to provide for settlement of Networking Payments on the same Business Day that NSCC is notified when these conditions are satisfied. NSCC believes that this change will improve operational efficiency, better align settlement timing with NSCC Member needs, and support timely and accurate processing of Networking Payments, including residual cash associated with mutual fund-to-ETF share class conversions.

Fund/SERV Transaction Fee

NSCC charges a transaction fee of \$0.06 per side, per order or transfer request settling through NSCC for Fund/SERV transactions.¹⁵ NSCC is proposing to update the description of this fee to specify that records associated with ETF exchange details are included within the scope of this charge. NSCC would also revise the description to provide additional clarity regarding what constitutes a “side” for purposes of the fee and to identify, with greater specificity, (i) the record types to which the transaction fee applies and (ii) when the fee is charged upon submission and receipt, thereby providing NSCC Members with a more accurate understanding of when the fee will be assessed. Other than reflecting that the charge would apply to the new ETF

exchange detail records, the proposed changes would not modify how the transaction fee is currently assessed by NSCC.

Proposed Rule Changes

Rule 52, Part A—Mutual Fund to ETF Share Class Exchange Details

NSCC is proposing to update Section 3 of Rule 52, Part A to incorporate the ability to include ETF exchange details in records processed through Fund/SERV. Specifically, NSCC would add a provision providing that, where an order relates to the exchange or conversion of a Fund/SERV Eligible Fund with an exchange-traded fund share class (an “ETF Exchange”), NSCC would transmit order data to Members that (i) have subscribed to receive ETF Exchange order data and (ii) have been identified as the ETF Agent with respect to the ETF share class involved in the exchange. In addition, an ETF Agent would be required to contact NSCC if it does not receive order data for an ETF Exchange, and the ETF Agent would be able to request that NSCC transmit summary data relating to such order, in a manner similar to the existing right available to Funds.

NSCC is also proposing to update Section 4 of Rule 52, Part A to provide that, if a Fund does not reject an order relating to an ETF Exchange, the Fund would transmit relevant share class exchange information (“ETF Exchange Details”) to the ETF Agent through Fund/SERV. The proposed change would further provide ETF Agents with the ability to transmit data back to the Funds as necessary to facilitate the ETF Exchange.

Rule 52, Part B—Same Day Networking Settlement

NSCC proposes an amendment to Rule 52, Part B, stipulating that the Debit Day for Other Payable Amounts shall be the date on which Funds notify NSCC of the Other Payable Amounts, provided such submission occurs within the timeframe specified by NSCC and on a Business Day on which banks in New York are open for business. If notice of the Other Payable Amounts is not submitted within the timeframe specified by NSCC, or on a day that is not a Business Day on which banks in New York are open for business, the Rules will provide that Debit Day would be the next Business Day.

Addendum A—Revise Fund/SERV Transaction Fee Description

NSCC would update Section IV.G.1.b of Addendum A to reflect that the Fund/SERV transaction fee of \$0.06 would apply to records associated with ETF

¹¹ Under Rule 52, the entities processing data on behalf of mutual funds are Fund Members or Mutual Fund Processors.

¹² See Rule 52, Part B, *supra* note 5. Networking Payments are Fund/SERV Eligible Fund payments, other than payments settled through Fund/SERV or DTCC Payment aXis. *Id.*

¹³ See Rule 52, Part B, Section 3(b), *supra* note 5 (outlines timing of processing Other Payable Amounts).

¹⁴ See definition of “Business Day”, Rule 1, and Section 3(b) of Rule 52, Part B, *supra* note 5.

¹⁵ See Section IV.G.1.b. of Addendum A, *supra* note 5.

Exchanges. NSCC would also revise the description to clarify when the transaction fee is assessed and to identify, with greater specificity, the record types to which the fee applies, including delineating when the NSCC Member is charged as the submitter of a record and when it is charged as the recipient of a record.

Implementation Date

NSCC would implement the proposed changes to Rule 52, Part A and to Addendum A on May 18, 2026. NSCC would implement the proposed rule changes to Rule 52, Part B on July 13, 2026.

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.¹⁶

NSCC believes that the proposed changes to (i) update Rule 52, Part A to add provisions within Fund/SERV to facilitate the exchange of mutual fund shares for ETF share classes and (ii) update Rule 52, Part B to shorten the settlement time for certain Networking Payments to the same business day on which NSCC is notified of the applicable Other Payable Amounts are consistent with Section 17A(b)(3)(F) of the Act.¹⁷ These changes would enhance NSCC Members' ability to efficiently process ETF Exchange transactions and reduce settlement timeframes for Networking Payments, including residual cash associated with ETF Exchanges. By improving the efficiency, timeliness, and accuracy of these processes, the proposed changes would promote the prompt and accurate clearance and settlement of securities transactions, consistent with Section 17A(b)(3)(F) of the Act.

In addition, NSCC believes that the proposed changes to clarify the Fund/SERV transaction fees charged to NSCC Members, as set forth in Addendum A of the Rules, are also consistent with Section 17A(b)(3)(F) of the Act. The proposed fee clarifications would enhance the clarity and transparency of the Rules, thereby enabling NSCC Members to more efficiently understand and apply the applicable fee structure when conducting activity through Fund/SERV. NSCC believes that increased clarity and transparency in the Rules supports more efficient NSCC Member operations and, in turn, promotes the prompt and accurate clearance and settlement of securities

transactions, consistent with Section 17A(b)(3)(F) of the Act.

Rule 17ad–22(e)(21)¹⁸ under the Act requires that each covered clearing agency establish, implement, maintain, and enforce written policies and procedures reasonably designed to, among other things, be efficient and effective in meeting the requirements of its participants and the markets it serves. NSCC believes that the proposed changes to (i) update Rule 52, Part A to add provisions within Fund/SERV to facilitate the exchange of mutual fund shares for ETF share classes and (ii) update Rule 52, Part B to shorten the settlement time for certain Networking Payments to the same business day on which NSCC is notified of the applicable Other Payable Amounts are consistent with Rule 17ad–22(e)(21).¹⁹ As discussed above, these changes would provide NSCC Members the ability to efficiently process ETF Exchange transactions and reduce settlement timeframes for Networking Payments, including residual cash associated with ETF Exchanges. Accordingly, NSCC believes the proposed rule change is reasonably designed to meet the requirements of its participants and the markets it serves, consistent with Rule 17ad–22(e)(21) under the Act.

Rule 17ad–22(e)(23)(ii)²⁰ under the Act requires each covered clearing agency to establish, implement, maintain, and enforce written policies and procedures reasonably designed to provide sufficient information to enable participants to identify and evaluate the risks, fees, and other material costs they incur by participating in the covered clearing agency. NSCC believes that the proposed changes to clarify the Fund/SERV transaction fees charged to NSCC Members, as set forth in Addendum A of the Rules, are consistent with Rule 17ad–22(e)(23)(ii).²¹ The proposed changes would identify, with greater specificity, (i) the record types to which the transaction fee applies and (ii) when the fee is assessed upon submission and receipt, thereby providing NSCC Members with a more accurate understanding of when the fee will be charged. These fee-related provisions would be publicly set forth in the NSCC Rules. Accordingly, NSCC believes the proposed rule change is reasonably designed to provide sufficient information for participants to identify and evaluate the risks, fees, and other material costs they incur by

participating in NSCC, consistent with Rule 17ad–22(e)(23)(ii) under the Act.

(B) Clearing Agency's Statement on Burden on Competition

NSCC does not believe that the proposed rule change would have an adverse impact, or impose a burden, on competition. The proposed changes would help NSCC Members process ETF Exchanges, send Networking Payments, and clarify the Rules without adding new obligations for those already using NSCC's services. As such, the proposed changes would not impede any NSCC Members from engaging in the services or have an adverse impact on any NSCC Members.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

NSCC has not received or solicited any written comments relating to this proposal. If any written comments are received by NSCC, they will 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 Securities and Exchange Commission ("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-comments. 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.

NSCC 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) of the Act²² and paragraph (f) of Rule 19b–4 thereunder.²³ At any time within 60 days of the filing of the proposed rule change, the Commission summarily may

¹⁶ 15 U.S.C. 78q–1(b)(3)(F).

¹⁷ *Id.*

¹⁸ 17 CFR 240.17ad–22(e)(21).

¹⁹ *Id.*

²⁰ 17 CFR 240.17ad–22(e)(23)(ii).

²¹ *Id.*

²² 15 U.S.C. 78s(b)(3)(A).

²³ 17 CFR 240.19b–4(f).

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 (www.sec.gov/rules/sro.shtml); or
- Send an email to rule-comments@sec.gov. Please include File Number SR-NSCC-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.

All submissions should refer to File Number SR-NSCC-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 only one method. The Commission will post all comments on the Commission's internet website (www.sec.gov/rules/sro.shtml). Copies of the filing will be available for inspection and copying at the principal office of NSCC and on DTCC's website (www.dtcc.com/legal/sec-rule-filings). 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-NSCC-2026-007 and should be submitted on or before June 4, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁴

J. Matthew DeLesDernier,
Deputy Secretary.

[FR Doc. 2026-09589 Filed 5-13-26; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-105441; File No. SR-GEMX-2026-18]

Self-Regulatory Organizations; Nasdaq GEMX, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Description and Contents of GEMX Trade Outline Products

May 11, 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 April 29, 2026, Nasdaq GEMX, LLC ("GEMX" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to (a) amend Options 3, Section 23(c), which sets forth the description of the Nasdaq GEMX Open/Close Trade Profile, or "Trade Outline," in the GEMX rulebook to (i) rename the product "GEMX Trade Outline," (ii) include Market Makers as an origin type, and (iii) restate the categories of information provided in the GEMX Trade Outline End of Day ("End of Day") and (b) revise Options 7, Section 7 to conform to the new name for the GEMX Trade Outline product.

The text of the proposed rule change is available on the Exchange's website at <https://listingcenter.nasdaq.com/rulebook/gemx/rulefilings>, and at the principal office of the Exchange.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to amend GEMX's market data feed descriptions at Options 3, Section 23, to conform the formatting of the information provided in GEMX's Trade Outline with that of the comparable trade outline products in other Nasdaq options markets and to amend the title of the product in Options 7, Section 7 to conform to the foregoing change. Changes to Options 3, Section 23 include: (i) re-naming the product "GEMX Trade Outline," (ii) adding Market Makers as a trade origin type, and (iii) augmenting the categories of information provided in the GEMX Open/Close Trade Outline End of Day. The sole changes to Options 7, Section 7 are to conform the product name as "GEMX Trade Outline." There is no fee change contemplated in connection with this amendment.

Currently, Trade Outline provides aggregate quantity and volume information for trades on the Exchange for all series³ during a trading session. Information is provided in four categories: (i) total exchange volume for Intra-Day information and total exchange and industry volume for End of Day information for each reported series; (ii) open interest for the series; (iii) aggregate quantity of trades and aggregate trade volume effected to open a position,⁴ characterized by origin type; and (iv) aggregate quantity of trades and aggregate trade volume effected to close a position,⁵ characterized by origin type.⁶ Intra-Day information is updated at 10-minute intervals over the course of the trading day. End of Day information is available the next business day.

³ Every options series trades as a distinct symbol; the terms "series" and "symbol" are therefore synonyms.

⁴ This includes the aggregate number of "opening purchase transactions," defined as an Exchange Transaction that will create or increase a long position in an options contract, *see* Options 1, Section 1(a)(27), and the aggregate number of "opening writing transactions," defined as an Exchange Transaction that will create or increase a short position in an options contract. *See* Options 1, Section 1(a)(28).

⁵ This includes the aggregate number of "closing purchase transactions" in the affected series, defined as an Exchange Transaction that will reduce or eliminate a short position in an options contract, *see* Options 1, Section 1(a)(9), and the aggregate number of "closing writing transactions," defined as an Exchange Transaction that will reduce or eliminate a long position in an options contract. *See* Options 1, Section 1(a)(10).

⁶ Options 3, Section 23(c)(1).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

²⁴ 17 CFR 200.30-3(a)(12).

Historical information is available upon request.

Market Maker Origin Type

Currently, the origin types reportable in Trade Outline are Priority Customer,⁷ Broker-Dealer,⁸ Firm Proprietary,⁹ and Professional Customer.¹⁰ GEMX proposes to add Market Maker¹¹ as a reportable origin type, in line with the language in Options 3, Section 23(c) of the Nasdaq Stock Market LLC (“Nasdaq”), Nasdaq MRX, LLC (“MRX”), Nasdaq PHLX, LLC (“PHLX”), and Nasdaq Texas, LLC (“Nasdaq Texas,” and, collectively with Nasdaq, MRX, PHLX, and GEMX, “Nasdaq Markets”).¹² This addition will enhance the current Trade Outline product by providing additional insights into market activity by participants and harmonizing GEMX Trade Outline to MRX’s similar trade outline product. Currently, transactions conducted by a Market Maker are not reported in Trade Outline, and the trades they engage in

are only captured from the side of the counterparty.¹³ Adding Market Makers as a reportable category will ensure that GEMX Trade Outline presents a complete picture of market activity and will provide customers with a more detailed view of market sentiment. Furthermore, it will facilitate and improve the ingestion of information by users who subscribe to multiple trade outline products, because the same categories of trade source will be available across the market of available products.

This proposed amendment will provide the same types of data to purchasers of GEMX Trade Outline as purchasers of MRX’s, Nasdaq Texas’s, and other SROs’ trade outline products currently receive. The total amount of information disseminated will increase because of the addition of Market Maker data, providing customers with a complete picture of market sentiment and enhanced insights into market volume and activity.

End of Day Information

Currently, the End of Day product includes “opening buy, closing buy, opening sell and closing sell information, which shall include option first trade price, underlying close, option close, and moneyness,” in addition to the information provided as part of the intra-day product. This proposal amends the text to read “opening buy, closing buy, opening sell and closing sell information, which shall include option first trade price, *option high trade price, option low trade price, and option last trade price*” (emphasis added), instead. This is designed to align End of Day with the MRX end of day trade outline product, and the wording is thus consistent between the two.¹⁴ However, just as MRX also provides the underlying close and moneyness information as part of the additional informational fields for its end of day information,¹⁵ GEMX will also continue to include these fields in

End of Day, despite the text being updated in Options 3, Section 23.

The substitution of “underlying close, option close, and moneyness” with “option high trade price, option low trade price, and option last trade price” ensures that consumers of equivalent products across Nasdaq Markets receive data of the same type for each series on the different exchanges’ end of day trade outline products and that the rule filings across Nasdaq Markets are consistent.¹⁶ Currently, End of Day provides total industry volume, moneyness, open interest, underlying close, and option close, while MRX’s (and Nasdaq Texas’s) trade outline end of day product includes option first trade price, option high trade price, option low trade price, and options last trade price, in addition to total industry volume, moneyness, open interest, and underlying close.¹⁷ MRX does not provide “option close,” but instead reports “options last trade price,” an approach that the Exchange intends to take as well. The information reported in each is identical—the price of the last trade made prior to the end of the market day in the series—but the Exchange believes that the phrase “options last trade price” is a more useful and accurate descriptor of the information than option close, and the simplification of using a unified term across products will benefit investors seeking to understand any differences between the two. This proposal would increase the specificity of data available to End of Day purchasers, aligning the granularity to that already available from MRX, Nasdaq Texas, and others.

Trade Outline Name

The shift in name for Trade Outline from “GEMX Open/Close Trade Profile” to “GEMX Trade Outline” reflects an alignment between the products being provided across Nasdaq Markets. While a name change is a non-substantive update, this new name better reflects the products being provided, as they contain far more information about options trades than simply information about a series open and close, as the old name implies. Furthermore, trade outline is the name given to the comparable product across other Nasdaq Markets. This standardization of nomenclature across the different platforms will assist customers in understanding the comparability of the information provided by the different

⁷ The term “Priority Customer” means a person or entity that (i) is not a broker or dealer in securities, and (ii) does not place more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s). See Options 1, Section 1(a)(36).

⁸ A “Broker-Dealer” order is an order submitted by a member for a broker-dealer account that is not its own proprietary account. See Options 7 Pricing Schedule, Section 1(c).

⁹ A “Firm Proprietary” order is an order submitted by a member for its own proprietary account. See Options 7 Pricing Schedule, Section 1(c).

¹⁰ A “Professional Customer” is a person or entity that is not a broker/dealer and is not a Priority Customer. See Options 7 Pricing Schedule, Section 1(c).

¹¹ “Market Makers” refers to “Competitive Market Makers” and “Primary Market Makers” collectively. See Options 1, Section 1(a)(21). The term “Competitive Market Maker” means a member that is approved to exercise trading privileges associated with CMM Rights. See Options 1, Section 1(a)(12). The term “Primary Market Maker” means a member that is approved to exercise trading privileges associated with PMM Rights. See Options 1 § 1(a)(35). This definition is aligned to the definition of “market maker” in the Act as “any specialist permitted to act as a dealer, any dealer acting in the capacity of block positioner, and any dealer who, with respect to a security, holds himself out (by entering quotations in an inter-dealer communications system or otherwise) as being willing to buy and sell such security for his own account on a regular or continuous basis.” 15 U.S.C. 78(c)(a)(38).

¹² See also Nasdaq ISE, LLC’s recent filing to add “Market Makers” in its trade outline product, which is substantially similar to this one. Securities Exchange Act Release No. 105288 (April 22, 2026), 91 FR 22555 (April 27, 2026) (SR-ISE-2026-17). See also Cboe DataShop, *Cboe Open-Close Volume Summary*, available at <https://datashop.cboe.com/cboe-options-open-close-volume-summary>; and NYSE, *NYSE Options Open-Close Volume Summary*, available at <https://www.nyse.com/data-products/catalog/open-close-volume-summary>, for examples of other exchanges that also report “market maker” as an origin type in their trade outline product.

¹³ As the information reported in Trade Outline is done so on an aggregated basis, the absence of this category of data can lead to an imbalance between aggregated purchases and sales of a series, and adding it to Trade Outline will provide the complete picture of market activity. Furthermore, any customers who prefer the current presentation will be able to disregard the information provided for Market Makers and exclude it from any volume calculations they conduct.

¹⁴ See Securities Exchange Act Release No. 100789 (August 21, 2024), 89 FR 68680 (August 27, 2024) (SR-MRX-2024-31).

¹⁵ See Nasdaq Data Link, *Nasdaq MRX Options—Trade Outline (MOTO) EOD*, available at <https://data.nasdaq.com/databases/MOTOD>; Securities Exchange Act Release No. 100789 (August 21, 2024), 89 FR 68680 (August 27, 2024) (SR-MRX-2024-31).

¹⁶ See *supra* n. 12.

¹⁷ Nasdaq Data, *Nasdaq Options Trade Outline*, available at <https://www.nasdaq.com/solutions/data/options/trade-outline>.

markets and better characterizes the data provided.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,¹⁸ in general, and furthers the objectives of Section 6(b)(5) of the Act,¹⁹ in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest, by providing the same categories of information to purchasers of Trade Outline data from different markets.

Adding “Market Makers” as a category of trade origin in Options 3, Section 23 is consistent with the Act as the new term will provide a more detailed perspective of the market by adding the trade volume produced by Market Makers, which provides insight to market sentiment by allowing the Exchange to report the origin with specificity, which will increase the usefulness of U.S. options market data to investors. Currently, trades by Market Makers do not get reported as part of Trade Outline products, and customers will benefit from the greater insight into market sentiment by all participants. The proposal promotes transparency through more detailed dissemination of aggregate quantity and volume information for trades on the Exchange for all series during a trading session and would benefit investors by promoting better informed trading throughout the trading day and at the end of the day. The proposed amendment is also well-understood in the market and will align the GEMX Trade Outline product to that of other SROs who also include “Market Maker” as a reportable category, thus providing the same information to purchasers of the various comparable products.²⁰

Aligning the text of the information provided with the End of Day file, in Options 3, Section 23, with the text of MRX’s comparable rule is consistent with the Act as the new terms provide a more detailed description of the information that will be more useful to investors and will conform to the fields of information that are already available from other Nasdaq exchanges. This

proposal provides transparency on par with MRX (and other Nasdaq Markets) by providing additional information in the same category that MRX already provides, which will also increase the usefulness of U.S. option market data to investors. These categories are also understood in the market and will align the GEMX Trade Outline product to that of MRX’s thus providing the same information to purchasers of the various trade outline products.

Finally, the revised name of GEMX Trade Outline provides a better indicator to customers, including investors and the market as a whole, of what the product contains, and is directly comparable to products from other Nasdaq Markets that use the same nomenclature. The standardization of product names will make it easier for customers, investors, and the whole market to understand the similarity of products and reduce the cognitive load of trying to discern the (non-existent) difference in information provided between a product called “trade outline” and one called “open/close trade profile.” This is a purely ministerial change, yet will provide greater clarity to market participants.

The Exchange believes that the proposed amendment would promote better informed trading by more precisely disseminating information regarding investor sentiment. Furthermore, the proposal will foster investor protection by providing more detailed information to investors. Adding comparable information from another exchange to the current mix of trade outline products that report Market Makers as a category of trade origins, adding additional information to the End of Day, and re-naming the product, all in line with other trade outline products, will help investors become better informed about overall market sentiment and therefore better able to protect their interests.

B. Self-Regulatory Organization’s Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The addition of Market Makers as a category for trade origin enables the Exchange to provide additional information to customers²¹ and to be more precise in its classification of data. Furthermore, revising the categories of data provided

in the End of Day product simply aligns the information GEMX provides to what MRX already delivers to the market,²² and will not burden competition. The changes to Options 7, Section 7 are mere ministerial amendments to reflect the change to the name of the Trade Outline products and will not burden—or even impact—competition.

Nothing in this proposal burdens inter-market competition (the competition among self-regulatory organizations) because the amendment does not impose any burden on the ability of other exchanges to compete. In fact, it will align the information available from the GEMX Trade Outline product more closely with the information available from the other exchanges that currently offer competing products and ensure consistency within the GEMX rulebook.

Nothing in the proposal burdens intra-market competition (the competition among consumers of exchange data) because GEMX Trade Outline will continue to be available to any market participant, including both members and non-members, as it currently is, on a non-discriminatory basis.

C. Self-Regulatory Organization’s Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act²³ and subparagraph (f)(6) of Rule 19b–4 thereunder.²⁴

A proposed rule change filed under Rule 19b–4(f)(6)²⁵ normally does not

²² This change will not lead to GEMX providing any less information than is currently in End of Day.

²³ 15 U.S.C. 78s(b)(3)(A)(iii).

²⁴ 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, 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.

²⁵ 17 CFR 240.19b–4(f)(6).

¹⁸ 15 U.S.C. 78f(b).

¹⁹ 15 U.S.C. 78f(b)(5).

²⁰ See, e.g., Choe DataShop, *Choe Open-Close Volume Summary*, available at <https://datashop.cboe.com/cboe-options-open-close-volume-summary>; NYSE, *NYSE Options Open-Close Volume Summary*, available at <https://www.nyse.com/data-products/catalog/open-close-volume-summary>; MRX Options 3, Section 23(c).

²¹ While it is additional information for Trade Outline, it will be the same type of information currently reported in comparable products by other SROs.

become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),²⁶ 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 proposed rule change may become operative immediately upon filing. The Exchange states that the proposed changes will align the product offering with industry standards. The Exchange also states that the proposed rule text is designed to replicate that of another exchange.²⁷ 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.²⁸

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR–GEMX–2026–18 on the subject line.

Paper Comments

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

All submissions should refer to file number SR–GEMX–2026–18. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<https://www.sec.gov/rules/sro.shtml>). Copies of the filing will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–GEMX–2026–18 and should be submitted on or before June 4, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁹

J. Matthew DeLesDernier,
Deputy Secretary.

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DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2024–0221; FMCSA–2023–0266]

Commercial Driver's License: State of Hawaii Department of Transportation; Application for Exemption

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), Department of Transportation (DOT).

ACTION: Notice of final disposition; grant in part, and deny in part, application for exemption.

SUMMARY: FMCSA announces its decision to grant in part and deny in part the exemption application from the Hawaii Department of Transportation (HDOT). FMCSA grants all State Driver's Licensing Agencies (SDLAs) a five-year exemption to issue a non-domiciled commercial driver's license (CDL) or non-domiciled commercial learner's permit (CLP) to citizens of Freely Associated States (FAS) who reside in the United States and who have a valid, unexpired passport issued by an FAS and a Form I–94 or I–94A. The FAS are the Federated States of Micronesia, the Republic of the

Marshall Islands, and the Republic of Palau. FMCSA concludes that granting the exemption, subject to the terms and conditions set forth below, is likely to achieve a level of safety equivalent to or greater than the level of safety that would be achieved absent the exemption. FMCSA denies HDOT's request to issue standard, rather than non-domiciled, CLPs and CDLs to FAS citizens. This exemption decision supersedes the exemption previously granted to the Oregon Department of Transportation that allowed Oregon to issue standard, rather than non-domiciled, CLPs and CDLs to FAS citizens.

DATES: The exemption is effective May 14, 2026 and expires May 14, 2031.

FOR FURTHER INFORMATION CONTACT: Ms. Bernadette Walker, Driver and Carrier Operations Division; Office of Carrier, Driver and Vehicle Safety Standards, FMCSA; 1200 New Jersey Avenue SE, Washington, DC 20590–0001; (202) 507–0363; bernadette.walker@dot.gov. If you have questions on viewing or submitting material to the docket, contact Dockets Operations at (202) 366–9317 or (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation

Viewing Comments and Documents

To view any documents mentioned as being available in the docket, go to <https://www.regulations.gov/docket/FMCSA-2024-0221/document> or <https://www.regulations.gov/docket/FMCSA-2023-0266/document> and choose the document to review. To view comments, click the applicable notice, then click “Document Comments.” If you do not have access to the internet, you may view the docket online by visiting Dockets Operations in room W58–213 of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 20590–0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366–9317 or (202) 366–9826 before visiting Dockets Operations.

II. Legal Basis

FMCSA has authority under 49 U.S.C. 31136(e) and 31315(b) to grant exemptions from the Federal Motor Carrier Safety Regulations (FMCSRs). FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public an opportunity to inspect the information relevant to the application, including the applicant's safety analysis. The

²⁶ 17 CFR 240.19b–4(f)(6)(iii).

²⁷ See *supra* note 12.

²⁸ For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

²⁹ 17 CFR 200.30–3(a)(12) and (59).

Agency must provide an opportunity for public comment on the request.

The Agency reviews the application, safety analyses, and public comments submitted and determines whether granting the exemption would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved without the exemption, pursuant to the standard set forth in 49 U.S.C. 31315(b)(1). The Agency must publish its decision in the **Federal Register** (49 CFR 381.315(b)). If granted, the notice will identify the person or class of persons granted the exemption, the regulatory provision(s) from which the person or class of persons is exempt, the effective period, and all terms and conditions of the exemption (49 CFR 381.315(c)(1)). If the exemption is denied, the notice will explain the reason for the denial (49 CFR 381.315(c)(2)). The exemption may be renewed (49 CFR 381.300(b)).

III. Background

The United States Relationship with FAS Nations

The United States governs its relationships with FAS nations by agreements known as Compacts of Free Association (Compacts).¹ The Compacts grant unique status to FAS citizens based in part on the role of the FAS in supporting the United States security presence in the Pacific Islands region.² Under the Compacts, the United States may establish military facilities in the FAS and FAS citizens have the right to work and reside in the United States as lawful nonimmigrants without obtaining a visa.³ FAS citizens are also eligible to join the United States military. FMCSA's Non-Domiciled CDL final rule considered comments that requested that FAS citizens be admitted to the eligible categories allowed to receive a non-domiciled CDL (91 FR at

7055). FMCSA responded to those comments by explaining that FMCSA would continue to address the status of FAS citizens through FMCSA's exemption process (*Id.* at 7056).

Under the "REAL ID Act Modification for Freely Associated States Act,"⁴ Congress authorized States to issue full-term REAL ID licenses and ID cards to citizens of the FAS. In its implementing regulations, the Department of Homeland Security (DHS) modified the identification documents that citizens of the FAS may present when applying for a REAL ID driver's license or ID card from a compliant State.⁵ Under its authority in 6 CFR 37.11(c)(1)(x), DHS permits compliant States to accept "a valid unexpired passport issued by the Republic of the Marshall Islands, the Republic of Palau, or the Federated States of Micronesia with an approved Form I-94."⁶

Current Regulatory Requirements

Under 49 CFR 383.71(a) and (b), an SDLA may issue a CLP or CDL only to an applicant who presents proof of United States citizenship or lawful permanent residency, as listed in Table 1 to § 383.71, List of Acceptable Proofs of Citizenship or Lawful Permanent Residency. FMCSA published a final rule titled "Restoring Integrity to the Issuance of Non-Domiciled Commercial Drivers Licenses (CDL)" (Non-Domiciled CDL final rule) on February 13, 2026 with an effective date of March 16, 2026 (91 FR 7044). Under the Non-Domiciled CDL final rule, an SDLA may issue a non-domiciled CLP or CDL to an applicant domiciled in a foreign jurisdiction only if the applicant provides a Form I-94/94A with an unexpired Admit Until Date indicating a nonimmigrant status classification of H-2A-Temporary Agricultural Workers, H-2B-Temporary Non-Agricultural Workers, or E-2-Treaty Investors (*see* 49 CFR 383.73(f)(3)(ii) which requires in part that the applicant provide the Form I-94/94A as *evidence of lawful immigration status* as defined under 49 CFR 383.5). Thus, under 49 CFR 383.71, an FAS citizen who is not a lawful permanent resident is not eligible for a standard CLP or CDL, or for a non-domiciled CLP or CDL, because FAS

citizens do not qualify for H-2A, H-2B, or E-2 nonimmigrant status.

On September 25, 2024, FMCSA granted an exemption to the Oregon Department of Transportation allowing the State to issue standard CLPs and CDLs to FAS citizens with a valid, unexpired passport and an I-94 or I-94A form (89 FR 78428).

Applicant's Request

HDOT's application for exemption was described in detail in a **Federal Register** notice on September 11, 2024 (89 FR 73744) and will not be repeated here as the facts have not changed.

IV. Public Comments

FMCSA requested comment on HDOT's application and on whether, if granted, the exemption should apply to all SDLAs, and not just HDOT. The Agency received no comments.

V. FMCSA Decision

FMCSA has evaluated HDOT's application for exemption and based on its analysis, grants all SDLAs an exemption, applicable to FAS citizens only, from the condition in paragraph (1)(ii) of the definition of "evidence of lawful immigration status" in 49 CFR 383.5 that an individual's Form I-94 or I-94A indicate one of the following classifications: H-2A, H-2B, or E-2, as such evidence is required under 49 CFR 383.73(f)(3)(ii)(A). The exemption allows SDLAs to accept a valid, unexpired passport issued by an FAS and an Arrival/Departure Record, meaning a Form I-94 or I-94A issued by DHS, to prove that the individual has entered the United States lawfully, and to issue non-domiciled CLPs and CDLs to those individuals that otherwise meet the eligibility requirements. Under this exemption, FAS citizens do not need an H-2A, H-2B, or E-2 visa to receive a non-domiciled CLP or CDL. Congress granted FAS citizens a unique work status. FAS citizens do not require a visa to work in the United States and do not have expiration dates on their Form I-94s or I-94As. However, those forms are still considered to have an "unexpired" Admit Until Date "[b]ecause FAS citizens are authorized to have an indefinite period of stay in the United States (known as 'duration of status' or 'D/S')."⁷ FMCSA believes that granting this exemption is consistent with Congressional intent to allow FAS citizens to live and work in the United States as lawful nonimmigrants. The Agency has no data indicating that

¹ Public Law 99-239, 99 Stat. 1770, Jan. 14, 1986 (Compact of Free Association (COFA) with the Federated States of Micronesia and the Republic of the Marshall Islands); Public Law 99-658, 100 Stat. 3672, Nov. 14, 1986 (Compact of Free Association with the Republic of Palau); Public Law 108-188, 117 Stat. 2720, Dec. 17, 2003 (COFA Amendments Act of 2003).

² *See* Congressional Research Service, "The Freely Associated States and Issues for Congress," Dec. 10, 2004, available at The Freely Associated States and Issues for Congress | Congress.gov | Library of Congress.

³ *See* U.S. Citizenship & Immigration Services, Fact Sheet: Status of Citizens of the Freely Associated States of the Federated States of Micronesia and the Republic of the Marshall Islands, available at Status of Citizens of the Freely Associated States of the Federated States of Micronesia and the Republic of the Marshall Islands Fact Sheet | USCIS; U.S. Citizenship & Immigration Services, Fact Sheet: Status of Citizens of the Republic of Palau, available at Fact Sheet: Status of Citizens of the Republic of Palau.

⁴ Public Law 115-323, 132 Stat. 4443, Dec. 17, 2018.

⁵ *See* 84 FR 46556 (Sept. 4, 2019).

⁶ *Id.* at 46557. *See* 8 CFR 1.4 for a definition of Form I-94, which includes the collection of arrival/departure and admission or parole information by DHS, whether in paper or electronic format. This would therefore include the paper Form I-94A, a sample of which is available on U.S. Citizenship and Immigration Services's website at <https://www.uscis.gov/i-9-central/form-i-94>.

⁷ 84 FR 46423, 46424 (Sept. 4, 2019).

granting the exemption would negatively impact safety.

FMCSA also believes that it would be inconsistent with the Agency's Non-Domiciled CDL final rule to allow SDLAs to issue standard CLPs and CDLs to individuals who are not domiciled in the United States. The final rule, and the CDL regulations in 49 CFR part 383, draw a bright line between individuals who are United States citizens and lawful permanent residents and those who are not. Therefore, this exemption decision also supersedes the prior exemption granted to the Oregon Department of Transportation that allowed Oregon to issue standard CLPs and CDLs to FAS citizens, rather than non-domiciled CLPs and CDLs. However, a non-domiciled CLP or CDL still permits citizens of the FAS "to pursue a CLP/CDL and a career in the motor carrier industry," as requested by Hawaii in its application.⁸ The exemption also permits SDLAs to issue a non-domiciled CLP or CDL for the maximum term available under 49 CFR 383.73(f)(2)(iv), which is one year. Accordingly, under this exemption, FAS citizens may obtain a non-domiciled CLP or DCDL from a State that issues non-domiciled CLPs and CDLs, subject to the domicile requirements imposed under State law.

Based on the information provided by HDOT, FMCSA concludes that the exemption, subject to the terms and conditions set forth in section V.B, would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption, in accordance with 49 U.S.C. 31315(b)(1).

A. Applicability of Exemption

FMCSA grants an exemption to all SDLAs, for a period of five years, from the condition that an individual's Form I-94/I-94A indicate an H-2A, H-2B, or E-2 classification, as described in paragraph (1)(ii) of the definition of "Evidence of lawful immigration status" in 49 CFR 383.5 and as required under 49 CFR 383.73(f)(3)(ii)(A), for FAS citizens residing in the United States, subject to the terms and conditions of this decision. SDLAs may issue non-domiciled CLPs and CDLs under this exemption in accordance with State procedures in 49 CFR 383.73(a) and (b) to an FAS citizen who is otherwise eligible and who presents a valid, unexpired passport issued by an FAS and an Arrival/Departure Record, meaning a Form I-94 or I-94A, to prove that the individual has entered the United States lawfully.

FMCSA intends to closely monitor the safety impacts of the relief granted under this exemption. As necessary, FMCSA may take action to modify the exemption, including scaling back the regulatory relief provided, or to terminate the exemption sooner, if conditions warrant.

B. Terms and Conditions

1. An SDLA must notify FMCSA at MCPSD@dot.gov that the SDLA intends to issue non-domiciled CLPs or CDLs under this exemption before issuing a non-domiciled CLP or CDL under this exemption.

2. An SDLA must not issue standard CLPs or CDLs to FAS citizens under this exemption.

3. An SDLA must comply with all other requirements for issuing non-domiciled CLPs and CDLs, including, but not limited to, ensuring that the period of validity of the non-domiciled CLP or CDL does not exceed one year under 49 CFR 383.73(f)(2)(iv), querying the Systematic Alien Verification for Entitlements system specified in 49 CFR 383.73(m)(2)(ii) to confirm the applicant's lawful immigration status, and retaining copies of all documents involved in the licensing process, as required by 49 CFR 383.73(m)(2)(iii).

4. An SDLA must comply with all other applicable Federal Motor Carrier Safety Regulations (49 CFR part 350–399).

5. An SDLA must provide to FMCSA, annually at MCPSD@dot.gov and upon request, the names and CLP/CDL numbers of all drivers who are issued a non-domiciled CLP or CDL pursuant to the terms of this exemption, as authorized by 49 CFR 383.73(h) and 384.225(e)(2).

6. This exemption supersedes the exemption previously granted to the Oregon Department of Transportation (89 FR 78428), which is no longer in effect. Absent receipt of information as specified in 49 CFR 383.73(f)(5), any CLP or CDL that the Oregon SDLA issued in accordance with the terms and conditions of the Oregon exemption may remain in effect until expiration. However, at the next licensing transaction following the effective date of this exemption (for example, reissuance, amending, correcting, reprinting, or otherwise duplicating a previously issued CLP or CDL; transfer; renewal; or upgrade), the SDLA must apply the terms and conditions of this exemption.

C. Preemption

In accordance with 49 U.S.C. 31315(d), as implemented by 49 CFR 381.600, during the period this

exemption is in effect, no State shall enforce any law or regulation applicable to interstate commerce that conflicts with or is inconsistent with this exemption with respect to a firm or person operating under the exemption.

D. Termination

FMCSA does not believe the SDLAs or FAS citizen CLP- and CDL-applicants covered by this exemption will experience any deterioration of their safety record. However, the exemption will be revoked if: (1) an SDLA fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of Title 49, chapter 313 or section 31136.

Derek D. Barrs,
Administrator.

[FR Doc. 2026–09622 Filed 5–13–26; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2026–1090]

Agency Information Collection Activities; Renewal of an Approved Information Collection: Request for Revocation of Authority Granted

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), Department of Transportation (DOT).

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FMCSA announces its plan to submit the Information Collection Request (ICR) described below to the Office of Management and Budget (OMB) for its review and approval and invites public comment. FMCSA requests approval to renew an ICR titled, "Request for Revocation of Authority Granted," OMB control number 2126–0018. This allows certain transportation industry registrants, such as motor carriers, freight forwarders, and property brokers, to request the voluntary revocation of all or part of their operating authority registration utilizing Form OCE–46.

DATES: Comments on this notice must be received on or before July 13, 2026.

ADDRESSES: You may submit comments identified by Docket Number FMCSA–2026–1090 using any of the following methods:

⁸ Application at 2.

- *Federal eRulemaking Portal:* <https://www.regulations.gov>. Follow the online instructions for submitting comments.

- *Mail:* Dockets Operations; U.S. Department of Transportation, 1200 New Jersey Avenue SE, W58-213, Washington, DC 20590-0001.

- *Hand Delivery or Courier:* Dockets Operations, U.S. Department of Transportation, 1200 New Jersey Avenue SE, W58-213, Washington, DC, 20590-0001 between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366-9317 or (202) 366-9826 before visiting Dockets Operations.

- *Fax:* (202) 493-2251.

To avoid duplication, please use only one of these four methods. See the "Public Participation and Request for Comments" portion of the **SUPPLEMENTARY INFORMATION** section for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: Mr. Jeffrey Secrist, Office of Registration, Chief, Registration Division, DOT, FMCSA, 1200 New Jersey Avenue SE, Washington, DC 20590-0001; (202) 385-2367; jeff.secrist@dot.gov.

SUPPLEMENTARY INFORMATION:

Instructions

All submissions must include the Agency name and docket number. For detailed instructions on submitting comments, see the Public Participation heading below. Note that all comments received will be posted without change to <https://www.regulations.gov>, including any personal information provided. Please see the Privacy Act heading below.

Public Participation and Request for Comments

If you submit a comment, please include the docket number for this notice (FMCSA-2026-1090), indicate the specific section of this document to which your comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to <https://www.regulations.gov/docket/FMCSA-2026-1090/document>, click on this notice, click "Comment," and type your comment into the text box on the following screen.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing.

FMCSA will consider all comments and material received during the comment period.

Privacy Act

In accordance with 5 United States Code (U.S.C.) 553(c), DOT solicits comments from the public to better inform its regulatory process. DOT posts these comments, including any personal information the commenter provides, to www.regulations.gov as described in the system of records notice DOT/ALL 14 (Federal Docket Management System (FDMS)), which can be reviewed at <https://www.transportation.gov/individuals/privacy/privacy-act-system-records-notices>. The comments are posted without edits and are searchable by the name of the submitter.

Background

FMCSA registers for-hire motor carriers of regulated commodities under 49 U.S.C. 13902, surface freight forwarders under 49 U.S.C. 13903, and property brokers under 49 U.S.C. 13904. Each registration is effective from the date specified under 49 U.S.C. 13905 (c). Subsection (d) of 49 U.S.C. 13905 also provides that on application of the registrant, the Secretary may amend or revoke a registration, and hence the registrant's operating authority.

Form OCE-46 allows these registrants to apply voluntarily for revocation of their operating authority or parts thereof. If the registrant fails to maintain evidence of the required level of insurance coverage on file with FMCSA, its operating authority will be revoked involuntarily. Although the effect of both types of revocation is the same, some registrants prefer to request voluntary revocation. For various business reasons, a registrant may request revocation of some part, but not all, of its operating authority. This information collection, which supports the DOT Strategic Goal of Safety, reflects modified estimates of burden hours and costs. For respondents, the program adjustment has resulted in decreased total burden hours and a decrease in respondent costs. The burden hour decrease is due to an estimated decrease in the number of annual filings of Form OCE-46 from 8,699 to 5,712 per year, resulting in a decrease of 2,987 responses and 747 burden hours. The estimated annual labor cost for industry resulting from submitting Form OCE-46 is \$49,012, a decrease of \$18,175. The total annual

non-labor respondent cost has decreased by \$8,177. This decrease is due to the decrease in the number of respondents. While the online submission option exists, FMCSA still estimates that approximately 1,517 respondents (approximately 27 percent of the total number of respondents) will continue to file the form by mail, which incurs notarization and postage fees. For the Federal Government, the program costs have decreased by \$14,513 due to the decrease in the number of forms received by FMCSA.

Title: Request for Revocation of Authority Granted.

OMB Control Number: 2126-0018.

Type of Request: Renewal of a currently approved ICR.

Respondents: For-hire motor carriers, freight forwarders, and property brokers.

Estimated Number of Respondents: 5,712.

Estimated Time per Response: 15 minutes (0.25 hours).

Expiration Date: December 31, 2026.

Frequency of Response: Other (As needed).

Estimated Total Annual Burden: 1,428.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including: (1) whether the proposed collection is necessary for the performance of FMCSA's functions; (2) the accuracy of the estimated burden; (3) ways for FMCSA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized without reducing the quality of the collected information. The Agency will summarize or include your comments in the request for OMB's clearance of this ICR.

Issued under the authority of 49 CFR 1.87.

David M. Sutula,

Acting Associate Administrator, Office of Research and Registration.

[FR Doc. 2026-09633 Filed 5-13-26; 8:45 am]

BILLING CODE 4910-EX-P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD-2026-0664]

Request Notice: Use of Foreign-Built Small Passenger Vessel in United States Coastwise Trade, M/V ALOLKOY

AGENCY: Maritime Administration (MARAD), U.S. Department of Transportation (DOT).

ACTION: Notice and request for comments.

SUMMARY: The Secretary of Transportation, as represented by MARAD, is authorized to make determinations regarding the coastwise use of foreign built; certain U.S. built; and U.S. and foreign rebuilt vessels that solely carry no more than twelve passengers for hire. MARAD has received such a determination request and is publishing this notice to solicit comments to assist with determining whether the proposed use of the vessel set forth in the request would have an adverse effect on U.S. vessel builders or U.S. coastwise trade businesses that use U.S.-built vessels in those businesses. Information about the requestor's vessel, including a description of the proposed service, is in the **SUPPLEMENTARY INFORMATION** section below.

DATES: Submit comments on or before June 15, 2026.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD-2026-0664 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to <https://www.regulations.gov>. Search the above DOT Docket Number and follow the instructions for submitting comments.

- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Room W12-140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include the DOT Docket Number, your name and a mailing address, an email address or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific DOT Docket Number. All comments received will be posted without change to the docket at www.regulations.gov, including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: Patricia Hagerty, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Mail Stop 2, MAR-620,

Washington, DC 20590. Telephone: (202) 366-5400. Email: smallvessels@dot.gov

SUPPLEMENTARY INFORMATION: Pursuant to 46 U.S.C. 12121(b), the U.S. Coast Guard may issue a certificate of documentation with a coastwise trade endorsement for eligible, small passenger vessels authorized to carry no more than 12 passengers for hire if MARAD, after notice and an opportunity for public comment, determines the use of the small passenger vessel in the coastwise trade will not adversely affect United States vessel builders or the coastwise trade business of any person that employs vessels built in the United States in that business.¹

MARAD has received an eligibility determination request. Further details about the requester's vessel and its proposed operations may be found in the determination request posted in the DOT Docket Number listed in the **ADDRESSES** section above at <https://www.regulations.gov>. Interested parties may comment on the undue adverse effect this action may have on U.S. vessel builders or coastwise trade businesses in the U.S. that employ U.S.-built vessels in those businesses. Comments should refer to the vessel name, state the commenter's interest in the request, and demonstrate, with supporting documentation, the undue adverse effect on U.S. vessel builders and coastwise trade businesses.

Public Participation

How do I submit comments?

Please submit comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. It may take a few hours or even days for comments to be reflected on the docket. Comments must be written in English. Provide concise comments and attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

The docket online is located at <https://www.regulations.gov>, keyword search the DOT Docket Number list in the **ADDRESSES** section above or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). Please periodically check the Docket for new submissions and supporting material.

¹ The U.S. Coast Guard and MARAD have authority under 46 U.S.C. 12121(b) through the Secretary of the Department of Homeland Security and the Secretary of the Department of Transportation, respectively.

Will my comments be made available to the public?

Yes. Your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

You may request that MARAD treat your comments as commercially confidential by submitting them to SmallVessels@dot.gov. Include in the email subject heading "Contains Confidential Commercial Information" or "Contains CCI" and state in your submission, with specificity, the basis for any such confidential treatment highlighting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

If MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

Privacy Act

Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). For information on DOT's compliance with the Privacy Act, please visit <https://www.transportation.gov/privacy>.

(Authority: 46 U.S.C. 12121, 49 CFR 1.93(a))

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2026-09579 Filed 5-13-26; 8:45 am]

BILLING CODE 4910-81-P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Agency Information Collection Activities: Information Collection Renewal; Comment Request; Securities Offering Disclosure Rules

AGENCY: Office of the Comptroller of the Currency (OCC), Treasury.

ACTION: Notice and request for comment.

SUMMARY: The OCC, as part of its continuing effort to reduce paperwork and respondent burden, invites comment on a continuing information collection, as required by the Paperwork

Reduction Act of 1995 (PRA). In accordance with the requirements of the PRA, the OCC may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The OCC is soliciting comment concerning the renewal of its information collection titled, "Securities Offering Disclosure Rules."

DATES: Comments must be received by July 13, 2026.

ADDRESSES: Commenters are encouraged to submit comments by email, if possible. You may submit comments by any of the following methods:

- *Email:* prainfo@occ.treas.gov.
- *Mail:* Chief Counsel's Office,

Attention: Comment Processing, Office of the Comptroller of the Currency, Attention: 1557-0120, 400 7th Street SW, Suite 3E-218, Washington, DC 20219.

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

- *Fax:* (571) 293-4835.

Instructions: You must include "OCC" as the agency name and "1557-0120" in your comment. In general, the OCC will publish comments on www.reginfo.gov 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.

Following the close of this notice's 60-day comment period, the OCC will publish a second notice with a 30-day comment period. You may review comments and other related materials that pertain to this information collection beginning on the date of publication of the second notice for this collection by the method set forth in the next bullet.

- **Viewing Comments Electronically:** Go to www.reginfo.gov. Hover over the "Information Collection Review" tab and click on "Information Collection Review" from the drop-down menu. From the "Currently under Review" drop-down menu, select "Department of the Treasury" and then click "submit." This information collection can be located by searching OMB control number "1557-0120" or "Securities Offering Disclosure Rules." Upon

finding the appropriate information collection, click on the related "ICR Reference Number." On the next screen, select "View Supporting Statement and Other Documents" and then click on the link to any comment listed at the bottom of the screen.

- For assistance in navigating www.reginfo.gov, please contact the Regulatory Information Service Center at (202) 482-7340.

FOR FURTHER INFORMATION CONTACT:

Shaquita Merritt, Clearance Officer, (202) 649-5490, Chief Counsel's Office, 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.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501 *et seq.*), Federal agencies must obtain approval from the OMB for each collection of information that they conduct or sponsor.

"Collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) to include agency requests or requirements, imposed on ten or more persons, that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of title 44 generally 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, the OCC is publishing notice of the renewal of this collection.

Title: Securities Offering Disclosure Rules.

OMB Control No.: 1557-0120.

Type of Review: Regular.

Affected Public: Businesses or other for-profit.

Description: Twelve CFR part 16 governs the offer and sale of securities issued by national banks and Federal savings associations. The requirements in part 16 enable the OCC to perform its responsibility to ensure that the investing public has information about the condition of the institution, the reasons for raising new capital, and the terms of the offering. Part 16 requires that securities offering disclosures of national banks and Federal savings associations be generally consistent with similar Securities Exchange Commission (SEC) disclosure requirements.

The principal collections of information in part 16 are as follows:

Form for Registration. Under 12 CFR 16.3(a), a national bank or Federal

savings association offering or selling its own securities to the public is required to make the offer or sale through the use of a prospectus that has been filed with the OCC as part of a registration statement. According to 12 CFR 16.15(a), the registration statement must be on the form for registration (17 CFR part 239) that the national bank or Federal savings association would be eligible to use if it were required to register and file with the SEC and meet the requirements of the SEC regulations referred to in the applicable form for registration. Any registration statement or amendment filed pursuant to part 16 must comply with the requirements of SEC Regulation C (17 CFR part 230, Regulation C—Registration), except to the extent those requirements conflict with specific requirements of part 16. See 12 CFR 16.15(b). Twelve CFR 16.15(d) requires the registration statement for securities issued by a national bank or Federal savings association that is not in compliance with the applicable regulatory capital requirements of 12 CFR part 3 to be on the Form S-1 (17 CFR part 239) registration statement under the Securities Act of 1933 (Securities Act).

Abbreviated Form for Registration.

Under 12 CFR 16.6, a national bank or Federal savings association may be deemed in compliance with certain registration requirements of Part 16 for offers and sales of nonconvertible debt if such debt is offered and sold only to accredited investors meeting the conditions in 12 CFR 16.6. According to 12 CFR 16.6(a)(1), the national bank or Federal savings association must have securities registered under or be a subsidiary of a company that has securities registered under the Securities Exchange Act of 1934 (Exchange Act). Under 12 CFR 16.6(a)(3), the debt must be sold in minimum denominations of \$250,000 and each note or debenture, if issued in certificate form, must be legended to provide that it cannot be exchanged for notes or debentures of the national bank or Federal savings association in smaller denominations. The national bank or Federal savings association must also provide purchasers with specified disclosure information. Under 12 CFR 16.6(b), a federal branch or agency of a foreign bank need not meet the conditions of 12 CFR 16.6(a)(1) if the federal branch or agency provides the OCC the information specified in SEC Rule 12g3-2(b) (17 CFR 240.12g3-2(b)) and provides purchasers the information specified in SEC Rule 144A(d)(4)(i) (17 CFR 230.144A(d)(4)(i)).

Small Issues Registration. A national bank or Federal savings association may

offer and sell securities publicly in a limited dollar amount by using an offering statement meeting the requirements of SEC's Regulation A (17 CFR 230.251 *et seq.*). See 12 CFR 16.8.

Nonpublic Offerings. A national bank or Federal savings association may offer or sell its own securities in a private placement to accredited or sophisticated investors in compliance with 12 CFR 16.7. Under 12 CFR 16.7(a)(1), all the securities must be offered and sold in a transaction satisfying the requirements of SEC Regulation D (17 CFR part 230), subject to certain exceptions. The requirements include general conditions, information requirements, limitations on the manner of offering (advertising), amount limitations, and resale limitations, depending on the specific offering. All subsequent sales subject to the resale limitations of SEC Regulation D must be made pursuant to SEC Rule 144 (persons deemed not to be underwriters), 17 CFR 230.144; SEC Rule 144A (private resales to institutions), 17 CFR 230.144A; another exemption referenced in 12 CFR 16.5; or in accordance with registration and prospectus requirement of 12 CFR 16.3.

Electronic Filing. Pursuant to 12 CFR 16.17(a), all registration statements, offering documents, amendments, notices, or other documents generally must be filed with the OCC's Law Department electronically at <http://www.banknet.gov/>. Documents may be signed electronically using the signature provision in SEC Rule 402 (17 CFR 230.402). All registration statements, offering documents, amendments, notices, or other documents relating to a national bank or Federal savings association in organization must be filed with the appropriate district office of the OCC at <http://www.banknet.gov/>. All registration statements, offering documents, amendments, notices, or other documents relating to a mutual to stock conversion pursuant to 12 CFR part 192 must be filed with the appropriate OCC licensing office at <http://www.banknet.gov/>.

References to SEC Rules. Where part 16 refers to a section of the Securities Act or the Exchange Act or an SEC rule that requires the filing of a notice or other document with the SEC, that notice or other document must be filed with the OCC. See 12 CFR 16.17(c).

Request for Interpretive Advice or No-objection Letter. Under 12 CFR 16.30(a),

any person requesting interpretive advice or a no-objection letter from the OCC with respect to any provision of part 16 shall file a copy of the request, including any supporting attachments, with the OCC's Law Department at the address provided at www.occ.gov. The request shall identify or describe the provisions of part 16 to which the request relates, the participants in the proposed transaction, and the reasons for the request; and include a legal opinion as to each legal issue raised and an accounting opinion as to each accounting issue raised. See 12 CFR 16.30(b)–(c).

Withdrawal or Abandonment. Pursuant to 12 CFR 16.19(a), any registration statement, amendment, or exhibit may be withdrawn prior to the effective date. A withdrawal must be signed and state the grounds upon which it was made. The OCC will not remove any withdrawn document from its files but will mark the document "Withdrawn upon the request of the registrant on (date)."

Estimated Burden

Estimated Frequency of Response: On occasion.

Estimated Number of Respondents: 16.

Estimated Total Annual Responses: 90.

Estimated Total Annual Burden: 900 hours.

Comments submitted in response to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the OCC, including whether the information has practical utility;

(b) The accuracy of the OCC's estimate of the burden of the collection of information;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of the collection 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.

Micah J. Cogen,

Acting Assistant Director, Office of the Comptroller of the Currency.

[FR Doc. 2026–09641 Filed 5–13–26; 8:45 am]

BILLING CODE 4810–33–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Notice of OFAC Sanctions Action

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the names of one or more persons that have been placed on OFAC's Specially Designated Nationals and Blocked Persons List (SDN List) based on OFAC's determination that one or more applicable legal criteria were satisfied. All property and interests in property subject to U.S. jurisdiction of these persons are blocked, and U.S. persons are generally prohibited from engaging in transactions with them.

DATES: This action was issued on May 7, 2026. See Supplementary Information for relevant dates.

FOR FURTHER INFORMATION CONTACT: OFAC: Associate Director for Global Targeting, 202–622–2420; Assistant Director for Licensing, 202–622–2480; Assistant Director for Sanctions Compliance, 202–622–2490 or <https://ofac.treasury.gov/contact-ofac>.

SUPPLEMENTARY INFORMATION:

Electronic Availability

The SDN List and additional information concerning OFAC sanctions programs are available on OFAC's website: <https://ofac.treasury.gov>.

Notice of OFAC Action

On May 7, 2026, OFAC determined that the property and interests in property subject to U.S. jurisdiction of the following persons are blocked under the relevant sanctions authorities listed below.

Individuals

1. MAKSUS, Ahmed Khudair Maksus (a.k.a. AL-MAKSUSI, Ahmad Khudayr Maksus), Iraq; DOB 06 Oct 1970; nationality Iraq; Gender Male; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Passport A5885993 (Iraq) expires 02 Jul 2019 (individual) [SDGT] (Linked To: KATA'IB SAYYID AL-SHUHADA).

Designated pursuant to section 1(a)(iii)(A) of E.O. 13224 of September 23, 2001, "Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten To Commit, or Support Terrorism," 66 FR 49079, 3 CFR, 2001 Comp., p. 786, as amended by Executive Order 13886 of September 9, 2019, "Modernizing Sanctions To Combat Terrorism," 84 FR 48041, 3 CFR, 2019 Comp., p. 356 (E.O. 13224, as amended), for being owned, controlled, or directed by, or having acted or purported to act for or on behalf of, directly or indirectly, KATA'IB SAYYID AL-SHUHADA, a person whose property and interests in property are blocked pursuant to E.O. 13224, as amended.

2. AL SHUWAILI, Mohammed Issa Kadhim (Arabic: محمد عيسى كاظم الشويلي) (a.k.a. "ABU MARYAM"), Iraq; DOB 19 May 1982; nationality Iraq; Additional Sanctions Information - Subject to Secondary Sanctions Pursuant to the Hizballah Financial Sanctions Regulations; Gender Male; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Passport B23828763 (Iraq) expires 08 Feb 2033; alt. Passport A12147355 (Iraq) expires 19 May 2025 (individual) [SDGT] (Linked To: QASIR, Ali).

Designated pursuant to section 1(a)(iii)(C) of E.O. 13224, as amended, for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, Ali Qasir, a person whose property and interests in property are blocked pursuant to E.O. 13224, as amended.

3. AL-BEHADILI, Mustafa Hashim Lazim (Arabic: مصطفى هاشم لازم البهادلي) (a.k.a. AL BHADLI, Moustafa Hachem Lazem; a.k.a. AL-BAHADLI, Mustafa Hashim Lazem; a.k.a. LAZIM, Mustafa Hashem; a.k.a. LAZM, Mustafa Hashim; a.k.a. "AWN, Sayyid"), Iraq; DOB 21 Aug 1980; nationality Iraq; Gender Male; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Passport B27823144 (Iraq) expires 15 Apr 2033; alt. Passport A14930721 (Iraq) expires 22 Jan 2027 (individual) [SDGT] (Linked To: ASA'IB AHL AL-HAQ).

Designated pursuant to section 1(a)(iii)(C) of E.O. 13224, as amended, for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, ASA'IB AHL AL-HAQ, a person whose property and interests in property are blocked pursuant to E.O. 13224, as amended.

4. AL-BAHADLY, Ali Maarij (Arabic: علي معارج البهادلي) (a.k.a. AL BEHADILI, Ali Maarij Sewadig), Baghdad, Iraq; Alamara, Iraq; DOB 01 Jul 1966; POB Maysan, Iraq; nationality Iraq; Gender Male; Passport D1019788 (Iraq) expires 30 Jun 2026; National ID No. 0041626 (Iraq) (individual) [IRAN-EO13902] (Linked To: SAID, Salim Ahmed)

Designated pursuant to section 1(a)(iii) of Executive Order 13902 of January 10, 2020, "Imposing Sanctions With Respect to Additional Sectors of Iran," 85 FR 2003, 3 CFR, 2020 Comp., p. 299 (E.O. 13902), for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, Salim Ahmed Said, a person whose property and interests in property are blocked pursuant to E.O. 13902.

Entities:

1. GULF ENERGY OIL SERVICES LIMITED (Arabic: طاقة الخليج للخدمات النفطية المحدودة), Baghdad, Iraq; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Organization Established Date 13 Oct 2009; Organization Type: Support activities for petroleum and natural gas extraction; Business Registration Number 73792 (Iraq) [SDGT] (Linked To: AL-BEHADILI, Mustafa Hashim Lazim).

Designated pursuant to section 1(a)(iii)(A) of E.O. 13224, as amended, for being owned, controlled, or directed by, or having acted or purported to act for or on behalf of, directly or indirectly, Mustafa Hashim Lazim al-Behadili, a person whose property and interests in property are blocked pursuant to E.O. 13224, as amended.

2. GULF GENERAL CONTRACTING LIMITED, Baghdad, Iraq; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Organization Established Date 05 Feb 2000; Business Registration Number 7249 (Iraq) [SDGT] (Linked To: AL-BEHADILI, Mustafa Hashim Lazim).

Designated pursuant to section 1(a)(iii)(A) of E.O. 13224, as amended, for being owned, controlled, or directed by, or having acted or purported to act for or on behalf of, directly or indirectly, Mustafa Hashim Lazim al-Behadili, a person whose property and interests in property are blocked pursuant to E.O. 13224, as amended.

3. GULF ENERGY FOR GENERAL TRANSPORT AND MARINE SERVICES AND REAL ESTATE CONSULTANCY LLC (Arabic: طاقة الخليج للنقل العام والخدمات البحرية والاستشارات العقارية محدودة المسؤولية) (a.k.a. GULF ENERGY COMPANY FOR GENERAL TRANSPORT, MARINE SERVICES & REAL ESTATE INVESTMENTS LTD; a.k.a. GULF ENERGY FOR GENERAL TRANSPORT, MARINE SERVICES AND REAL ESTATE INVESTMENTS COMPANY LTD), Apartment 3, Building 2/56, Zukak 2, Baghdad, Baghdad Governorate, Iraq; Berth 12, Khor Al Zubair Port, Al Basrah, Iraq; Website gulfenergy.info; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Organization Established Date 12 Apr 2010; Organization Type: Sea and coastal freight water transport; alt. Organization Type: Transportation and storage; Company Number 38676649 (Iraq) [SDGT] (Linked To: AL-BEHADILI, Mustafa Hashim Lazim).

Designated pursuant to section 1(a)(iii)(A) of E.O. 13224, as amended, for being owned, controlled, or directed by, or having acted or purported to act for or on behalf of, directly or indirectly, Mustafa Hashim Lazim al-Behadili, a person whose property and interests in property are blocked pursuant to E.O. 13224.

4. IRAQ INTERNATIONAL ENERGY FOR THE IMPORT AND SALE FOR PETROLEUM PRODUCTS LIMITED (Arabic: طاقة العراق الدولية لاستيراد وبيع المنتجات النفطية المحدودة) (a.k.a. IRAQ ENERGY INTERNATIONAL FOR IMPORTING AND SELLING OIL PRODUCTS COMPANY LTD), Mahala 211, Dar 22, Zukak 11, Harthiya, Baghdad, Iraq; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Organization Established Date 25 Jul 2019; Organization Type: Support activities for petroleum and natural gas extraction; Business Registration Number 10365 (Iraq) [SDGT] (Linked To: AL-BEHADILI, Mustafa Hashim Lazim).

Designated pursuant to section 1(a)(iii)(A) of E.O. 13224, as amended, for being owned, controlled, or directed by, or having acted or purported to act for or on behalf of, directly or indirectly, Mustafa Hashim Lazim al-Behadili, a person whose property and interests in property are blocked pursuant to E.O. 13224, as amended.

(Authorities: E.O. 13224, as amended, and E.O. 13902.)

Bradley T. Smith,

Director, Office of Foreign Assets Control.

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Part II

Securities and Exchange Commission

Self-Regulatory Organizations; Cboe C2 Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Fee Schedule Entitled "Consolidated Audit Trail Funding Fees"; Notice

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-105429; File No. SR-C2-2026-011]

Self-Regulatory Organizations; Cboe C2 Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Fee Schedule Entitled “Consolidated Audit Trail Funding Fees”

May 11, 2026.

Pursuant to Section 19(b)(1) under the Securities Exchange Act of 1934 (“Act”),¹ and Rule 19b-4 thereunder,² notice is hereby given that on April 27, 2026, Cboe C2 Exchange, Inc. (the “Exchange” or “C2”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of the Substance of the Proposed Rule Change

Cboe C2 Exchange, Inc. (the “Exchange” or “C2”) proposes to amend its fee schedule entitled “Consolidated Audit Trail Funding Fees” to establish fees for Industry Members related to certain historical costs of the National Market System Plan Governing the Consolidated Audit Trail (the “CAT NMS Plan” or “Plan”) incurred prior to January 1, 2022 that were not previously invoiced via Historical CAT Assessment 1. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Commission’s website (<https://www.sec.gov/rules/sro.shtml>), the Exchange’s website (https://www.cboe.com/us/options/regulation/rule_filings/bzx/), and at the principal office of the Exchange.

II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of

the most significant aspects of such statements.

A. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On July 11, 2012, the Commission adopted Rule 613 of Regulation NMS, which required the self-regulatory organizations (“SROs”) to submit a national market system (“NMS”) plan to create, implement and maintain a consolidated audit trail that would capture customer and order event information for orders in NMS securities across all markets, from the time of order inception through routing, cancellation, modification or execution.³ On November 15, 2016, the Commission approved the CAT NMS Plan.⁴ Under the CAT NMS Plan, the Operating Committee has the discretion to establish funding for CAT LLC to operate the CAT, including establishing fees for Industry Members to be assessed by CAT LLC that would be implemented on behalf of CAT LLC by the Participants.⁵ On September 5, 2025, CAT LLC proposed a revised funding model to fund the CAT (“CAT Funding Model”).⁶ On March 16, 2026, the Commission approved the CAT Funding Model, after concluding that the model satisfied the requirements of Section 11A of the Exchange Act and Rule 608 thereunder.⁷

The CAT Funding Model provides a framework for the recovery of the costs to create, develop and maintain the CAT, including providing a method for allocating costs to fund the CAT among Participants and Industry Members. The CAT Funding Model establishes two categories of fees: (1) CAT fees assessed by CAT LLC and payable by certain Industry Members to recover a portion of historical CAT costs previously paid by the Participants (“Historical CAT Assessment” fees); and (2) CAT fees assessed by CAT LLC and payable by Participants and Industry Members to

fund prospective CAT costs (“Prospective CAT Costs” fees).⁸

Under the CAT Funding Model, “[t]he Operating Committee will establish one or more fees (each a ‘Historical CAT Assessment’) to be payable by Industry Members with regard to CAT costs previously paid by the Participants (‘Past CAT Costs’).”⁹ In establishing a Historical CAT Assessment, the Operating Committee will determine a “Historical Recovery Period” and calculate a “Historical Fee Rate” for that Historical Recovery Period. Then, for each month in which a Historical CAT Assessment is in effect, each CEBB and CEBS would be required to pay the fee—the Historical CAT Assessment—for each transaction in Eligible Securities executed by the CEBB or CEBS from the prior month as set forth in CAT Data, where the Historical CAT Assessment for each transaction will be calculated by multiplying the number of executed equivalent shares in the transaction by one-third and by the Historical Fee Rate.¹⁰

Each Historical CAT Assessment to be paid by CEBBs and CEBSs is designed to contribute toward the recovery of two-thirds of the Historical CAT Costs. Because the Participants previously have paid Past CAT Costs via loans to the Company, the Participants would not be required to pay any Historical CAT Assessment. In lieu of a Historical CAT Assessment, the Participants’ one-third share of Historical CAT Costs will be paid by the cancellation of loans made by the Participants to the Company on a pro rata basis based on the outstanding loan amounts due under the loans, instead of through the payment of a CAT fee.¹¹ In addition, the Participants also will be 100% responsible for certain Excluded Costs (as discussed below).

CAT LLC proposes to charge CEBBs and CEBSs (as described in more detail

³ Securities Exchange Act Rel. No. 67457 (July 18, 2012), 77 FR 45721 (Aug. 1, 2012) (“Rule 613 Adopting Release”).

⁴ Securities Exchange Act Rel. No. 79318 (Nov. 15, 2016), 81 FR 84696 (Nov. 23, 2016) (“CAT NMS Plan Approval Order”).

⁵ Section 11.1(b) of the CAT NMS Plan.

⁶ Securities Exchange Act Rel. No. 103960 (Sept. 12, 2025), 90 FR 44910 (Sept. 17, 2025).

⁷ Securities Exchange Act Rel. No. 105003 (Mar. 16, 2026), 91 FR 13410 (Mar. 29, 2026) (“CAT Funding Model Approval Order”). This CAT Funding Model replaced the prior funding model that was approved by the Commission on September 6, 2023. Securities Exchange Act Rel. No. 98290 (Sept. 6, 2023), 88 FR 62628 (Sept. 12, 2023).

⁸ Under the CAT Funding Model, the Operating Committee may establish one or more Historical CAT Assessments. Section 11.3(b) of the CAT NMS Plan. This filing only establishes Historical CAT Assessment 1A related to certain Historical CAT Costs as described herein; it does not address any other potential Historical CAT Assessment related to other Historical CAT Costs. In addition, under the CAT Funding Model, the Operating Committee also may establish CAT Fees related to CAT costs going forward. Section 11.3(a) of the CAT NMS Plan. This filing does not address any potential CAT Fees related to CAT costs going forward. Any such other fee for any other Historical CAT Assessment or CAT Fee for Prospective CAT Costs will be subject to a separate fee filing.

⁹ Section 11.3(b) of the CAT NMS Plan.

¹⁰ In approving the CAT Funding Model, the Commission stated that, “[i]n the Commission’s view, the proposed recovery of the Past CAT Costs via the Historical CAT Assessment is appropriate.” CAT Funding Model Approval Order at 13450.

¹¹ Section 11.3(b)(ii) of the CAT NMS Plan.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

below) Historical CAT Assessment 1A to recover certain historical CAT costs incurred prior to January 1, 2022, in accordance with the CAT Funding Model. To implement this fee on behalf of CAT LLC, the CAT NMS Plan requires the Participants to “file with the SEC under Section 19(b) of the Exchange Act any such fees on Industry Members that the Operating Committee approves, and such fees shall be labeled as ‘Consolidated Audit Trail Funding Fees.’”¹² The Plan further states that “Participants will be required to file with the SEC pursuant to Section 19(b) of the Exchange Act a filing for each Historical CAT Assessment.”¹³ Accordingly, the purpose of this filing is to implement a Historical CAT Assessment on behalf of CAT LLC for Industry Members, referred to as Historical CAT Assessment 1A, in accordance with the CAT NMS Plan.¹⁴ The Exchange, along with the other Participants in the CAT, previously filed a fee filing to implement Historical CAT Assessment 1.¹⁵ Based on the fee filing for Historical CAT Assessment 1, Historical CAT Assessment 1 was expected to be in effect from the first

invoice in November 2024 until \$212,039,879.34 (two-thirds of Historical CAT Costs 1) was invoiced to CAT Executing Brokers collectively.¹⁶ However, Historical CAT Assessment 1 ceased before the entire amount was invoiced.¹⁷ The last invoice for Historical CAT Assessment 1 was provided on December 2025, after only \$173,075,024 of the total \$212,039,879.34 had been invoiced to Industry Members.¹⁸ Accordingly, \$38,964,855.34 of Historical CAT Costs 1 has not been invoiced. Historical CAT Assessment 1A would seek to recover this outstanding amount of Historical CAT Costs 1 that has not been invoiced.

(1) CAT Executing Brokers

Historical CAT Assessment 1A will be charged to each CEBB and CEBS for each applicable transaction in Eligible Securities.¹⁹ The CAT NMS Plan defines a “CAT Executing Broker” to mean:

(a) with respect to a transaction in an Eligible Security that is executed on an exchange, the Industry Member identified as the Industry Member responsible for the order on the buy-side of the transaction and the Industry Member responsible for the sell-side of the

transaction in the equity order trade event and option trade event in the CAT Data submitted to the CAT by the relevant exchange pursuant to the Participant Technical Specifications; and (b) with respect to a transaction in an Eligible Security that is executed otherwise than on an exchange and required to be reported to an equity trade reporting facility of a registered national securities association, the Industry Member identified as the executing broker and the Industry Member identified as the contra-side executing broker in the TRF/ORF/ADF transaction data event in the CAT Data submitted to the CAT by FINRA pursuant to the Participant Technical Specifications; provided, however, in those circumstances where there is a non-Industry Member identified as the contra-side executing broker in the TRF/ORF/ADF transaction data event or no contra-side executing broker is identified in the TRF/ORF/ADF transaction data event, then the Industry Member identified as the executing broker in the TRF/ORF/ADF transaction data event would be treated as CAT Executing Broker for the Buyer and for the Seller.²⁰

The following fields of the Participant Technical Specifications indicate the CAT Executing Brokers for the transactions executed on an exchange.

EQUITY ORDER TRADE (EOT)²¹

No.	Field name	Data type	Description	Include key
12.n.8/13.n.8	member	Member Alias	The identifier for the member firm that is responsible for the order on this side of the trade. Not required if there is no order for the side as indicated by the NOBUYID/NOSELLID instruction. This must be provided if orderID is provided.	C

OPTION TRADE (OT)²²

No.	Field name	Data type	Description	Include key
16.n.13/17.n.13	member	Member Alias	The identifier for the member firm that is responsible for the order.	R

¹² Section 11.1(b) of the CAT NMS Plan.

¹³ Section 11.3(b)(iii)(B)(I) of the CAT NMS Plan.

¹⁴ Note that there may be one or more Historical CAT Assessments. Section 11.3(b) of the CAT NMS Plan.

¹⁵ Securities Exchange Act Release No. 100937 (September 5, 2024), 89 FR 73802 (September 11, 2024) (SR-C2-2024-014) (“Historical CAT Assessment 1 Filing”).

¹⁶ See Consolidated Audit Trail Funding Fees (a)(1).

¹⁷ In response to the Eleventh Circuit’s decision vacating the prior CAT NMS Plan funding model, the last invoices for Historical CAT Assessment 1 were sent in December 2025 based on November 2025 transactions. See *American Securities Association v. SEC*, No. 23–13396 (11th Cir. July 25, 2025).

¹⁸ CAT Fee Alert 2025–4 (Nov. 25, 2025).

¹⁹ In its approval order for the CAT Funding Model, the Commission determined that charging CAT fees to CAT Executing Brokers was appropriate. In reaching this conclusion the Commission noted that the use of CAT Executing Brokers is appropriate because the CAT Funding Model is based upon the calculation of *executed* equivalent shares, and, therefore, charging CAT Executing Brokers would reflect their executing role in each transaction. Furthermore, the Commission noted that, because CAT Executing Brokers are already identified in transaction reports from the exchanges and FINRA’s equity trade reporting facilities recorded in CAT Data, charging CAT Executing Brokers could streamline the billing process. CAT Funding Model Approval Order at 13413.

²⁰ Section 1.1 of the CAT NMS Plan. In its approval order for the CAT Funding Model, the Commission “recognize[d] that Industry Members may pass-through CAT fees for customer executed volume.” See CAT Funding Model Approval Order at 13424.

²¹ See Table 23, Section 4.7 (Order Trade Event) of the CAT Reporting Technical Specifications for Plan Participants, Version 4.2.0-r2 (Feb. 24, 2026), https://www.catnmsplan.com/sites/default/files/2026-02/02.24.2026-CAT_Reporting_Technical_Specifications_for_Participants_4.2.0-r2.pdf (“CAT Reporting Technical Specifications for Plan Participants”).

²² See Table 52, Section 5.2.5.1 (Simple Option Trade Event) of the CAT Reporting Technical Specifications for Plan Participants.

In addition, the following fields of the Participant Technical Specifications would indicate the CAT Executing Brokers for the transactions executed otherwise than on an exchange.

TRF/ORF/ADF TRANSACTION DATA EVENT (TRF)²³

No.	Field name	Data type	Description	Include key
26	reportingExecutingMpid	Member Alias	MPID of the executing party	R
28	contraExecutingMpid	Member Alias	MPID of the contra-side executing party	C

(2) Calculation of Fee Rate for Historical CAT Assessment 1A

The Operating Committee determined the fee rate to be used in calculating Historical CAT Assessment 1A based on the Historical CAT Costs for Historical CAT Assessment 1A and the projected total executed share volume of all transactions in Eligible Securities for the Historical Recovery Period for Historical CAT Assessment 1A (“Historical Recovery Period 1A”), as discussed in detail below. Based on this calculation, the Operating Committee has determined that the fee rate for Historical CAT Assessment 1A would be \$0.000002, as discussed in detail below.

(A) Executed Equivalent Shares for Transactions in Eligible Securities

Under the CAT NMS Plan, for purposes of calculating each Historical CAT Assessment, executed equivalent shares in a transaction in Eligible Securities will be reasonably counted as follows: (1) each executed share for a transaction in NMS Stocks will be counted as one executed equivalent share; (2) each executed contract for a transaction in Listed Options will be counted based on the multiplier applicable to the specific Listed Options (*i.e.*, 100 executed equivalent shares or such other applicable multiplier); and (3) each executed share for a transaction in OTC Equity Securities shall be counted as 0.01 executed equivalent share.²⁴

(B) Historical CAT Costs

The CAT NMS Plan states that “[t]he Operating Committee will reasonably determine the Historical CAT Costs sought to be recovered by each Historical CAT Assessment, where the Historical CAT Costs will be Past CAT Costs minus Past CAT Costs reasonably

excluded from Historical CAT Costs by the Operating Committee. Each Historical CAT Assessment will seek to recover from CAT Executing Brokers two-thirds of Historical CAT Costs incurred during the period covered by the Historical CAT Assessment.”²⁵ Historical CAT Assessment 1, the original Historical CAT Assessment, was implemented to recover \$212,039,879.34 of Historical CAT Costs 1 from CEBBs and CEBSSs collectively.²⁶ As described in the fee filings for Historical CAT Assessment 1, Historical CAT Costs 1 of \$212,039,879.34 includes Past CAT Costs of \$401,312,909 minus certain Excluded Costs of \$83,253,090. As described in the filing for Historical CAT Assessment 1, Participants collectively will remain responsible for one-third of Historical CAT Costs 1 (which is \$106,019,939.67), plus the Excluded Costs of \$83,253,090. Accordingly, CEBBs collectively will be responsible for one-third of Historical CAT Costs 1 (which is \$106,019,939.67), and CEBSSs collectively will be responsible for one-third of Historical CAT Costs 1 (which is \$106,019,939.67), for a total of \$212,039,879.34. CEBBs and CEBSSs collectively have been invoiced for \$173,075,024 of the \$212,039,879.34 of Historical CAT Costs 1 via Historical CAT Assessment 1. Accordingly, Historical CAT Assessment 1A would charge CEBBs and CEBSSs collectively for the remaining \$38,964,855.34 of Historical CAT Costs 1 that was not invoiced to CEBBs and CEBSSs via Historical CAT Assessment 1. Historical CAT Assessment 1A will be designed to recover the remaining \$38,964,855.34 of Historical CAT Costs 1 from CEBBs and CEBSSs collectively, with CEBBs collectively responsible for \$19,482,427.67 and CEBSSs collectively responsible for \$19,482,427.67.

allocating CAT costs during the two-year interim period is appropriate and consistent with the funding principles of the CAT NMS Plan.” CAT Funding Model Approval Order at 13427.

²⁵ Section 11.3(b)(i)(C) of the CAT NMS Plan.

²⁶ See Historical CAT Assessment 1 Filing at 75267–75268.

(i) Historical CAT Costs 1

The following describes in detail Historical CAT Costs 1 with regard to four separate historical time periods as well as Past CAT Costs excluded from Historical CAT Costs 1 (“Excluded Costs”). The following cost details are provided in accordance with the requirement in the CAT NMS Plan to provide in the fee filing “a brief description of the amount and type of Historical CAT Costs, including (1) the technology line items of cloud hosting services, operating fees, CAIS operating fees, change request fees, and capitalized developed technology costs, (2) legal, (3) consulting, (4) insurance, (5) professional and administration and (6) public relations costs.”²⁷ Each of the costs described below are reasonable, appropriate and necessary for the creation, implementation and maintenance of CAT. These Historical CAT Costs 1 are the same as described in the fee filing for Historical CAT Assessment 1.²⁸

(a) Historical CAT Costs Incurred Prior to June 22, 2020 (Pre-FAM Costs)

Historical CAT Costs 1 would include costs incurred by CAT prior to June 22, 2020 (“Pre-FAM Period”) and already funded by the Participants, excluding Excluded Costs (described further below). Historical CAT Costs 1 would include costs for the Pre-FAM Period of \$124,290,730. The Participants would remain responsible for one-third of this cost (which they have previously paid) (\$41,430,243.33), and Industry Members would be responsible for the remaining two-thirds, with CEBBs paying one-third (\$41,430,243.33) and CEBSSs paying one-third (\$41,430,243.33). These costs do not include Excluded Costs, as discussed further below. The following table breaks down Historical CAT Costs 1²⁹ for the Pre-FAM Period

²³ See Table 62, Section 6.1 (TRF/ORF/ADF Transaction Data Event) of the CAT Reporting Technical Specifications for Plan Participants.

²⁴ Section 11.3(a)(i)(B) and 11.3(b)(i)(B) of the CAT NMS Plan. In approving the CAT Funding Model, the Commission concluded that “in the Commission’s view, the use of executed equivalent share volume as the basis for determining and

²⁷ Section 11.3(b)(iii)(B)(III)(B) of the CAT NMS Plan.

²⁸ See generally Historical CAT Assessment 1 Filing.

²⁹ The costs described in this table of costs for the Pre-FAM Period were calculated based upon CAT

into the categories set forth in Section 11.3(b)(iii)(B)(II) of the CAT NMS Plan.

Operating expense	Historical CAT costs 1 for Pre-FAM Period (prior to June 22, 2020)
Capitalized Developed Technology Costs *	\$51,847,150
Technology Costs	33,568,579
Cloud Hosting Services	10,268,840
Operating Fees	21,085,485
CAIS Operating Fees	2,072,908
Change Request Fees	141,346
Legal	19,674,463
Consulting	17,013,414
Insurance	880,419
Professional and administration	1,082,036
Public relations	224,669
Total Operating Expenses	124,290,730

* The non-cash amortization of these capitalized developed technology costs of \$2,115,545 incurred during the period prior to June 22, 2020 have been appropriately excluded from the above table.³⁰

The Pre-FAM Period includes a broad range of CAT-related activity from 2012 through June 22, 2020, including the evaluation of the requirements of SEC Rule 613, the development of the CAT NMS Plan, the evaluation and selection of the initial and successor Plan Processors, the commencement of the creation and implementation of the CAT to comply with Rule 613 and the CAT NMS Plan, including technical specifications for transaction reporting and regulatory access, and related technology and the commencement of reporting to the CAT. The following describes the costs for each of the categories for the Pre-FAM Period.

(I) Technology Costs—Cloud Hosting Services

The \$10,268,840 in technology costs for cloud hosting services represent costs incurred for services provided by the cloud services provider for the CAT, Amazon Web Services, Inc. (“AWS”), during the Pre-FAM Period.

As part of its proposal for acting as the successor Plan Processor for the CAT, FCAT selected AWS as a subcontractor to provide cloud hosting services. In 2019, after reviewing the capabilities of other cloud services providers, FCAT determined that AWS

was the only cloud services provider at that time sufficiently mature and capable of providing the full suite of necessary cloud services for the CAT, including, for example, the security, resiliency and complexity necessary for the CAT computing requirements. The use of cloud hosting services is standard for this type of high-volume data activity and reasonable and necessary for implementation of the CAT, particularly given the substantial data volumes associated with the CAT.

Under the Plan Processor Agreement with FCAT, CAT LLC is required to pay FCAT the fees incurred by the Plan Processor for cloud hosting services provided by AWS as FCAT’s subcontractor on a monthly basis for the cloud hosting services, and FCAT, in turn, pays such fees to AWS. The fees for cloud hosting services were negotiated by FCAT on an arm’s length basis with the goals of managing cost and receiving services required to comply with the CAT NMS Plan and Rule 613, taking into consideration a variety of factors, including the expected volume of data, the breadth of services provided and market rates for similar services. The fees for cloud hosting services during the Pre-FAM Period were paid to FCAT by CAT NMS,

LLC³¹ and subsequently Consolidated Audit Trail, LLC (as previously noted, both entities are referred to generally as “CAT LLC”),³² and FCAT, in turn, paid AWS. CAT LLC was funded via loan contributions by the Participants.³³

AWS was engaged by FCAT to provide a broad array of cloud hosting services for the CAT, including data ingestion, data management, and analytic tools. Services provided by AWS include storage services, databases, compute services and other services (such as networking, management tools and DevOps tools). AWS also was engaged to provide various environments for CAT, such as development, performance testing, test and production environments.

The cost for AWS services for the CAT is a function of the volume of CAT Data. The greater the amount of CAT Data, the greater the cost of AWS services to the CAT. During the Pre-FAM Period from the engagement of AWS in February 2019 through June 2020, AWS provided cloud hosting services for volumes of CAT Data far in excess of the volume predictions set forth in the CAT NMS Plan. The CAT NMS Plan states, when all CAT Reporters are submitting their data to the CAT, it “must be sized to receive[.]

LLC’s review of applicable bills and invoices and related financial statements. CAT LLC financial statements are available on the CAT website. In addition, in accordance with Section 6.6(a)(i) of the CAT NMS Plan, in 2018 CAT LLC provided the SEC with “an independent audit of fees, costs, and expenses incurred by the Participants on behalf of the Company prior to the Effective Date of the Plan that will be publicly available.” The audit is available on the CAT website.

³⁰ With respect to certain costs that were “appropriately excluded,” such excluded costs relate to the amortization of capitalized technology costs, which are amortized over the life of the Plan Processor Agreement. As such costs have already

been otherwise reflected in the filing, their inclusion would double count the capitalized technology costs. In addition, amortization is a non-cash expense.

³¹ CAT NMS, LLC was formed by FINRA and the U.S. national securities exchanges to implement the requirements of SEC Rule 613 under the Exchange Act. SEC Rule 613 required the SROs to jointly submit to the SEC the CAT NMS Plan to create, implement and maintain the CAT. The SEC approved the CAT NMS Plan on November 15, 2016. CAT NMS Plan Approval Order.

³² On August 29, 2019, the Participants formed a new Delaware limited liability company named

Consolidated Audit Trail, LLC for the purpose of conducting activities related to the CAT from and after the effectiveness of the proposed amendment of the CAT NMS Plan to replace CAT NMS, LLC. See Securities Exchange Act Rel. No. 87149 (Sept. 27, 2019), 84 FR 52905 (Oct. 3, 2019).

³³ For each of the costs paid by CAT NMS, LLC and Consolidated Audit Trail, LLC as discussed throughout this filing, CAT NMS, LLC and Consolidated Audit Trail, LLC paid these costs via loan contributions by the Participants to CAT NMS, LLC and Consolidated Audit Trail, LLC, respectively.

process and load more than 58 billion records per day,”³⁴ and that “[i]t is expected that the Central Repository will grow to more than 29 petabytes of raw, uncompressed data.”³⁵ However, the volume of CAT Data for the Pre-FAM Period was far in excess of these

predicted levels. By the end of this period, data submitted to the CAT included options and equities Participant Data,³⁶ Phase 2a and Phase 2b Industry Member Data³⁷ (including certain linkages), as well as SIP Data,³⁸ reference data and other types of Other

Data.³⁹ The following chart provides data regarding the average daily volume, cumulative total events, total compute hours and storage footprint of the CAT during the Pre-FAM Period.⁴⁰

	Date range: 3/29/19 to 4/12/20 *	Date range: 4/13/20 to 6/21/20 **
Average Daily Volume in Billions:		
Participant—Equities	5	5
Participant—Options	80	981
Industry Member—Equities		3
Industry Member—Options		0.04
SIP—Options & Equities	64	70
Average Total Daily Volume	149	166
Cumulative Total Events for the Period	3,890	4,990
Total Compute Hours for the Period	*** N/A	5,663,247
Storage Footprint at End of Period (Petabytes)	30.57	47.96

* The Participant Equities in RSA format.

** Start of Industry Member reporting on 4/13/2020.

*** Note that, although there were compute hours during this period, data related to such compute hours are no longer available in current data.

(II) Technology Costs—Operating Fees

The \$21,085,485 in technology costs related to operating fees represent costs incurred with regard to activities of FCAT as the Plan Processor. Operating fees are those fees paid by CAT LLC to FCAT as the Plan Processor to operate and maintain the CAT and to perform business operations related to the system, including compliance, security, testing, training, communications with the industry (e.g., management of the FINRA CAT Helpdesk, FAQs, website and webinars) and program management as required by the CAT NMS Plan.

FCAT was selected to assume the role of the successor Plan Processor. Prior to this selection, the Participants engaged in discussions with two prior Bidders⁴¹ for the successor Plan Processor role. The Operating Committee formed a Selection Subcommittee in accordance with Section 4.12 of the CAT NMS Plan to evaluate and review Bids and to make a recommendation to the Operating Committee with respect to the selection of the successor Plan Processor. In an April 9, 2019 letter to the Commission, the Participants described the reasons for its selection of the successor Plan Processor:

The Selection Subcommittee considered factors including, but not limited to, the following, in recommending FINRA to the Operating Committee as the successor Plan Processor:

- a. FINRA’s specialized technical expertise and capabilities in the area of broker-dealer technology;
- b. The need to appoint a successor Plan Processor with specialized expertise to develop, implement, and maintain the CAT System in accordance with the CAT NMS Plan and SEC Rule 613;
- c. FINRA’s detailed proposal in response to CATLLC’s recent inquiries; and
- d. FINRA’s data query and analytics systems demonstration to the Participants.

Based on these and other factors, the Selection Subcommittee determined that FINRA was the most appropriate Bidder to become the successor Plan Processor.⁴²

On February 26, 2019, the Operating Committee (with FINRA recusing itself) voted to select FINRA as the successor Plan Processor pursuant to Section 6.1(t) of the CAT NMS Plan.⁴³ On March 29, 2019, CAT LLC and FCAT (a wholly owned subsidiary of FINRA) entered into a Plan Processor Agreement

pursuant to which FCAT would perform the functions and duties of the Plan Processor contemplated by the CAT NMS Plan, including the management and operation of the CAT.

Under the Plan Processor Agreement with FCAT, CAT LLC is required to pay FCAT a negotiated monthly fixed price for the operation of the CAT. This fixed price contract was negotiated on an arm’s length basis with the goals of managing costs and receiving services required to comply with the CAT NMS Plan and Rule 613, taking into consideration a variety of factors, including the breadth of services provided and market rates for similar types of activity. The operating fees during the Pre-FAM Period were paid to FCAT by CAT LLC.

From March 29, 2019 (the commencement of the Plan Processor Agreement with FCAT) through June 22, 2020 (the end of the Pre-FAM Period), the Plan Processor’s activities with respect to the CAT included the following:

- Commenced user acceptance testing with market data provided by Exegy Incorporated (“Exegy”), a market data provider;⁴⁴
- Published Technical Specifications and related reporting scenarios documents for Phase 2a, 2b and 2c

³⁴ Appendix D–4 of the CAT NMS Plan at n.262.

³⁵ Appendix D–5 of the CAT NMS Plan.

³⁶ See Section 6.3(d) of the CAT NMS Plan.

³⁷ See Securities Exchange Rel. No. 88702 (Apr. 20, 2020), 85 FR 23075 (Apr. 24, 2020) (“Phased Reporting Exemptive Relief Order”) for a description of Phase 2a and Phase 2b Industry Member Data.

³⁸ See Section 6.5(a)(ii) of the CAT NMS Plan.

³⁹ See Appendix C–109 of the CAT NMS Plan.

⁴⁰ Note that the volume data described in this table does not include CAIS data.

⁴¹ The term “Bidder” is defined in Section 1.1 of the CAT NMS Plan.

⁴² Letter from Michael J. Simon, Chair, CAT NMS, LLC Operating Committee, to Brent J. Fields,

Secretary, SEC (Apr. 9, 2019), <https://www.sec.gov/divisions/marketreg/rule613-info-notice-of-plan-processor-selection-040919.pdf>.

⁴³ *Id.*

⁴⁴ The use of Exegy to provide market data, including the costs and market data provided, is discussed below in Section 3(a)(2)(B)(a)(IX).

reporting for Industry Members, after substantial engagement with SEC staff, Industry Members and Participants on the Technical Specifications;

- Facilitated testing for Phase 2a and 2b reporting for Industry Members;
- Began developing Technical Specifications and related reporting scenarios documents for Phase 2d reporting for Industry Members, after substantial engagement with SEC staff, Industry Members and Participants on the Technical Specifications;
- Published Central Repository Access Technical Specifications, and provided regulator access to test data from Industry Members;
- Facilitated Participant exchanges that support options market makers sending Quote Sent Time to the CAT;
- Facilitated the introduction of OPRA and Options NBBO Other Data to CAT;
- Addressed compliance items, including drafting CAT policies and procedures, and addressing requirements under Regulation SCI;
- Provided support to the Operating Committee, the Compliance Subcommittee and CAT working groups;
- Assisted with interpretive efforts and exemptive requests regarding the CAT NMS Plan;
- Oversaw the security of the CAT;
- Monitored the operation of the CAT, including with regard to Participant and Industry Member reporting;
- Provided support to subcontractors under the Plan Processor Agreement;
- Provided support in discussions with Participants, the SEC and its staff;
- Operated the FINRA CAT Helpdesk, which is the primary source for answers to questions about CAT, including questions regarding: clock synchronization, firm reporting responsibilities, interpretive questions, technical specifications for reporting to CAT and more;
- Facilitated communications with the industry, including via FAQs, CAT Alerts, meetings, presentations and webinars;
- Administered the CAT website and all of its content;⁴⁵ and
- Provided technical support and assistance with connectivity, data access, and user support, including the use of CAT Data and query tools, for Participants and the SEC staff.

(III) Technology Costs—CAIS Operating Fees

The \$2,072,908 in technology costs related to CAIS operating fees represent

the fees paid for FCAT's subcontractor charged with the development and operation of CAT's Customer and Account Information System ("CAIS"). The CAT is required under the CAT NMS Plan to capture and store Customer Identifying Information and Customer Account Information in a database separate from the transactional database and to create a CAT-Customer-ID for each Customer.

During the Pre-FAM Period, the CAIS-related services were provided by the Plan Processor through the Plan Processor's subcontractor, Kingland Systems Incorporation ("Kingland"). Kingland had experience operating in the securities regulatory technology space, and as a part of its proposal for acting as the Plan Processor for the CAT, FCAT selected Kingland as a subcontractor to provide certain CAIS-related services.

Under the Plan Processor Agreement with FCAT, CAT LLC was required to pay to the Plan Processor the fees incurred by FCAT for CAIS-related services provided by FCAT through Kingland on a monthly basis. FCAT negotiated the fees for Kingland's CAIS-related services on an arm's length basis with the goals of managing costs and receiving services required to comply with the CAT NMS Plan, taking into consideration a variety of factors, including the services to be provided and market rates for similar types of activity. The fees for CAIS-related services during the Pre-FAM Period were paid by CAT LLC to FCAT. FCAT, in turn, paid Kingland.

During the Pre-FAM Period, Kingland began development of the CAIS Technical Specifications and the building of CAIS. In addition, Kingland also worked on the build related to the CCID Alternative, an alternative approach to customer information that was not included in the CAT NMS Plan as originally adopted.⁴⁶ Furthermore, Kingland also worked on the acceleration of the reporting of large trader identifiers ("LTID") earlier than originally contemplated during this period, in accordance with exemptive relief granted by the SEC.⁴⁷

(IV) Technology Costs—Change Request Fees

The technology costs related to change request fees include costs related to certain modifications, upgrades or other changes to the CAT. Change requests are standard practice and

necessary to reflect operational changes, including changes related to new market developments, such as new market participants. In general, if CAT LLC determines that a modification, upgrade or other change to the functionality or service is necessary and appropriate, CAT LLC will submit a request for such a change to the Plan Processor. The Plan Processor will then respond to the request with a proposal for implementing the change, including the cost (if any) of such a change. CAT LLC then determines whether to approve the proposed change. The change request costs were paid by CAT LLC to FCAT. During the Pre-FAM Period, CAT LLC incurred costs of \$141,346 related to change requests implemented by FCAT. Such change requests related to a development fee regarding the OPRA and SIP data feeds, and the reprocessing of certain exchange data.⁴⁸

(V) Technology Costs—Capitalized Developed Technology Costs

This category of costs includes capitalizable application development costs incurred in the development of the CAT. The capitalized developed technology costs for the Pre-FAM Period of \$51,847,150 relate to technology provided by the Initial Plan Processor and the successor Plan Processor.

Initial Plan Processor: Thesys CAT, LLC. The capitalized developed technology costs related to the Initial Plan Processor include costs incurred with regard to testing for Participant reporting, Participant reporting to the CAT, a security assessment of the CAT, and the development of the billing function for the CAT.

On January 17, 2017, the Selection Committee of the CAT NMS Plan selected the Initial Plan Processor, Thesys Technologies, LLC, for the CAT NMS Plan pursuant to Article V of the CAT NMS Plan.⁴⁹ The Participants utilized a request for proposal ("RFP") to seek proposals to build and operate the CAT, receiving a number of proposals in response to the RFP. The Participants carefully reviewed and considered each of the proposals, including holding in-person meetings with each of the Bidders. After several rounds of review, the Participants selected the Initial Plan Processor in accordance with the CAT NMS Plan, taking into consideration that the Initial

⁴⁸ Note that CAT LLC also has incurred costs related to specific Industry Members (e.g., reprocessing costs related to Industry Member reporting errors).

⁴⁹ Letter from the Participants to Brent J. Fields, Secretary, SEC (Jan. 18, 2017), <https://www.sec.gov/divisions/marketreg/rule613-info-notice-of-plan-processor-selection.pdf>.

⁴⁵ The CAT website is <https://www.catnmsplan.com>.

⁴⁶ For a discussion of the CCID Alternative, see Securities Exchange Act Rel. No. 88393 (Mar. 17, 2020), 85 FR 16152 (Mar. 20, 2020).

⁴⁷ Phased Reporting Exemptive Relief Order at 23079–80.

Plan Processor had experience operating in the securities regulatory technology space, among other considerations. On April 6, 2017, CAT LLC entered into an agreement with Thesys CAT LLC ("Thesys CAT"), a Thesys affiliate, to perform the functions and duties of the Plan Processor contemplated by the CAT NMS Plan, including the management and operation of the CAT. Under the agreement, CAT LLC would pay Thesys CAT a negotiated, fixed price fee for its role as the Initial Plan Processor. Effective January 30, 2019, the Plan Processor Agreement with Thesys CAT was terminated, and FCAT was subsequently selected as the successor Plan Processor.

From January 17, 2017 through January 30, 2019, the time in which Thesys CAT was engaged for the CAT, but excluding the period from November 15, 2017 through January 30, 2019, the Initial Plan Processor engaged in various activities with respect to the CAT, including preparing iterative drafts of Participant Technical Specifications, Industry Member Technical Specifications and the Central Repository Access Technical Specifications. In addition, Thesys CAT also developed CAT technology, addressed compliance items, including drafting CAT policies and procedures, addressing Regulation SCI requirements, establishing a CAT Compliance Officer and a Chief Information Security Officer, addressed security-related matters for the CAT, and worked towards the initiation of Participant reporting per the Participant Technical Specifications.

Successor Plan Processor: FCAT. The capitalized developed technology costs related to FCAT include: (1) development costs incurred during the application development stage to meet various agreed-upon milestones regarding the CAT, including the completion of go-live functionality related to options ingestion and validation, equities regulatory services agreement query tool updates and unlinked options data query, options linkages release, Industry Member Phase 2a file submission and data integrity (including error corrections), and Industry Member testing, including reporting relationships, ATS order type management, basic reporting statistics, SFTP data integrity feedback and error correction; (2) costs related to certain modifications, upgrades, or other changes to the CAT that were not contemplated by the agreement between CAT LLC and the Plan Processor, including a one-time development fee for a secure analytics workspace, a one-time development fee for an Industry

Member connectivity solution, and a one-time development fee for the acceleration of multi-factor authentication; (3) CAIS implementation fees; and (4) license fees.

(VI) Legal Costs

The legal costs of \$19,674,463 represent the fees paid for legal services provided by two law firms, Wilmer Cutler Pickering Hale and Dorr LLP ("WilmerHale") and Pillsbury Winthrop Shaw Pittman LLP ("Pillsbury"), during the Pre-FAM Period. The legal costs exclude those costs incurred from November 15, 2017 through November 15, 2018.

Law Firm: WilmerHale. Following the adoption of Rule 613, the Participants determined it was necessary to engage external legal counsel to advise the Participants with respect to corporate and regulatory legal matters related to the CAT, including drafting and developing the CAT NMS Plan. The Participants considered a variety of factors in their analysis of prospective law firms, including (1) the firm's qualifications, resources and expertise; (2) the firm's relevant experience and understanding of the regulatory matters raised by the CAT and in advising on matters of similar scope; (3) the composition of the legal team; and (4) professional fees. Following a series of interviews, the Participants acting as a consortium determined that WilmerHale was well qualified given the balance of these considerations and engaged WilmerHale in February 2013.

WilmerHale's billing rates are negotiated on an annual basis and are determined with reference to the rates charged by other leading law firms for similar work. The Participants assess WilmerHale's performance and review prospective budgets and staffing plans submitted by WilmerHale on an annual basis. WilmerHale's compensation arrangements are reasonable and appropriate, and in line with the rates charged by other leading law firms for similar work.

The legal costs for WilmerHale during the Pre-FAM Period included costs incurred from 2013 until June 22, 2020 to address corporate and regulatory legal matters related to the CAT. The legal fees for this law firm during the period from February 2013 until the formation of the CAT NMS, LLC on November 15, 2016 were paid directly by the exchanges and FINRA to WilmerHale. After the formation of CAT NMS LLC, the legal fees were paid by CAT LLC to WilmerHale.

After WilmerHale was engaged in 2013 through the end of the Pre-FAM

Period on June 22, 2020 (excluding the legal costs from November 15, 2017 through November 15, 2018), WilmerHale provided legal assistance to the CAT on a variety of matters, including with regard to the following:

- Analyzed various legal matters associated with the Selection Plan, and drafted an amendment to the Selection Plan;
- Assisted with the RFP and bidding process for the CAT Plan Processor;
- Analyzed legal matters related to the Development Advisory Group ("DAG");
- Drafted the CAT NMS Plan, analyzed various items related to the CAT NMS Plan, and responded to comment letters on CAT NMS Plan;
- Provided legal support for the formation of the legal entity, the governance of the CAT, including governance support prior to the adoption of the CAT NMS Plan, which involved support for the full committee of exchanges and FINRA as well as subcommittees of this group (e.g., Joint Subcommittee Group, Technical, Industry Outreach, Cost and Funding and Other Products) and the DAG, governance support during the transition to the new governance structure under the CAT NMS Plan, and governance support after the adoption of the CAT NMS Plan, which involved support for the Operating Committee, Advisory Committee, Compliance Subcommittee and CAT working groups;
- Assisted with the development of the CAT funding model and drafted related amendments of the CAT NMS Plan and related filings;
- Negotiated and drafted the plan processor agreements with the Initial Plan Processor and the successor Plan Processor;
- Provided assistance with compliance with Regulation SCI;
- Assisted with clock synchronization study;
- Provided assistance with respect to the establishment of CAT security;
- Drafted exemptive requests from CAT NMS Plan requirements, including with regard to options market maker quotes, Customer IDs, CAT Reporter IDs, linking allocations to executions, CAT reporting timeline, FDIDs, customer and account information, timestamp granularity, small industry members, data facility reporting and linkage, allocation reports, SRO-assigned market participant identifiers and cancelled trade indicators, thereby seeking to implement changes that would be cost effective and benefit Industry Members and Participants;

- Assisted with the Implementation Plan required pursuant to Section 6.6(c)(i) of the CAT NMS Plan;
- Provided advice regarding CAT policies and procedures;
- Analyzed the SEC's amendment of the CAT NMS Plan regarding financial accountability;
- Provided interpretations of and related to the CAT NMS Plan;
- Provided support with regard to discussions with the SEC and its staff, including with respect to addressing interpretive and implementation issues; and
- Assisted with third-party vendor agreements.

Law Firm: Pillsbury. The legal costs for CAT during the Pre-FAM Period include costs related to the legal services performed by Pillsbury. The Participants interviewed this law firm as well as other potential law firms to provide legal assistance regarding certain liability matters. After considering a variety of factors in its analysis, including the relevant expertise and fees of the firm, CAT LLC determined to hire Pillsbury in April 2019. The hourly fee rates for this law firm were in line with market rates for specialized legal expertise. The legal fees were paid by CAT LLC to Pillsbury. The legal costs for Pillsbury during the Pre-FAM Period included costs incurred from April 2019 until June 22, 2020 to address legal matters regarding the agreements between CAT Reporters and CAT LLC concerning certain terms associated with CAT Reporting (the "Reporter Agreement"). During that period, Pillsbury advised CAT LLC regarding applicable legal matters, participated in negotiations between the Participants and Industry Members, participated in meetings with senior SEC staff, the Chairman, and Commissioners, represented CAT LLC and the Participants in an SEC administrative proceeding, and drafted a proposed amendment to the CAT NMS Plan regarding liability matters. Liability issues related to the CAT are important matters that needed to be resolved and clarified. CAT LLC's efforts to seek such resolution and clarity work to the benefit of Participants, Industry Members and other market participants. Moreover, litigation involving CAT LLC is an expense of operating the CAT, and, therefore, is appropriately an obligation of both Participants and Industry Members under the CAT Funding Model.

(VII) Consulting Costs

The consulting costs of \$17,013,414 represent the fees paid to the consulting firm Deloitte & Touche LLP ("Deloitte")

as project manager during the Pre-FAM Period, from October 2012 until June 22, 2020. These consulting costs include costs for advisory services related to the operation of the CAT, and meeting facilitation and communications coordination, vendor support and financial analyses.

To help facilitate project management given the unprecedented complexity and scope of the CAT project, the Participants determined it was necessary to engage a consulting firm to assist with the CAT project in 2012, following the adoption of Rule 613. A variety of factors were considered in the analysis of prospective consulting firms, including (1) the firm's qualifications, resources, and expertise; (2) the firm's relevant experience and understanding of the regulatory issues raised by the CAT and in coordinating matters of similar scope; (3) the composition of the consulting team; and (4) professional fees. Following a series of interviews, the exchanges and FINRA as a consortium determined that Deloitte was well qualified given the balance of these considerations and engaged Deloitte on October 1, 2012.

Deloitte's fee rates are negotiated on an annual basis and are in line with market rates for this type of specialized consulting work. CAT LLC assesses Deloitte's performance and reviews prospective budgets and staffing plans submitted by Deloitte on an annual basis. Deloitte's compensation arrangements are reasonable and appropriate, and in line with the rates charged by other leading consulting firms for similar work.

The consulting costs for CAT during the period from 2012 until the formation of the CAT NMS, LLC were paid directly by the Participants to Deloitte. After the formation of CAT NMS, LLC, the consulting fees were paid by CAT LLC to Deloitte. CAT LLC reviewed the consulting fees each month and approved the invoices.

After Deloitte was hired in 2012 through the end of the Pre-FAM Period on June 22, 2020 (excluding the consulting costs from November 15, 2017 through November 15, 2018), Deloitte provided a variety of consulting services, including the following:

- Established and implemented program operations for the CAT project, including the program management office and workstream design;
- Assisted with the Plan Processor selection process, including but not limited to, the development of the RFP and the bidder evaluation process, and facilitation and consolidation of the Participant's independent reviews;

- Assisted with the development and drafting of the CAT NMS Plan, including conducting cost-benefit studies, analyzing OATS and CAT requirements, and drafting appendices to the Plan;
- Assisted with cost and funding-related activities for the CAT, including the development of the CAT funding model and assistance with loans and the CAT bank account for CAT funding;
- Provided governance support to the CAT, including governance support prior to the adoption of the CAT NMS Plan, which involved support for the full committee of exchanges and FINRA as well as subcommittees of this group (e.g., Joint Subcommittee Group, Technical, Industry Outreach, Cost and Funding and Other Products) and the DAG, governance support during the transition to the new governance structure under the CAT NMS Plan and governance support after the adoption of the CAT NMS Plan, which involved support for the Operating Committee, Advisory Committee, Compliance Subcommittee and CAT working groups;
- Provided support to the Operating Committee, the Chair of the Operating Committee and the Leadership Team, including project management support, coordination and planning for meetings and communications, and interfacing with law firms and the SEC;
- Assisted with industry outreach and communications regarding the CAT, including assistance with industry outreach events, the development of the CAT website, frequently asked questions, and coordinating with the CAT LLC's public relations firm;
- Provided support for updating the SEC on the progress of the development of the CAT;
- Provided active planning and coordination with and support for the Initial Plan Processor with regard to the development of the CAT, and reported to the Participants on the progress;
- Coordinated efforts regarding the selection of the successor Plan Processor;
- Assisted with the transition from the Initial Plan Processor to the successor Plan Processor, including support for the Operating Committee and successor Plan Processor for the new role; and
- Provided support for third-party vendors for the CAT, including FCAT, Anchin and the law firms engaged by CAT LLC.

(VIII) Insurance

The insurance costs of \$880,419 represent the cost incurred for insurance for CAT during the Pre-FAM Period.

Commencing in 2020, CAT LLC performed an evaluation of various potential alternatives for CAT insurance policies, which included engaging in discussions with different insurance companies and conducting cost comparisons of various alternative approaches to insurance. Based on an analysis of a variety of factors, including coverage and premiums, CAT LLC determined to purchase cyber security liability insurance, directors' and officers' liability insurance, and errors and omissions liability insurance from USI Insurance Services LLC ("USI"). Such policies are standard for corporate entities, and cyber security liability insurance is important for the CAT System. The annual premiums for these policies were competitive for the coverage provided. The annual premiums were paid by CAT LLC to USI.

(IX) Professional and Administration Costs

In adopting the CAT NMS Plan, the Commission amended the Plan to add a requirement that CAT LLC's financial statements be prepared in compliance with GAAP, audited by an independent public accounting firm, and made publicly available.⁵⁰ The professional and administration costs include costs related to accounting and accounting advisory services to support the operating and financial functions of CAT, financial statement audit services by an independent accounting firm, preparation of tax returns, and various cash management and treasury functions. In addition, professional and administration costs for the Pre-FAM Period include costs related to the receipt of market data and a security assessment. The costs for these professional and administration services were \$1,082,036 for the Pre-FAM Period.

Financial Advisory Firm: Anchin Accountants & Advisors ("Anchin"). CAT LLC determined to hire a financial advisory firm, Anchin, to assist with financial matters for the CAT in April 2018. CAT LLC interviewed Anchin as well as other potential financial advisory firms to assist with the CAT project, considering a variety of factors in its analysis, including the firm's relevant expertise and fees. The hourly fee rates for this firm were in line with market rates for these financial advisory services. The fees for these services were paid by CAT LLC to Anchin.

After Anchin was hired in April 2018 through the end of the Pre-FAM Period on June 22, 2020 (excluding the period

from April 2018 through November 15, 2018), Anchin provided a variety of services, including the following:

- Developed, updated and maintained internal controls;
- Provided cash management and treasury functions;
- Facilitated bill payments;
- Provided monthly bookkeeping;
- Reviewed vendor invoices and documentation in support of cash disbursements;
- Provided accounting research and consultations on various accounting, financial reporting and tax matters;
- Addressed not-for-profit tax and accounting considerations;
- Prepared tax returns;
- Addressed various accounting, financial and operating inquiries from Participants;
- Developed and maintained quarterly and annual operating and financial budgets, including budget to actual fluctuation analyses;
- Addressed accounting and financial reporting matters relating to the transition from CAT NMS, LLC to Consolidated Audit Trail, LLC, including supporting the dissolution of CAT NMS, LLC;
- Supported compliance with the CAT NMS Plan;
- Worked with and provided support to the Operating Committee and various CAT working groups;
- Prepared monthly, quarterly and annual financial statements;
- Supported the annual financial statement audits by an independent auditor;
- Reviewed historical costs from inception; and
- Provided accounting and financial information in support of SEC filings.

Accounting Firm: Grant Thornton LLP ("Grant Thornton"). In February 2020, CAT LLC determined to engage an independent accounting firm, Grant Thornton, to complete the audit of CAT LLC's financial statements, in accordance with the requirements of the CAT NMS Plan. CAT LLC interviewed this firm as well as another potential accounting firm to audit CAT LLC's financial statements, considering a variety of factors in its analysis, including the relevant expertise and fees of each of the firms. CAT LLC determined that Grant Thornton was well-qualified for the proposed role given the balance of these considerations. Grant Thornton's fixed fee rate compensation arrangement was reasonable and appropriate, and in line with the market rates charged for these types of accounting services. The fees for these services were paid by CAT LLC to Grant Thornton.

Market Data Provider: Exegy. The professional and administrative costs for the Pre-FAM Period included costs related to the receipt of certain market data for the CAT pursuant to an agreement with the CAT LLC, and then with FCAT. Exegy provided SIP Data required by the CAT NMS Plan.

After performing an analysis of the available market data vendors to confirm that the data provided met the SIP Data requirements of the CAT NMS Plan and comparing the costs of the vendors providing the required SIP Data, CAT LLC determined to purchase market data from Exegy from July 2018 through March 2019. CAT LLC determined that, unlike certain other vendors, Exegy provided market data that included all data elements required by the CAT NMS Plan.⁵¹ In addition, the fees were reasonable and in line with market rates for the market data received. Accordingly, the professional and administrative costs for the Pre-FAM Period include the Exegy costs from November 2018 through March 2019. The cost of the market data was reasonable for the market data received. The fees for the market data were paid directly by CAT LLC to Exegy.

Upon the termination of the contract between CAT LLC and Exegy, FCAT entered into a contract with Exegy to purchase the required market data from Exegy in July 2019. All costs under the contract were treated as a direct pass through cost to CAT LLC. Therefore, the fees for the market data were paid by CAT LLC to FCAT, who, in turn, paid Exegy for the market data.

Security Assessment: RSM US LLP ("RSM"). The operating costs for the Pre-FAM Period include costs related to a third party security assessment of the CAT performed by RSM. The assessment was designed to verify and validate the effective design, implementation, and operation of the controls specified by NIST Special Publication 800-53, Revision 4 and related standards and guidelines. Such a security assessment is in line with industry practice and important given the data included in the CAT. CAT LLC determined to engage RSM to perform the security assessment, after considering a variety of factors in its analysis, including the firm's relevant expertise and fees. The fees were reasonable and in line with market rates for such an assessment. RSM performed the assessment from October 2018 through December 2018. Accordingly, the costs for the Pre-FAM Period include the costs incurred in November and December 2018. The cost for the

⁵⁰ Section 9.2 of the CAT NMS Plan.

⁵¹ See Section 6.5(a)(ii) of the CAT NMS Plan.

security assessment were paid directly to RSM by CAT LLC.

(X) Public Relations Costs

The public relations costs of \$224,669 represent the fees paid to public relations firms during the Pre-FAM Period for professional communications services to CAT, including media relations consulting, strategy and execution. By engaging a public relations firm, CAT LLC was better positioned to understand and address CAT matters to the benefit of all market participants. Specifically, the public relations firms provided services related to communications with the public regarding the CAT, including monitoring developments related to the CAT (e.g., congressional efforts, public comments and reaction to proposals, press coverage of the CAT), reporting such developments to CAT LLC, and drafting and disseminating communications to the public regarding such developments as well as reporting on developments related to the CAT (e.g., amendments to the CAT NMS Plan). Public relations services were important for various reasons, including monitoring comments made by market participants about CAT and understanding issues related to the CAT discussed on the public record.

The services performed by each of the public relations firms were comparable. The fees for such services were reasonable and in line with market

rates. Only one public relations firm was engaged at a time; the three firms were engaged sequentially as the primary public relations contact moved among the three firms during this time period.

Public Relations Firm: Peppercomm, Inc. ("Peppercomm"). The national securities exchanges and FINRA, acting as a consortium, determined to hire the public relations firm Peppercomm in October 2014 and continued to engage this firm through September 2017. The exchanges and FINRA made this engagement decision after considering a variety of factors in its analysis, including the firm's relevant expertise and fees. The fee rates for this public relations firm were negotiated on an arm's length basis and were in line with market rates for these types of services. The public relations costs during the period from October 2014 until the formation of the CAT NMS, LLC were paid directly by the exchanges and FINRA to the public relations firm. After the formation of CAT NMS, LLC, the consulting fees were paid by CAT LLC.

Public Relations Firm: Sloane & Company ("Sloane"). CAT LLC determined to hire a new public relations firm, Sloane, in March 2018, based on, among other things, their expertise and the primary contact's history with the project. The fee rates for this public relations firm were in line with market rates for these types of services. The fees during the Pre-FAM

Period were paid by CAT LLC to Sloane. CAT LLC continued the engagement with Sloane until February 2020.

Public Relations Firm: Peak Strategies. CAT LLC determined to hire a new public relations firm, Peak Strategies, in March 2020, based on, among other things, their expertise and the primary contact's history with the project. The fee rates for this public relations firm were in line with market rates for these types of services. The fees during the Pre-FAM Period were paid by CAT LLC to Peak Strategies.

(b) Historical CAT Costs Incurred in Financial Accountability Milestone Period 1

Historical CAT Costs 1 would include costs incurred by CAT and already funded by the Participants during Period 1 of the Financial Accountability Milestones ("FAM Period 1"),⁵² which covers the period from June 22, 2020–July 31, 2020. Historical CAT Costs 1 would include costs for FAM Period 1 of \$6,377,343. The Participants would remain responsible for one-third of this cost (which they have previously paid) (\$2,125,781), and Industry Members would be responsible for the remaining two-thirds, with CEBBs paying one-third (\$2,125,781) and CEBBs paying one-third (\$2,125,781). The following table breaks down Historical CAT Costs 1 for FAM Period 1⁵³ into the categories set forth in Section 11.3(b)(iii)(B)(II) of the CAT NMS Plan.

Operating expense	Historical CAT costs for FAM Period 1
Capitalized Developed Technology Costs *	\$1,684,870
<i>Technology Costs</i>	3,996,800
Cloud Hosting Services	2,642,122
Operating Fees	1,099,680
CAIS Operating Fees	254,998
Change Request Fees	
Legal	481,687
Consulting	137,209
Insurance	
Professional and administration	69,077
Public relations	7,700
Total Operating Expenses	6,377,343

*The non-cash amortization of these capitalized developed technology costs of \$362,121 incurred during FAM Period 1 have been appropriately excluded from the above table.⁵⁴

By the completion of FAM Period 1, CAT LLC was required to implement the reporting by Industry Members (excluding Small Industry Members that

are not OATS reporters) of equities transaction data and options transaction data, excluding Customer Account Information, Customer-ID and Customer

Identifying Information.⁵⁵ CAT LLC completed the requirements of FAM Period 1 by July 31, 2020. The following

⁵² Section 11.6(a)(i)(A) of the CAT NMS Plan.

⁵³ The costs described in this table of costs for FAM Period 1 were calculated based upon CAT LLC's review of applicable bills and invoices and related financial statements. CAT LLC financial statements are available on the CAT website.

⁵⁴ As discussed above, with respect to certain costs that were "appropriately excluded," such excluded costs relate to the amortization of capitalized technology costs, which are amortized over the life of the Plan Processor Agreement. As such costs have already been otherwise reflected in

the filing, their inclusion would double count the capitalized technology costs. In addition, amortization is a non-cash expense.

⁵⁵ See definition of "Initial Industry Member Core Equity and Options Reporting" in Section 1.1 of the CAT NMS Plan.

describes the costs for each of the categories for FAM Period 1.

(I) Technology Costs—Cloud Hosting Services

CAT LLC continued to utilize AWS in FAM Period 1 to provide a broad array of cloud hosting services for the CAT, including data ingestion, data management, and analytic tools. AWS continued to provide storage services, databases, compute services and other services (such as networking, management tools and DevOps tools), as well as various environments for CAT, such as development, performance testing, test, and production environments, during the FAM 1 Period.

Accordingly, the \$2,642,122 in technology costs for cloud hosting services represent costs incurred for services provided by AWS, as the cloud services provider, during FAM Period 1. The fee arrangement for AWS described above with regard to the Pre-FAM Period continued in place during FAM Period 1 pursuant to the Plan Processor Agreement. Moreover, CAT LLC continued to believe that AWS’s maturity in the cloud services space as well as the significant cost and time necessary to move the CAT to a different cloud services provider supported the continued engagement of AWS.

The cost for AWS cloud services for the CAT continued to be a function of

the volume of CAT Data. During the FAM 1 Period, the volume of CAT Data continued to far exceed the original predictions for the CAT as set forth in the CAT NMS Plan. During this period, data submitted to the CAT included options and equities Participant Data, Phase 2a and Phase 2b Industry Member Data (including certain linkages) as well as SIP Data, reference data and other types of Other Data. The following chart provides data regarding the average daily volume, cumulative total events, total compute hours and storage footprint of the CAT during FAM Period 1.⁵⁶

Date range: 6/22/20–7/31/20	
Average Daily Volume in Billions:	
Participant—Equities	6
Participant—Options	103
Industry Member—Equities	7
Industry Member—Options	0.31
SIP—Options & Equities	74
Average Total Daily Volume	185
Cumulative Total Events for the Period	5,190
Total Compute Hours for the Period	2,612,082
Storage Footprint at End of Period (Petabytes)	57.47

(II) Technology Costs—Operating Fees

Pursuant to the Plan Processor Agreement discussed above, FCAT continued in its role as the Plan Processor for the CAT during FAM Period 1. Accordingly, the \$1,099,680 in technology costs for operating fees represent costs incurred for the services provided by FCAT under the Plan Processor Agreement during FAM Period 1. The fee arrangement for FCAT described above with regard to the Pre-FAM Period continued in place during FAM Period 1 pursuant to the Plan Processor Agreement. During FAM Period 1, FCAT’s activities with respect to the CAT included the following:

- Published iterative drafts of draft Technical Specifications for Phase 2d, after substantial engagement with SEC staff, Industry Members and Participants on the Technical Specifications;
- Published iterative drafts of CAIS Technical Specifications, after substantial engagement with SEC staff, Industry Members and Participants on the Technical Specifications;
- Facilitated Industry Member reporting of Quote Sent Time on Options Market Maker quotes;

- Addressed compliance items, including drafting CAT policies and procedures, and addressing Regulation SCI requirements;
- Provided support to the Operating Committee, the Compliance Subcommittee and CAT working groups;
- Assisted with interpretive efforts and exemptive requests regarding the CAT NMS Plan;
- Oversaw the security of the CAT;
- Monitored the operation of the CAT, including with regard to Participant and Industry Member reporting;
- Provided support to subcontractors under the Plan Processor Agreement;
- Provided support in discussions with Participants and the SEC and its staff;
- Operated the FINRA CAT Helpdesk;
- Facilitated communications with the industry, including via FAQs, CAT Alerts, meetings, presentations and webinars;
- Administered the CAT website and all of its content; and
- Provided technical support and assistance with connectivity, data access, and user support, including the

use of CAT Data and query tools, for Participants and the SEC staff.

(III) Technology Costs—CAIS Operating Fees

Pursuant to the Plan Processor Agreement discussed above, Kingland continued in its role as a subcontractor for the development and implementation of CAIS during FAM Period 1. Accordingly, the \$254,998 in technology costs for CAIS operating fees represent costs incurred for services provided by Kingland during FAM Period 1. The fee arrangement for Kingland described above with regard to the Pre-FAM Period continued in place during FAM Period 1 pursuant to the Plan Processor Agreement. During FAM Period 1, Kingland continued the development of the CAIS Technical Specifications and building of CAIS. In addition, Kingland continued to work on the CAIS Technical Specifications and build related to CCID Alternative, as well as the acceleration of the reporting of LTIDs.

⁵⁶ Note that the volume data described in this table does not include CAIS data.

(IV) Technology Costs—Change Request Fees

CAT LLC did not incur costs related to change requests during FAM Period 1.

(V) Technology Costs—Capitalized Developed Technology Costs

Capitalized developed technology costs for FAM Period 1 of \$1,684,870 include capitalizable application development costs incurred in the development of the CAT by FCAT. Such costs include: (1) costs related to certain modifications, upgrades, or other changes to the CAT that were not contemplated by the agreement between CAT LLC and the Plan Processor, including separate production and industry test entitlements, and reprocessing of exchange event timestamps; (2) implementation fees; and (3) license fees.

(VI) Legal Costs

The legal costs of \$481,687 represent the fees paid for legal services provided by two law firms, WilmerHale and Pillsbury during FAM Period 1.

Law Firm: WilmerHale. CAT LLC continued to employ WilmerHale during FAM Period 1 based on, among other things, their expertise and long history with the project. The hourly fee rates for this law firm were in line with market rates for specialized legal expertise. The legal fees during FAM Period 1 were paid by CAT LLC to WilmerHale. During FAM Period 1, WilmerHale provided legal assistance to the CAT including with regard to the following:

- Assisted with the development of the CAT funding model and drafted related amendments and fee filings;
- Drafted exemptive requests from CAT NMS Plan requirements regarding, for example, verbal activity, options market maker quote sent time, TRF linkages, and allocations;
- Provided interpretations related to CAT NMS Plan requirements, including the Financial Accountability Milestone amendment;
- Assisted with compliance with Regulation SCI;
- Provided support for the Operating Committee, Compliance Subcommittee, working groups and Leadership Team, including with regard to meetings with the SEC staff;
- Assisted with the drafting of the Implementation Plan required pursuant to Section 6.6(c)(i) of the CAT NMS Plan;
- Assisted with communications and presentations for the industry regarding CAIS;

- Drafted SRO rule filings related to the CAT Compliance Rule;
- Provided support for Compliance Subcommittee, including with regard to responses to OCIE examinations and the annual assessment;
- Provided guidance regarding CAT technical specifications;
- Assisted with third-party vendor agreements; and
- Provided support with regard to discussions with the SEC and its staff, including with respect to addressing interpretive and implementation issues.

Law Firm: Pillsbury. CAT LLC continued to employ Pillsbury during FAM Period 1 based on, among other things, their expertise and history with the project. The hourly fee rates for this law firm were in line with market rates for specialized legal expertise. The legal fees during FAM Period 1 were paid by CAT LLC to Pillsbury. During FAM Period 1, Pillsbury provided legal assistance to the CAT regarding the CAT Reporter Agreement. During that period, Pillsbury advised CAT LLC regarding applicable legal matters and drafted a proposed amendment to the CAT NMS Plan regarding liability matters. Liability issues related to the CAT are important matters that needed to be resolved and clarified. CAT LLC's efforts to seek such resolution and clarity work to the benefit of Participants, Industry Members and other market participants.

(VII) Consulting Costs

The consulting costs of \$137,209 represent the fees paid to Deloitte as project manager during FAM Period 1. CAT LLC continued to employ Deloitte during FAM Period 1 based on, among other things, their expertise and cumulative experience with the CAT. The fee rates for Deloitte during FAM Period 1 were negotiated and in line with market rates for this type of specialized consulting work. The consulting fees during FAM Period 1 were paid by CAT LLC to the consulting firm. CAT LLC reviewed the consulting fees each month and approved the invoices. During FAM Period 1, Deloitte's CAT-related activities included the following:

- Implemented program operations for the CAT project;
- Provided support to the Operating Committee, the Chair of the Operating Committee and the Leadership Team, including project management support, coordination and planning for meetings and communications, and interfacing with law firms and the SEC;
- Assisted with cost and funding matters for the CAT, including the development of the CAT funding model

and assistance with loans and the CAT bank account for CAT funding;

- Provided support for updating the SEC on the progress of the development of the CAT;
- Assisted with the transition from the Initial Plan Processor to the successor Plan Processor; and
- Provided support for third-party vendors for the CAT, including FCAT, Anchin and the law firms engaged by CAT LLC.

(VIII) Insurance

Although insurance was in effect during FAM Period 1, CAT LLC did not incur costs related to insurance during FAM Period 1.

(IX) Professional and Administration Costs

Financial Advisory Firm: Anchin. The professional and administration costs of \$69,077 represent the fees paid to Anchin during FAM Period 1. CAT LLC continued to employ Anchin during FAM Period 1 based on, among other things, their expertise and history with the project. The hourly fee rates for this firm were in line with market rates for these type of financial advisory services. The fees for these services during FAM Period 1 were paid by CAT LLC to Anchin. During FAM Period 1, Anchin provided a variety of services, including the following:

- Maintained internal controls;
- Provided cash management and treasury functions;
- Facilitated bill payments;
- Provided monthly bookkeeping;
- Reviewed vendor invoices and documentation in support of cash disbursements;
- Provided accounting research and consultations on various accounting, financial reporting and tax matters;
- Addressed various accounting, financial reporting and operating inquiries from Participants;
- Developed and maintained quarterly and annual operating and financial budgets, including budget to actual fluctuation analyses;
- Supported compliance with the CAT NMS Plan;
- Worked with and provided support to the Operating Committee and various CAT working groups; and
- Prepared monthly and quarterly financial statements.

(X) Public Relations Costs

The public relations costs of \$7,700 represent the fees paid to Peak Strategies during FAM Period 1. CAT LLC continued to employ Peak Strategies during FAM Period 1 based on, among other things, their expertise

and history with the project. The fee rates for this firm were reasonable and in line with market rates for these types of services. The fees for these services during FAM Period 1 were paid by CAT LLC to Peak Strategies. During FAM Period 1, Peak Strategies continued to provide professional communications services to CAT LLC, including media relations consulting, strategy and execution. Specifically, the public relations firm provided services related to communications with the public regarding the CAT, including monitoring developments related to the CAT (e.g., congressional efforts, public comments and reaction to proposals, press coverage of the CAT), reporting such developments to CAT LLC, and drafting and disseminating

communications to the public regarding such developments as well as reporting on developments related to the CAT (e.g., amendments to the CAT NMS Plan). As discussed above, such public relations services were important for various reasons, including monitoring comments made by market participants about the CAT and understanding issues related to the CAT discussed on the public record. By engaging a public relations firm, CAT LLC was better positioned to understand and address CAT matters to the benefit of all market participants.

(c) Historical CAT Costs Incurred in Financial Accountability Milestone Period 2

Historical CAT Costs 1 would include costs incurred by CAT LLC and already

funded by Participants during Period 2 of the Financial Accountability Milestones ("FAM Period 2"),⁵⁷ which covers the period from August 1, 2020–December 31, 2020. Historical CAT Costs 1 would include costs for FAM Period 2 of \$42,976,478. The Participants would remain responsible for one-third of this cost (which they have previously paid) (\$14,325,493), and Industry Members would be responsible for the remaining two-thirds, with CEBBs paying one-third (\$14,325,493) and CEBs paying one-third (\$14,325,493). The following table breaks down Historical CAT Costs 1 for FAM Period 2⁵⁸ into the categories set forth in Section 11.3(b)(iii)(B)(II) of the CAT NMS Plan.

Operating expense	Historical CAT costs for FAM Period 2
Capitalized Developed Technology Costs *	\$6,761,094
Technology Costs	31,460,033
Cloud Hosting Services	20,709,212
Operating Fees	9,108,700
CAIS Operating Fees	1,590,298
Change Request Fees	51,823
Legal	2,766,644
Consulting	532,146
Insurance	976,098
Professional and administration	438,523
Public relations	41,940
Total Operating Expenses	42,976,478

* The non-cash amortization of these capitalized developed technology costs of \$1,892,505 incurred during FAM Period 2 have been appropriately excluded from the above table.⁵⁹

By the completion of FAM Period 2, CAT LLC was required to implement the following with regard to the CAT:

(a) Industry Member reporting (excluding reporting by Small Industry Members that are not OATS reporters) for equities transactions, excluding Customer Account Information, CustomerID, and Customer Identifying Information, is developed, tested, and implemented at a 5% Error Rate or less and with sufficient intra-firm linkage, inter-firm linkage, national securities exchange linkage, and trade reporting facilities linkage to permit the Participants and the Commission to analyze the full lifecycle of an order across the national market system, excluding linkage of representative orders, from order origination through order execution or order cancellation; and (b) the query tool functionality required by Section 6.10(c)(i)(A) and Appendix D, Sections 8.1.1–8.1.3 and Section 8.2.1 incorporates the Industry Member equities transaction data

described in condition (a) and is available to the Participants and to the Commission.⁶⁰

CAT LLC completed the requirements of FAM Period 2 by December 31, 2020. The following describes the costs for each of the categories for FAM Period 2.

(I) Technology Costs—Cloud Hosting Services

CAT LLC continued to utilize AWS in FAM Period 2 to provide a broad array of cloud hosting services for the CAT, including data ingestion, data management, and analytic tools. AWS continued to provide storage services, databases, compute services and other services (such as networking, management tools and DevOps tools), as well as various environments for CAT, such as development, performance testing, test, and production environments, during the FAM 2 Period.

Accordingly, the \$20,709,212 in technology costs for cloud hosting services represent costs incurred for services provided by AWS, as the cloud services provider, during FAM Period 2. The fee arrangement for AWS described above with regard to the Pre-FAM Period and FAM Period 1 continued in place during FAM Period 2 pursuant to the Plan Processor Agreement.

The cost for AWS cloud services for the CAT continued to be a function of the volume of CAT Data. During the FAM 2 Period, the volume of CAT Data continued to far exceed the original predictions for the CAT as set forth in the CAT NMS Plan. During this period, data submitted to the CAT included options and equities Participant Data, Phase 2a and Phase 2b Industry Member Data (including certain linkages) as well as SIP Data, and Other Data, including

⁵⁷ Section 11.6(a)(i)(B) of the CAT NMS Plan.

⁵⁸ The costs described in this table of costs for FAM Period 2 were calculated based upon CAT LLC's review of applicable bills and invoices and related financial statements. CAT LLC financial statements are available on the CAT website.

⁵⁹ As discussed above, with respect to certain costs that were "appropriately excluded," such excluded costs relate to the amortization of capitalized technology costs, which are amortized over the life of the Plan Processor Agreement. As such costs have already been otherwise reflected in

the filing, their inclusion would double count the capitalized technology costs. In addition, amortization is a non-cash expense.

⁶⁰ See definition of "Full Implementation of Core Equity Reporting Requirements" in Section 1.1 of the CAT NMS Plan.

reference data. In addition, Industry Members began reporting LTID account information. The following chart

provides data regarding the average daily volume, cumulative total events, total compute hours and storage

footprint of the CAT during FAM Period 2.⁶¹

	Date range: 8/1/20–12/31/20
Average Daily Volume in Billions:	
Participant—Equities	6
Participant—Options	116
Industry Member—Equities	11
Industry Member—Options	0.98
SIP—Options & Equities	80
Average Total Daily Volume	282
Cumulative Total Events for the Period	2,170
Total Compute Hours for the Period	15,660,392
Storage Footprint at End of Period (Petabytes)	114.59

(II) Technology Costs—Operating Fees

Pursuant to the Plan Processor Agreement discussed above, FCAT continued in its role as the Plan Processor for the CAT during FAM Period 2. Accordingly, the \$9,108,700 in technology costs for operating fees represent costs incurred for the services provided by FCAT under the Plan Processor Agreement during FAM Period 2. The fee arrangement for FCAT described above with regard to the Pre-FAM Period and FAM Period 1 continued in place during FAM Period 2 pursuant to the Plan Processor Agreement. During FAM Period 2, FCAT's activities with respect to the CAT included publishing the Technical Specifications for Phase 2d and overseeing the reporting of firm to firm and intrafirm linkages by Industry Members. In addition, FCAT also continued to engage in the following activities during FAM Period 2:

- Addressed compliance items, including drafting CAT policies and procedures, and addressing Regulation SCI requirements;
- Provided support to the Operating Committee, Compliance Subcommittee and CAT working groups;
- Assisted with interpretive efforts and exemptive requests regarding the CAT NMS Plan;
- Oversaw the development and implementation of the security of the CAT;
- Monitored the operation of the CAT, including with regard to Participant and Industry Member reporting;
- Provided support to subcontractors under the Plan Processor Agreement;
- Provided support in discussions with the Participants and the SEC and its staff;

- Operated the FINRA CAT Helpdesk;
- Facilitated communications with the industry, including via FAQs, CAT Alerts, meetings, presentations and webinars;
- Administered the CAT website and all of its content; and
- Provided technical support and assistance with connectivity, data access, and user support, including the use of CAT Data and query tools, for Participants and the SEC staff.

(III) Technology Costs—CAIS Operating Fees

Pursuant to the Plan Processor Agreement discussed above, Kingland continued in its role as a subcontractor for the development and implementation of CAIS during FAM Period 2. Accordingly, the \$1,590,298 in technology costs for CAIS operating fees represent costs incurred for services provided by Kingland during FAM Period 2. The fee arrangement for Kingland described above with regard to the Pre-FAM Period and FAM Period 1 continued in place during FAM Period 2 pursuant to the Plan Processor Agreement. During FAM Period 2, Kingland continued the development of the CAIS Technical Specifications and building of CAIS. In addition, Kingland continued to work on the CAIS Technical Specifications and build related to the CCID Alternative, as well as the acceleration of the reporting of LTIDs.

(IV) Technology Costs—Change Request Fees

During FAM Period 2, CAT LLC engaged FCAT to pursue certain change requests in accordance with the Plan Processor Agreement. The change request costs were paid by CAT LLC to

FCAT. Specifically, during FAM Period 2, CAT incurred costs of \$51,823 related to a change request regarding the addition of functionality for exchange Participants to report rejected messages to the CAT.

(V) Technology Costs—Capitalized Developed Technology Costs

Capitalized developed technology costs for FAM Period 2 of \$6,761,094 include capitalizable application development costs incurred in the development of the CAT by FCAT. Such costs include (1) development costs incurred during the application development stage to meet various agreed-upon milestones regarding the CAT, as defined in the agreement between CAT LLC and the Plan Processor; (2) costs related to certain modifications, upgrades, or other changes to the CAT that were not contemplated by the agreement between CAT LLC and the Plan Processor, including costs related to separate production and industry test entitlements, market maker reference data, and back-processing of exchange exception logic; (3) implementation fees; and (4) license fees.

(VI) Legal Costs

The legal costs of \$2,766,644 represent the fees paid for legal services provided by two law firms, WilmerHale and Pillsbury during FAM Period 2.

Law Firm: WilmerHale. CAT LLC continued to employ WilmerHale during FAM Period 2 based on, among other things, their expertise and long history with the project. The hourly fee rates for this law firm were in line with market rates for specialized legal expertise. The legal fees during FAM Period 2 were paid by CAT LLC to

⁶¹ Note that the volume data described in this table does not include CAIS data.

WilmerHale. During FAM Period 2, the legal assistance provided by WilmerHale included providing legal advice regarding the following:

- Assisted with the development of the CAT funding model and drafting related amendments and rule filings;
- Drafted exemptive requests from CAT NMS Plan requirements regarding, for example, allocations, exchange activity, OTQT, initial data validation, error corrections and recordkeeping;
- Provided interpretations related to CAT NMS Plan requirements, including with regard to the Financial Accountability Milestone amendment, FAQs and technical specifications;
- Provided support for the Operating Committee, Compliance Subcommittees, working groups and Leadership Team, including with regard to meetings with the SEC staff;
- Assisted with the Implementation Plan and Quarterly Progress Reports required pursuant to Section 6.6 of the CAT NMS Plan;
- Drafted SRO rule filings related to the CAT Compliance Rule;
- Provided support for the Compliance Subcommittee, including with regard to responses to OCIE examinations and the annual assessment;
- Provided guidance regarding the SEC's proposed security amendments to the CAT NMS Plan;
- Provided guidance regarding SRO rule filings for the retirement of systems;
- Provided legal support for Operating Committee meetings, including drafting resolutions and other materials and voting advice;
- Assisted with third-party vendor agreements (e.g., with regard to Anchin, Grant Thornton and insurance policies);
- Assisted with change requests; and
- Provided support with regard to discussions with the SEC and its staff, including with respect to addressing interpretive and implementation issues.

Law Firm: Pillsbury. CAT LLC continued to employ Pillsbury during FAM Period 2 based on, among other things, their expertise and history with the project. The hourly fee rates for this law firm were in line with market rates for specialized legal expertise. The legal fees during FAM Period 2 were paid by CAT LLC to Pillsbury. During FAM Period 2, Pillsbury provided legal assistance to the CAT regarding the CAT Reporter Agreement. During that period, Pillsbury advised CAT LLC regarding applicable legal matters and drafted and filed a proposed amendment to the CAT NMS Plan regarding liability matters. As discussed above, liability issues related to the CAT are important matters that needed to be resolved and clarified.

CAT LLC's efforts to seek such resolution and clarity work to the benefit of Participants, Industry Members and other market participants.

(VII) Consulting Costs

The consulting costs of \$532,146 represent the fees paid to Deloitte as project manager during FAM Period 2. CAT LLC continued to employ Deloitte during FAM Period 2 based on, among other things, their expertise and long history with the project. The fee rates for Deloitte during FAM Period 2 were negotiated and in line with market rates for this type of specialized consulting work. The consulting fees during FAM Period 2 were paid to Deloitte by CAT LLC. CAT LLC reviewed the consulting fees each month and approved the invoices. During FAM Period 2, Deloitte's CAT-related activities included the following:

- Implemented program operations for the CAT project;
- Provided support to the Operating Committee, the Chair of the Operating Committee and the Leadership Team, including project management support, coordination and planning for meetings and communications, and interfacing with law firms and the SEC;
- Assisted with cost and funding matters for the CAT, including the development of the CAT funding model and assistance with loans and the CAT bank account for CAT funding;
- Provided support for updating the SEC on the progress of the development of the CAT; and
- Provided support for third-party vendors for the CAT, including FCAT, Anchin and the law firms engaged by CAT LLC.

(VIII) Insurance

The insurance costs of \$976,098 represent the fees paid for insurance during FAM Period 2. CAT LLC continued to maintain cyber security liability insurance, directors' and officers' liability insurance, and errors and omissions liability insurance offered by USI. After engaging in a process for renewing the coverage, CAT LLC determined to purchase these insurance policies from USI. The annual premiums for these policies were competitive for the coverage provided. The annual premiums were paid by CAT LLC to USI.

(IX) Professional and Administration Costs

The professional and administration costs of \$438,523 represent the fees paid to Anchin and Grant Thornton for financial services provided during FAM Period 2.

Financial Advisory Firm: Anchin. CAT LLC continued to engage Anchin during FAM Period 2 based on, among other things, their expertise and history with the project. The hourly fee rates for this firm were in line with market rates for these types of financial advisory services. The fees for these services during FAM Period 2 were paid by CAT LLC to Anchin. During FAM Period 2, Anchin provided a variety of services, including the following:

- Updated and maintained internal controls;
- Provided cash management and treasury functions;
- Facilitated bill payments;
- Provided monthly bookkeeping;
- Reviewed vendor invoices and documentation in support of cash disbursements;
- Provided accounting research and consultations on various accounting, financial reporting and tax matters;
- Addressed not-for-profit tax and accounting considerations;
- Prepared tax returns;
- Addressed various accounting, financial reporting and operating inquiries from the Participants;
- Developed and maintained quarterly and annual operating and financial budgets, including budget to actual fluctuation analyses;
- Supported compliance with the CAT NMS Plan;
- Worked with and provided support to the Operating Committee and various CAT working groups;
- Prepared monthly, quarterly and annual financial statements;
- Supported the annual financial statement audit by an independent auditor; and
- Reviewed historical costs from inception.

Accounting Firm: Grant Thornton. CAT LLC continued to employ the accounting firm Grant Thornton during FAM Period 2 based on, among other things, its expertise and cumulative knowledge of CAT LLC. CAT LLC continued to believe that Grant Thornton was well qualified for its role and its fee rates were in line with market rates for these accounting services. The fees for these services during FAM Period 2 were paid by CAT LLC to Grant Thornton. During FAM Period 2, Grant Thornton performed a financial statement audit for CAT LLC as an independent accounting firm.

(X) Public Relations Costs

The public relations costs of \$41,940 represent the fees paid to Peak Strategies during FAM Period 2. CAT LLC continued to employ Peak Strategies during FAM Period 2 based

on, among other things, their expertise and history with the project. The fee rates for this firm were in line with market rates for these types of services. The fees for these services during FAM Period 2 were paid by CAT LLC to Peak Strategies. During FAM Period 2, Peak Strategies continued to provide professional communications services to CAT, including media relations consulting, strategy and execution. Specifically, the public relations firm provided services related to communications with the public regarding the CAT, including monitoring developments related to the CAT (e.g., congressional efforts, public comments and reaction to proposals, press coverage of the CAT), reporting such developments to CAT LLC, and drafting and disseminating

communications to the public regarding such developments as well as reporting on developments related to the CAT (e.g., amendments to the CAT NMS Plan). As discussed above, such public relations services were important for various reasons, including monitoring comments made by market participants about the CAT and understanding issues related to the CAT discussed on the public record. By engaging a public relations firm, CAT LLC was better positioned to understand and address CAT matters to the benefit of all market participants.

(d) Historical CAT Costs Incurred in Financial Accountability Milestone Period 3

Historical CAT Costs 1 would include costs incurred by CAT and already

funded by the Participants during Period 3 of the Financial Accountability Milestones ("FAM Period 3"),⁶² which covers the period from January 1, 2021–December 31, 2021. Historical CAT Costs 1 would include costs for FAM Period 3 of \$144,415,268. The Participants would remain responsible for one-third of this cost (which they have previously paid) (\$48,138,423), and Industry Members would be responsible for the remaining two-thirds, with CEBBs paying one-third (\$48,138,423) and CEBBs paying one-third (\$48,138,423). The following table breaks down Historical CAT Costs 1 for FAM Period 3⁶³ into the categories set forth in Section 11.3(b)(iii)(B)(II) of the CAT NMS Plan.

Operating expense	Historical CAT costs for FAM Period 3
Capitalized Developed Technology Costs *	\$10,763,372
Technology Costs	123,639,402
Cloud Hosting Services	94,574,759
Operating Fees	23,106,091
CAIS Operating Fees	5,562,383
Change Request Fees	396,169
Legal	6,333,248
Consulting	1,408,209
Insurance	1,582,714
Professional and administration	595,923
Public relations	92,400
Total Operating Expenses	144,415,268

* The non-cash amortization of these capitalized developed technology costs of \$5,108,044 incurred during FAM Period 3 have been appropriately excluded from the above table.⁶⁴

By the completion of FAM Period 3, CAT LLC was required to implement the following requirements with regard to the CAT:

(a) reporting to the Order Audit Trail System ("OATS") is no longer required for new orders; (b) Industry Member reporting for equities transactions and simple electronic options transactions, excluding Customer Account Information, Customer-ID, and Customer Identifying Information, with sufficient intra-firm linkage, inter-firm linkage, national securities exchange linkage, trade reporting facilities linkage, and representative order linkages (including any equities allocation information provided in an Allocation Report) to permit the Participants and the Commission to analyze the full lifecycle of an order across the national market system, from order origination through order execution or order cancellation, is developed, tested, and implemented at a 5% Error Rate or less; (c) Industry Member reporting for manual

options transactions and complex options transactions, excluding Customer Account Information, Customer-ID, and Customer Identifying Information, with all required linkages to permit the Participants and the Commission to analyze the full lifecycle of an order across the national market system, from order origination through order execution or order cancellation, including any options allocation information provided in an Allocation Report, is developed, tested, and fully implemented; (d) the query tool functionality required by Section 6.10(c)(i)(A) and Appendix D, Sections 8.1.1–8.1.3, Section 8.2.1, and Section 8.5 incorporates the data described in conditions (b)-(c) and is available to the Participants and to the Commission; and (e) the requirements of Section 6.10(a) are met.⁶⁵

CAT LLC completed the requirements of FAM Period 3 by December 31, 2021. The following describes the costs for each of the categories for FAM Period 3.

(I) Technology Costs—Cloud Hosting Services

CAT LLC continued to utilize AWS in FAM Period 3 to provide a broad array of cloud hosting services for the CAT, including data ingestion, data management, and analytic tools. AWS continued to provide storage services, databases, compute services and other services (such as networking, management tools and DevOps tools), as well as various environments for CAT, such as development, performance testing, test, and production environments, during the FAM 3 Period. Accordingly, the \$94,574,759 in technology costs for cloud hosting services represents costs incurred for services provided by AWS, as the cloud services provider, during FAM Period 3. The fee arrangement for AWS described

⁶² Section 11.6(a)(i)(C) of the CAT NMS Plan.

⁶³ The costs described in this table of costs for FAM Period 3 were calculated based upon CAT LLC's review of applicable bills and invoices and related financial statements. CAT LLC financial statements are available on the CAT website.

⁶⁴ As discussed above, with respect to certain costs that were "appropriately excluded," such excluded costs relate to the amortization of capitalized technology costs, which are amortized over the life of the Plan Processor Agreement. As such costs have already been otherwise reflected in

the filing, their inclusion would double count the capitalized technology costs. In addition, amortization is a non-cash expense.

⁶⁵ See definition of "Full Availability and Regulatory Utilization of Transactional Database Functionality" in Section 1.1 of the CAT NMS Plan.

above for the earlier periods continued in place during FAM Period 3 pursuant to the Plan Processor Agreement.

The cost for AWS cloud services for the CAT continued to be a function of the volume of CAT Data. During FAM Period 3, the volume of CAT Data continued to far exceed the original

predictions for the CAT as set forth in the CAT NMS Plan. During this period, data submitted to the CAT included options and equities Participant Data, Phase 2a, Phase 2b, Phase 2c and Phase 2d Industry Member Data (including certain linkages), SIP Data, Other Data,

including reference data, and LTID account information. The following chart provides data regarding the average daily volume, cumulative total events, total compute hours and storage footprint of the CAT during FAM Period 3.⁶⁶

	Date range: 1/1/21 to 4/25/21	Date range: 4/26/21 to 12/31/21 *
Average Daily Volume in Billions:		
Participant—Equities	9	9
Participant—Options	135	136
Industry Member—Equities	20	19
Industry Member—Options	2	2
SIP—Options & Equities	129	137
Average Total Daily Volume	297	304
Cumulative Total Events for the Period	7,480	5,310
Total Compute Hours for the Period	15,860,304	33,487,318
Storage Footprint at End of Period (Petabytes)	180.22	284.62

* Start of Participant Equities in CAT format and SIP Equities on 4/26/21

(II) Technology Costs—Operating Fees

Pursuant to the Plan Processor Agreement discussed above, FCAT continued in its role as the Plan Processor for the CAT during FAM Period 3. Accordingly, the \$23,106,091 in technology costs for operating fees represent costs incurred for the services provided by FCAT under the Plan Processor Agreement during FAM Period 3. The fee arrangement for FCAT described above with regard to the prior Periods continued in place during FAM Period 3 pursuant to the Plan Processor Agreement. During FAM Period 3, FCAT's activities with respect to the CAT included the following:

- Facilitated Phase 2c and Phase 2d testing for Industry Members;
- Oversaw creation of linkages of the lifecycle of order events based on the received data through Phase 2d;
- Addressed compliance items, including drafting CAT policies and procedures, and addressing Regulation SCI requirements;
- Provided support to the Operating Committee, the Compliance Subcommittee and CAT working groups;
- Assisted with interpretive efforts and exemptive requests regarding the CAT NMS Plan;
- Oversaw the security of the CAT;
- Monitored the operation of the CAT, including with regard to Participant and Industry Member reporting;
- Provided support to subcontractors under the Plan Processor Agreement;

• Provided support in discussions with the Participants and the SEC and its staff;

- Operated the FINRA CAT Helpdesk;
- Facilitated communications with the industry, including via FAQs, CAT Alerts, meetings, presentations and webinars;
- Administered the CAT website and all of its content; and
- Provided technical support and assistance with connectivity, data access, and user support, including the use of CAT Data and query tools, for Participants and the SEC staff.

(III) Technology Costs—CAIS Operating Fees

Pursuant to the Plan Processor Agreement with FCAT discussed above, Kingland continued in its role as a subcontractor for the development and implementation of CAIS during FAM Period 3. Accordingly, the \$5,562,383 in technology costs for CAIS operating fees represents costs incurred for services provided by Kingland during FAM Period 3. The fee arrangement for Kingland described above with regard to the prior Periods continued in place during FAM Period 3 pursuant to the Plan Processor Agreement. During FAM Period 3, Kingland continued the development of the CAIS Technical Specifications and building of CAIS. In addition, Kingland continued to work on the CAIS Technical Specifications and build related to the CCID Alternative, as well as the acceleration of the reporting of LTIDs. The full CAIS

Technical Specifications were published during FAM Period 3.

(IV) Technology Costs—Change Request Fees

During FAM Period 3, CAT LLC engaged FCAT to pursue certain change requests in accordance with the Plan Processor Agreement. The change request costs were paid by CAT LLC to FCAT. Specifically, during FAM Period 3, CAT incurred costs of \$396,169 related to change requests, including the following: (1) the addition of functionality for exchange Participants to report rejected messages to the CAT; (2) the migration of MIRS query engine to AWS to reduce operational costs and increase resiliency; and (3) updating the Participant Technical Specifications to allow for two-sided Participant option quote reporting.

(V) Technology Costs—Capitalized Developed Technology Costs

Capitalized developed technology costs for FAM Period 3 of \$10,763,372 include capitalizable application development costs incurred in the development of the CAT by FCAT. Such costs include (1) development costs incurred during the application development stage to meet various agreed-upon milestones regarding the CAT, as defined in the agreement between CAT LLC and the Plan Processor, including the transition from equity data received by FINRA pursuant to various regulatory services agreements between FINRA and

⁶⁶ Note that the volume data described in this table does not include CAIS data.

Participant exchanges to the equity CAT Data, and the completion of the Industry Member Phase 2d options manual and complex orders go-live requirements; (2) costs related to certain modifications, upgrades, or other changes to the CAT that were not contemplated by the agreement between CAT LLC and the Plan Processor, including costs related to off-exchange volume concentration, Participant 24-hour trading and an external metastore; (3) implementation fees; and (4) license fees.

(VI) Legal Costs

The legal costs of \$6,333,248 represent the fees paid for legal services provided by three law firms, WilmerHale, Pillsbury and Covington & Burling LLP ("Covington") during FAM Period 3.

Law Firm: WilmerHale. CAT LLC continued to employ WilmerHale during FAM Period 3 based on, among other things, their expertise and long history with the project. The hourly fee rates for this law firm were in line with market rates for specialized legal expertise. The legal fees during FAM Period 3 were paid by CAT LLC to WilmerHale. During FAM Period 3, the legal assistance provided by WilmerHale included providing legal advice regarding the following:

- Assisted with the development of the CAT funding model and drafting related amendments and rule filings;
- Drafted exemptive requests from CAT NMS Plan requirements, including, for example, verbal activity regarding Phase 2c cutover, error reports, error corrections, Phase 2d Reporting, unique Order-ID on internal route events, reporting addresses, recordkeeping, and unique CCID for foreign customers;
- Provided interpretations related to CAT NMS Plan requirements, including with regard to the Financial Accountability Milestone amendment, FAQs, CAIS requirements, ADF, and technical specifications;
- Provided support for the Operating Committee, Compliance Subcommittee, working groups and Leadership Team, including with regard to meetings with the SEC staff;
- Assisted with the Implementation Plan and Quarterly Progress Reports required pursuant to Section 6.6(c) of the CAT NMS Plan;
- Drafted SRO rule filings related to the CAT Compliance Rule;
- Provided support for the Compliance Subcommittee, including with regard to responses to OCIE examinations and the annual assessment;

- Provided guidance regarding the SEC's proposed security amendments to the CAT NMS Plan;
- Provided guidance regarding SRO rule filings for the retirement of systems;
- Provided legal support for Operating Committee meetings, including drafting resolutions and other materials and voting advice;
- Provided assistance with change requests;
- Provided guidance and regulatory support for litigation regarding the response to the SEC's exemptive orders;
- Assisted with communications with the industry, including CAT Alerts and presentations;
- Provided guidance regarding the confidentiality of CAT Data, including third-party information requests;
- Assisted with cost management analysis and proposals; and
- Provided support with regard to discussions with the SEC and its staff, including with respect to addressing interpretive and implementation issues.

Law Firm: Pillsbury. CAT LLC continued to employ Pillsbury during FAM Period 3 based on, among other things, their expertise and history with the project. The hourly fee rates for this law firm were in line with market rates for specialized legal expertise. The legal fees during FAM Period 3 were paid by CAT LLC to Pillsbury. During FAM Period 3, Pillsbury provided legal assistance to the CAT regarding the CAT Reporter Agreement. During this period, Pillsbury advised CAT LLC regarding applicable legal matters, reviewed and responded to comment letters regarding the proposed Plan amendment, participated in meetings with senior SEC staff, responded to comments submitted following the SEC's April 6, 2021 order instituting proceedings,⁶⁷ and assessed legal matters regarding the SEC's October 29, 2021 order denying the proposed Plan amendment.⁶⁸

Law Firm: Covington. CAT LLC hired Covington for litigation with the SEC regarding certain exemptive orders related to the CAT, including orders issued in December 2020.⁶⁹ CAT LLC interviewed this law firm as well as other potential law firms, considering a variety of factors in its analysis for choosing legal assistance, including the relevant expertise and fees of the potential lawyers. CAT LLC approved

the engagement of Covington in January 2021. The fee rates for this law firm, which were calculated based on hourly rates, were in line with market rates for specialized services. The legal fees for FAM Period 3 for this firm were paid by CAT LLC to Covington.

After Covington was hired in 2021 through the end of 2021, the firm provided legal assistance regarding the litigation with the SEC regarding the 2020 Orders. These services included researching, drafting, and filing motions to stay the 2020 orders and related materials in proceedings before the SEC, as well as researching, drafting, and filing petitions for judicial review of the 2020 Orders in proceedings before the U.S. Court of Appeals for the D.C. Circuit. Covington oversaw ongoing litigation proceedings on these matters, and also supported WilmerHale with respect to settlement negotiations with the SEC staff regarding the 2020 Orders.

In addition to these services, CAT LLC engaged Covington in November 2021 to provide assistance with respect to the SEC's disapproval of CAT NMS Plan amendments concerning a proposed limitation on liability in the event of a data breach or similar event. Covington provided advice concerning CAT's response to the SEC's disapproval order. This work accounted for a minority of Covington's fees in 2021.⁷⁰

(VII) Consulting Costs

The consulting costs of \$1,408,209 represent the fees paid to Deloitte as project manager during FAM Period 3. CAT LLC continued to employ Deloitte during FAM Period 3 based on, among other things, their expertise and long history with the project. The fee rates for Deloitte during FAM Period 3 were negotiated and in line with market rates for this type of specialized consulting work. The consulting fees during FAM Period 3 were paid to Deloitte by CAT LLC. CAT LLC reviewed the consulting fees each month and approved the invoices. During FAM Period 3, Deloitte's CAT-related activities included the following:

- Implemented program operations for the CAT project;
- Provided support to the Operating Committee, the Chair of the Operating Committee and the Leadership Team, including project management support, coordination and planning for meetings

⁶⁷ Securities Exchange Act Rel. No. 91487 (Apr. 6, 2021), 86 FR 19054 (Apr. 12, 2021).

⁶⁸ Securities Exchange Act Rel. No. 93484 (Oct. 29, 2021), 86 FR 60933 (Nov. 4, 2021).

⁶⁹ See Securities Exchange Act Rel. No. 90688 (Dec. 16, 2020), 85 FR 83634 (Dec. 22, 2020); and Securities Exchange Act Rel. No. 90689 (Dec. 16, 2020), 85 FR 83667 (Dec. 22, 2020) (collectively, the "2020 Orders").

⁷⁰ As discussed above with regard to Pillsbury's work on liability matters, liability issues related to the CAT are important matters that needed to be resolved and clarified. CAT LLC's efforts to seek such resolution and clarity work to the benefit of Participants, Industry Members and other market participants. Moreover, such activity is a necessary part of the operation of the CAT.

and communications, and interfacing with law firms and the SEC;

- Assisted with cost and funding matters for the CAT, including the development of the CAT funding model and assistance with loans and the CAT bank account for CAT funding;
- Provided support for updating the SEC on the progress of the development of the CAT; and
- Provided support for third-party vendors for the CAT, including FCAT, Anchin and the law firms engaged by CAT LLC.

(VIII) Insurance

The insurance costs of \$1,582,714 represent the fees paid for insurance during FAM Period 3. CAT LLC continued to maintain cyber security liability insurance, directors' and officers' liability insurance, and errors and omissions liability insurance offered by USI. After engaging in a process for renewing the coverage, CAT LLC determined to purchase these insurance policies from USI. The annual premiums for these policies were competitive for the coverage provided. The annual premiums were paid by CAT LLC to USI.

(IX) Professional and Administration Costs

The professional and administration costs of \$595,923 represent the fees paid to Anchin and Grant Thornton for financial services during FAM Period 3.

Financial Advisory Firm: Anchin. CAT LLC continued to employ Anchin during FAM Period 3 based on, among other things, their expertise and history with the project. The hourly fee rates for this firm were in line with market rates for these financial advisory services. The fees for these services during FAM Period 3 were paid by CAT LLC to Anchin. During FAM Period 3, Anchin provided a variety of services, including the following:

- Updated and maintained internal controls;
- Provided cash management and treasury functions;
- Facilitated bill payments;
- Provided monthly bookkeeping;
- Reviewed vendor invoices and documentation in support of cash disbursements;
- Provided accounting research and consultations on various accounting, financial reporting and tax matters;
- Addressed not-for-profit tax and accounting considerations;
- Prepared tax returns;
- Addressed various accounting, financial reporting and operating inquiries from Participants;
- Developed and maintained

financial budgets, including budget to actual fluctuation analyses;

- Supported compliance with the CAT NMS Plan;
- Worked with and provided support to the Operating Committee and various CAT working groups;
- Prepared monthly, quarterly and annual financial statements;
- Supported the annual financial statement audits by an independent auditor;
- Reviewed historical costs from inception; and
- Provided accounting and financial information in support of SEC filings.

Accounting Firm: Grant Thornton. CAT LLC continued to employ the accounting firm Grant Thornton during FAM Period 3 based on, among other things, their expertise and cumulative knowledge of CAT LLC. CAT LLC determined that Grant Thornton was well qualified for its role and that its fixed fee rates were in line with market rates for these accountant services. The fees for these services during FAM Period 3 were paid by CAT LLC to Grant Thornton. During FAM Period 3, Grant Thornton provided audited financial statements for CAT LLC.

(X) Public Relations Costs

The public relations costs of \$92,400 represent the fees paid to Peak Strategies during FAM Period 3. CAT LLC continued to employ Peak Strategies during FAM Period 3 based on, among other things, their expertise and history with the project. The fee rates for this firm were in line with market rates for these types of services. The fees for these services during FAM Period 3 were paid by CAT LLC to Peak Strategies. During FAM Period 3, Peak Strategies continued to provide professional communications services to CAT, including media relations consulting, strategy and execution. Specifically, the public relations firm provided services related to communications with the public regarding the CAT, including monitoring developments related to the CAT (e.g., congressional efforts, public comments and reaction to proposals, press coverage of the CAT), reporting such developments to CAT LLC, and drafting and disseminating communications to the public regarding such developments as well as reporting on developments related to the CAT (e.g., amendments to the CAT NMS Plan). As discussed above, such public relations services were important for various reasons, including monitoring comments made by market participants about the CAT and understanding issues related to the CAT discussed on the

public record. By engaging a public relations firm, CAT LLC was better positioned to understand and address CAT matters to the benefit of all market participants.

(e) Excluded Costs

Historical CAT Costs 1 would not include three categories of CAT costs ("Excluded Costs"): (1) \$14,749,362 of costs related to the termination of the relationship with the Initial Plan Processor; (2) \$48,874,937, which are all CAT costs incurred from November 15, 2017 through November 15, 2018; and (3) \$19,628,791, which are costs paid to the Initial Plan Processor from November 16, 2018 through February 2019 when the relationship with the Initial Plan Processor was concluded. The Participants would remain responsible for 100% of these costs, which total \$83,253,090. CAT LLC determined to exclude these Excluded Costs from Historical CAT Costs 1 because these costs relate to the delay in the start of reporting to the CAT and the conclusion of the relationship with the Initial Plan Processor.⁷¹

(I) Costs Related to Conclusion of Relationship With Initial Plan Processor

First, Historical CAT Costs 1 would not include \$14,749,362 of costs related to the conclusion of the relationship with the Initial Plan Processor. Such costs include costs related to the American Arbitration Association, the legal assistance of Pillsbury with regard to the arbitration with the Initial Plan Processor, and the settlement costs related to the arbitration with the Initial Plan Processor. The Participants would remain responsible for 100% of these \$14,749,362 in costs.

(II) Costs Incurred From November 15, 2017 Through November 15, 2018

Second, Historical CAT Costs 1 would not include all CAT costs incurred from November 15, 2017 through November 15, 2018. CAT LLC determined to exclude all costs during this one-year period of \$48,874,937 from fees charged to Industry Members due to the delay in the start of reporting to the CAT. The Participants would remain responsible for 100% of these \$48,874,937 in costs.

⁷¹ In approving the CAT Funding Model, the Commission states that "the proposed exclusion of the excluded costs from Past CAT Costs is appropriate in the Commission's view because it would not require all costs incurred by the Participants to be recovered from Industry Members through the Historical CAT Assessment, specifically excluding those costs related to the delay in the start of reporting to the CAT and costs related to the conclusion of the relationship with the Initial Plan Processor." CAT Funding Model Approval Order at 13450.

The following table⁷² breaks down these costs into the categories set forth in Section 11.3(b)(iii)(B)(II) of the CAT NMS Plan.

Operating expense	Excluded costs for November 15, 2017–November 15, 2018
Capitalized Developed Technology Costs	\$37,852,083
<i>Technology Costs:</i>	
Cloud Hosting Services	
Operating Fees	
CAIS Operating Fees	
Change Request Fees	
Legal	\$6,143,278
Consulting	4,452,106
Insurance	
Professional and administration	340,145
Public relations	87,325
Total Operating Expenses	48,874,937

The following provides additional detail regarding the Excluded Costs.

(a) Technology Costs—Cloud Hosting Services, Operating Fees, CAIS Operating Fees and Change Request Fees

CAT LLC did not incur technology costs related to the categories of cloud hosting services, operating fees, CAIS operating fees or change requests during the period from November 15, 2017 through November 15, 2018.

(b) Technology Costs—Capitalized Developed Technology Costs

Capitalized developed technology costs for the period from November 15, 2017 through November 15, 2018 include capitalizable application development costs of \$37,852,083 incurred in the development of the CAT by the Initial Plan Processor. Such costs include development costs incurred during the application development stage to meet various agreed-upon milestones regarding the CAT, as defined in the agreement between CAT LLC and the Initial Plan Processor. Such costs include costs related to Industry Member technical specifications for orders and transactions, the system security plan, testing and production for Participant CAT reporting, third-party security assessment and response, query portal, onboarding of the Chief Information Security Officer, and ingestion of FINRA TRF data and FINRA data related to halts and corporate actions.

(c) Legal Costs

The legal costs of \$6,143,278 represent the fees paid to WilmerHale for legal services from November 15, 2017 through November 15, 2018. During this period, WilmerHale

provided legal assistance to the CAT, including with regard to the following:

- Provided legal support for the governance of the CAT, including governance support for the Operating Committee, Advisory Committee, Compliance Subcommittee, and CAT working groups;
- Assisted with the development of the CAT funding model and drafted related amendments of the CAT NMS Plan;
- Provided assistance related to CAT security;
- Drafted exemptive requests, including requests related to PII;
- Assisted with the Implementation Plan required pursuant to Section 6.6(c)(i) of the CAT NMS Plan;
- Provided interpretations of and related to the CAT NMS Plan;
- Provided advice with regard to regulator access to the CAT;
- Assisted with the Plan Processor transition;
- Provided assistance regarding communications with the industry regarding the CAT;
- Provided advice regarding Customer Account Information and PII;
- Provided support for litigation related to SEC exemptive orders; and
- Provided support with regard to discussions with the SEC and its staff, including with respect to addressing interpretative and implementation issues.

(d) Consulting Costs

The consulting costs of \$4,452,106 represent the fees paid to Deloitte for their role as project manager for the CAT from November 15, 2017 through November 15, 2018. During this period, Deloitte engaged in the following activities with respect to the CAT:

• Implemented program operations for the CAT project;

• Provided governance support to the Operating Committee, including support for Subcommittees and working groups of the Operating Committee (e.g., Compliance Subcommittee, Cost and Funding Working Group, Technical Working Group, Industry Outreach Working Group, Security Working Group and Steering Committee);

• Assisted with cost and funding issues for the CAT, including the development of the CAT funding model and assistance with loans and the CAT bank account for CAT funding;

• Provided support for updating the SEC on the progress of the development of the CAT; and

• Provided active planning and coordination with and support for the Initial Plan Processor with regard to the development of the CAT, and reported to the Participants on the progress.

(e) Insurance

CAT LLC did not incur costs related to insurance during the period from November 15, 2017 through November 15, 2018.

(f) Professional and Administration Costs

The professional and administration costs of \$340,145 represent the fees paid to Anchin, Exegy and RSM from November 15, 2017 through November 15, 2018.

Financial Advisory Firm: Anchin.

From the commencement of its engagement in April 2018 through November 15, 2018, Anchin engaged in the following activities with respect to the CAT:

⁷² The costs described in this table of Excluded Costs were calculated based upon CAT LLC's

review of applicable bills and invoices and related

financial statements. CAT LLC financial statements are available on the CAT website.

- Developed, updated and maintained internal controls;
- Provided cash management and treasury functions;
- Facilitated bill payments;
- Provided monthly bookkeeping;
- Reviewed vendor invoices and documentation in support of cash disbursements;
- Provided accounting research and consultations on various accounting, financial reporting and tax matters;
- Addressed not-for-profit tax and accounting considerations;
- Prepared tax returns;
- Addressed various accounting, financial reporting and operating inquiries from Participants;
- Developed and maintained quarterly and annual operating and financial budgets, including budget to actual fluctuation analyses;
- Addressed accounting and financial matters relating to the transition from CAT NMS, LLC to Consolidated Audit Trail, LLC, including supporting the dissolution of CAT NMS, LLC;
- Supported compliance with the CAT NMS Plan;
- Worked with and provided support to the Operating Committee and various CAT working groups;
- Prepared monthly, quarterly and annual financial statements;
- Supported the annual financial statement audits by an independent auditor;
- Reviewed historical costs from inception; and
- Provided accounting and financial information in support of SEC filings.

Market Data Provider: Exegy. From July 2018 through November 15, 2018, CAT LLC purchased market data from Exegy (as described in more detail above).

Security Assessment: RSM. From October 2018 through November 15, 2018, CAT LLC incurred costs for RSM's performance of a security assessment (as described in more detail above).

(g) Public Relations Costs

The public relations costs of \$87,325 represent the fees paid to Sloane from November 15, 2017 through November 15, 2018. From the commencement of its engagement in March 2018 through November 15, 2018, Sloane provided professional communications services to CAT, including media relations consulting, strategy and execution. Specifically, Sloane provided services related to communications with the public regarding the CAT, including monitoring developments related to the CAT (e.g., congressional efforts, public comments and reaction to proposals, press coverage of the CAT), reporting

such developments to CAT LLC, and drafting and disseminating communications to the public regarding such developments as well as reporting on developments related to the CAT (e.g., amendments to the CAT NMS Plan).

(III) Costs Paid to Initial Plan Processor From November 16, 2018 Through February 2019

Third, Historical CAT Costs 1 would not include the \$19,628,791 in costs paid to the Initial Plan Processor from November 16, 2018 through February 2019 when CAT LLC's relationship with the Initial Plan Processor concluded. CAT LLC determined that Historical CAT Costs 1 would not include any fees paid to the Initial Plan Processor after November 15, 2017,⁷³ which was the date by which Participants were required to begin reporting to the CAT.⁷⁴ As discussed above, the Participants determined that Historical CAT Costs 1 would not include all CAT costs incurred from November 15, 2017 through November 15, 2018, which includes \$37,852,083 in Initial Plan Processor costs incurred from November 15, 2017 through November 15, 2018 (as well as other CAT costs during this period). The remaining Initial Plan Processor costs incurred after November 15, 2018 are the \$19,628,791 in costs for the period from November 16, 2018 through February 2019 incurred in the development of the CAT by the Initial Plan Processor, as well as a transition fee for the transition from the Initial Plan Processor to the successor Plan Processor. The Participants would remain responsible for 100% of these \$19,628,791 in costs.

(ii) Previously Invoiced Costs for Historical CAT Costs 1

CEBBs and CEBBs collectively have been invoiced for \$173,075,024 of the \$212,039,879.34 of Historical CAT Costs 1 via Historical CAT Assessment 1, where \$86,537,512 was invoiced collectively to CEBBs and \$86,537,512 was invoiced collectively to CEBBs. Accordingly, Historical CAT Assessment 1A would seek to recover the remaining \$38,964,855.34 of Historical CAT Costs 1 collectively from CEBBs and CEBBs, where CEBBs

⁷³ As discussed below, CAT LLC believes that it is appropriate to recover costs related to the services performed by the Initial Plan Processor prior to November 15, 2017. See Section 3(a)(10)(E) below.

⁷⁴ The SEC approved the CAT NMS Plan on November 15, 2016, and Participant reporting was required to begin on the first anniversary of this date, November 15, 2017. See Section 6.3 of the CAT NMS Plan and CAT NMS Plan Approval Order.

collectively will be responsible for \$19,482,427.67, and CEBBs collectively will be responsible for \$19,482,427.67.

(C) Historical Recovery Period 1A

Under the CAT NMS Plan, the Operating Committee is required to reasonably establish the length of the Historical Recovery Period used in calculating each Historical Fee Rate based upon the amount of the Historical CAT Costs to be recovered by the Historical CAT Assessment, and to describe the reasons for its length.⁷⁵ The Historical Recovery Period used in calculating the Historical Fee Rate may not be less than 24 months or more than five years.⁷⁶ The Operating Committee has determined to establish a Historical Recovery Period 1A of 24 months for Historical CAT Assessment 1A.

The Operating Committee determined that the length of Historical Recovery Period 1A appropriately weighs the need for a reasonable Historical Fee Rate 1A that spreads the Historical CAT Costs over an appropriate amount of time and the need to repay the loans to the Participants in a timely fashion. The Operating Committee determined that 24 months for Historical Recovery Period 1A would establish a fee rate that is lower than other transaction-based fees, including fees assessed pursuant to Section 31.⁷⁷ In addition, in establishing a Historical Recovery Period of 24 months, the Operating Committee recognized that the total costs for Historical CAT Assessment 1A were less than the total costs for 2022 and 2023,⁷⁸ and therefore it would be reasonable and appropriate to recover costs subject to this filing over an approximate two-year period.⁷⁹

The length of the Historical Recovery Period 1A and the reasons for its length are provided in this filing in accordance with the requirement in the CAT NMS Plan to provide such information in a

⁷⁵ Section 11.3(b)(i)(D)(I) and Section 11.3(b)(iii)(B)(II) of the CAT NMS Plan.

⁷⁶ Section 11.3(b)(i)(D)(I) of the CAT NMS Plan. In the CAT Funding Model Approval Order, the SEC stated that "[i]n the Commission's view, it is appropriate for the Operating Committee to establish the length of the Historical Recovery Period to be no less than 24 months and no more than five years." CAT Funding Model Approval Order at 13451.

⁷⁷ For example, as the SEC noted in the CAT Funding Model Approval Order, recent Section 31 fees ranged from \$0.00007 per share to \$0.00072 per share. CAT Funding Model at 13469.

⁷⁸ The total CAT costs for 2022 were approximately \$186 million and the total CAT costs for 2023 were approximately \$233 million.

⁷⁹ Note that the proposed 24-month recovery period also recognizes the prohibition on the collection of Historical CAT Assessments after March 31, 2028 as set forth in Section 11.3(f) of the CAT NMS Plan.

fee filing for a Historical CAT Assessment.⁸⁰

(D) Projected Total Executed Equivalent Share Volume

The calculation of the fee rate for Historical CAT Assessment 1A also requires the determination of the projected total executed equivalent share volume of transactions in Eligible Securities for Historical Recovery Period 1A. Under the CAT NMS Plan, the Operating Committee is required to “reasonably determine the projected total executed equivalent share volume of all transactions in Eligible Securities for each Historical Recovery Period based on the executed equivalent share volume of all transactions in Eligible Securities for the prior twelve months.”⁸¹ The Operating Committee is required to base its projection on the prior twelve months, but it may use its discretion to analyze the likely volume for the upcoming year. Such discretion would allow the Operating Committee to use its judgment when estimating projected total executed equivalent share volume if the volume over the prior twelve months was unusual or otherwise unfit to serve as the basis of a future volume estimate.⁸²

The total executed equivalent share volume of transactions in Eligible Securities for the 12-month period from March 2025 through February 2026 was 5,980,937,549,360.49 executed equivalent shares. The Operating Committee has determined to calculate the projected total executed equivalent share volume for the 24 months of Historical Recovery Period 1A by doubling the executed equivalent share volume for the prior 12 months. The Operating Committee determined that such an approach was reasonable as the CAT’s annual executed equivalent share volume has increased from prior years (e.g., the executed equivalent share volume for 2024 was 4,295,884,600,069.4), and the Operating Committee believes that it is reasonable to conclude that the annual executed equivalent share volume will remain at the higher level. Accordingly, the projected total executed equivalent share volume for Historical Recovery Period 1A is projected to be 11,961,875,098,720.98 executed equivalent shares.⁸³

The projected total executed equivalent share volume of all

transactions in Eligible Securities for Historical Recovery Period 1A and a description of the calculation of the projection is provided in this filing in accordance with the requirement in the CAT NMS Plan to provide such information in a fee filing for a Historical CAT Assessment.⁸⁴

(E) Fee Rate for Historical CAT Assessment 1A

The fee rate for Historical CAT Assessment 1A would be calculated by dividing the total amount of costs to be recovered by Historical CAT Assessment 1A by the reasonably projected total executed equivalent share volume of all transactions in Eligible Securities for Historical Recovery Period 1A, and dividing by 2. Specifically, the fee rate for Historical CAT Assessment 1A would be calculated by dividing \$38,964,855.34 by 11,961,875,098,720.98, and then dividing by 2, which equals \$0.00000162871017371542 per executed equivalent shares. Rounding this to six decimal places results in a fee rate of \$0.000002 per executed equivalent share.⁸⁵ This fee rate is provided in this filing in accordance with the requirement in the CAT NMS Plan to provide the Historical Fee Rate in a fee filing for a Historical CAT Assessment.⁸⁶

(3) Past CAT Costs and Participants

Participants would not be required to pay any fees associated with Historical CAT Assessment 1A as the Participants previously have paid all Past CAT Costs. The CAT NMS Plan explains that:

Because Participants previously have paid Past CAT Costs via loans to the Company, Participants would not be required to pay any Historical CAT Assessment. In lieu of a Historical CAT Assessment, the Participants’ one-third share of Historical CAT Costs and such other additional Past CAT Costs as reasonably determined by the Operating Committee will be paid by the cancellation of loans made to the Company on a pro rata basis based on the outstanding loan amounts due under the loans.⁸⁷

The CAT NMS Plan further states that “Historical CAT Assessments are

designed to recover two-thirds of the Historical CAT Costs.”⁸⁸

(4) Monthly Fees

CEBBs and CEBs would be required to pay fees for Historical CAT Assessment 1A on a monthly basis for the period in which Historical CAT Assessment 1A is in effect.⁸⁹ A CEBB or CEBs’s fee for each month would be calculated based on the transactions in Eligible Securities executed by the CEBB or CEBs from the prior month.⁹⁰ Proposed paragraph (a)(2)(A) of the fee schedule would state that each CAT Executing Broker would receive its first invoice in June 2026, and “would receive an invoice each month thereafter in which Historical CAT Assessment 1A is in effect.” Proposed paragraph (a)(2)(B) of the fee schedule would state that “Consolidated Audit Trail, LLC shall provide each CAT Executing Broker with an invoice for Historical CAT Assessment 1A on a monthly basis.” In addition, paragraph (b)(1) of the fee schedule states that each CEBB and CEBs is required to pay its CAT fees “each month.”

(5) Actual Recovery Period for Historical CAT Assessment 1A

The CAT NMS Plan states that, “[n]otwithstanding the length of the Historical Recovery Period used in calculating the Historical Fee Rate, each Historical CAT Assessment calculated using the Historical Fee Rate will remain in effect until all Historical CAT Costs for the Historical CAT Assessment are collected.”⁹¹ Accordingly, Historical CAT Assessment 1A will remain in effect until the remaining \$38,964,855.34 of Historical CAT Costs 1 have been collected.⁹² The actual recovery period for Historical CAT Assessment 1A may be shorter or longer than Historical Recovery Period 1A depending on the actual executed equivalent share volumes during the time that Historical CAT Assessment 1A

⁸⁰ *Id.* In approving the CAT Funding Model, the Commission stated that the proposed allocation of the Historical CAT Assessment solely to CEBs and CEBBs is appropriate. The Historical CAT Assessment will still be divided into thirds, as the Participants’ one-third share of Historical CAT Costs will be paid by the cancellation of loans made to the Company. CAT Funding Model Approval Order at 13453.

⁸¹ See Section 11.3(b)(iii)(A) of the CAT NMS Plan.

⁸² See proposed paragraph (a)(2)(B) of the fee schedule.

⁸³ Section 11.3(b)(i)(D)(II) of the CAT NMS Plan.

⁸⁴ In approving the CAT Funding Model, the Commission stated that, “[i]n the Commission’s view, it is appropriate for Industry Members to be charged a Historical CAT Assessment until all Historical CAT Costs for the Historical CAT Assessment are collected.” CAT Funding Model Approval Order at 13452.

⁸⁰ Section 11.3(b)(iii)(B)(II)(C) of the CAT NMS Plan.

⁸¹ Section 11.3(b)(i)(E) of the CAT NMS Plan.

⁸² CAT Funding Model Approval Order at 13452.

⁸³ This projection was calculated by multiplying 5,980,937,549,360.49 executed equivalent shares by two.

⁸⁴ Section 11.3(b)(iii)(B)(II)(D) of the CAT NMS Plan.

⁸⁵ As the SEC noted in approving the CAT Funding Model, the fee filing would provide the exact fee per executed equivalent share and describe the relevant number of decimal places for the fee rate. CAT Funding Model Approval Order at 13445, n.677. The Operating Committee determined to use six decimal places to balance the accuracy of the calculation with the potential systems and other impracticalities of using additional decimal places in the calculation.

⁸⁶ Section 11.3(b)(iii)(B)(II)(A) of the CAT NMS Plan.

⁸⁷ Section 11.3(b)(ii) of the CAT NMS Plan.

is in effect and subject to any time limitation in the CAT NMS Plan.⁹³

(6) Consolidated Audit Trail Funding Fees

To implement Historical CAT Assessment 1A, a new section would be added to the Exchange's fee schedule for "Consolidated Audit Trail Funding Fees", and it would include the proposed paragraphs described below.

(A) Fee Schedule for Historical CAT Assessment 1A

The CAT NMS Plan states that:

Each month in which a Historical CAT Assessment is in effect, each CEBB and each CEBS shall pay a fee for each transaction in Eligible Securities executed by the CEBB or CEBS from the prior month as set forth in CAT Data, where the Historical CAT Assessment for each transaction will be calculated by multiplying the number of executed equivalent shares in the transaction by one-third and by the Historical Fee Rate reasonably determined pursuant to paragraph (b)(i) of this Section 11.3.⁹⁴

Accordingly, based on the factors discussed above, the Exchange proposes to add paragraph (a)(2) to the Consolidated Audit Trail Funding Fees section of its fee schedule. Proposed paragraph (a)(2) would state the following:

(A) Each CAT Executing Broker shall receive its first invoice for Historical CAT Assessment 1A in June 2026, which shall set forth the Historical CAT Assessment 1A fees calculated based on transactions in May 2026, and shall receive an invoice for Historical CAT Assessment 1A for each month thereafter in which Historical CAT Assessment 1A is in effect.

(B) Consolidated Audit Trail, LLC shall provide each CAT Executing Broker with an invoice for Historical CAT Assessment 1A on a monthly basis. Each month, such invoices shall set forth a fee for each transaction in Eligible Securities executed by the CAT Executing Broker in its capacity as a CAT Executing Broker for the Buyer ("CEBB") and/or the CAT Executing Broker for the Seller ("CEBS") (as applicable) from the prior month as set forth in CAT Data. The fee for each such transaction will be calculated by multiplying the number of executed equivalent shares in the transaction by the fee rate of \$0.000002 per executed equivalent share.

(C) Historical CAT Assessment 1A will remain in effect until \$38,964,855.34 is collected from CAT Executing Brokers collectively, which is estimated to be approximately two years, but could be for a longer or shorter period of time. Consolidated Audit Trail, LLC will provide notice when Historical CAT Assessment 1A will no longer be in effect.

(D) Each CAT Executing Broker shall be required to pay each invoice for Historical CAT Assessment 1A in accordance with paragraph (b).

Proposed paragraph (a)(2)(B) of the fee schedule would set forth the fee rate of \$0.000002 per executed equivalent share for Historical CAT Assessment 1A, which is calculated as discussed above.

The proposed language in paragraph (a)(2)(B) of the fee schedule would describe when CAT Executing Brokers would receive their first monthly invoice for Historical CAT Assessment 1A. Specifically, CAT Executing Brokers would receive their first monthly invoice for Historical CAT Assessment 1A in June 2026 and the fees set forth in that invoice would be calculated based on transactions executed in the prior month, that is, transactions executed in May 2026. The payment for the first invoice would be required within 30 days after the receipt of the first invoice (unless a longer period is indicated), as described in paragraph (b)(2) of the fee schedule.

Proposed paragraph (a)(2)(A) of the fee schedule also would describe the monthly cadence of the invoices for Historical CAT Assessment 1A. Specifically, after the first invoices are provided to CAT Executing Brokers in June 2026, invoices will be sent to CAT Executing Brokers each month thereafter while Historical CAT Assessment 1A is in effect.

Proposed paragraph (a)(2)(B) of the fee schedule would describe the invoices for Historical CAT Assessment 1A. Proposed paragraph (a)(2)(B) of the fee schedule would state that "Consolidated Audit Trail, LLC shall provide each CAT Executing Broker with an invoice for Historical CAT Assessment 1A on a monthly basis." Proposed paragraph (a)(2)(B) of the fee schedule also would describe the fees to be set forth in the invoices for Historical CAT Assessment 1A. Specifically, it would state that "[e]ach month, such invoices shall set forth a fee for each transaction in Eligible Securities executed by the CAT Executing Broker in its capacity as a CAT Executing Broker for the Buyer ("CEBB") and/or the CAT Executing Broker for the Seller ("CEBS") (as applicable) from the prior month as set forth in CAT Data. The fee for each such transaction will be calculated by multiplying the number of executed equivalent shares in the transaction by the fee rate of \$0.000002 per executed equivalent share."

Furthermore, proposed paragraph (a)(2)(C) of the fee schedule would describe how long Historical CAT Assessment 1A would remain in effect.

It would state that "Historical CAT Assessment 1A will remain in effect until \$38,964,855.34 is collected from CAT Executing Brokers collectively, which is estimated to be approximately two years, but could be for a longer or shorter period of time." This proposed paragraph would further state that "Consolidated Audit Trail, LLC will provide notice when Historical CAT Assessment 1A will no longer be in effect."

Historical CAT Assessment 1A will be assessed for all transactions executed in each month through the end of the month in which \$38,964,855.34 is assessed, and then CAT LLC will provide notice that Historical CAT Assessment 1A is no longer in effect. Since Historical CAT Assessment 1A is a monthly fee based on transaction volume from the prior month, Historical CAT Assessment 1A may collect more than \$38,964,855.34. To the extent that occurs, any excess money collected during the final month in which Historical CAT Assessment 1A is in effect will be used to offset future fees and/or to fund the reserve for the CAT.

Finally, proposed paragraph (a)(2)(D) of the fee schedule sets forth the requirement for the CAT Executing Brokers to pay the invoices for Historical CAT Assessment 1A. It would state that "[e]ach CAT Executing Broker shall be required to pay each invoice for Historical CAT Assessment 1A in accordance with paragraph (b)."

(B) Manner of Payment

Paragraph (b)(1) of the "Consolidated Audit Trail Funding Fees" section of its fee schedule describes the manner of payment of Industry Member CAT fees. Paragraph (b)(1) states that "[e]ach CAT Executing Broker shall pay its CAT fees as required pursuant to paragraph (a) each month to the Consolidated Audit Trail, LLC in the manner prescribed by the Consolidated Audit Trail, LLC." The CAT NMS Plan requires the Operating Committee to establish a system for the collection of CAT fees.⁹⁵ The Plan Processor has established a billing system for CAT fees.⁹⁶ Therefore, the Exchange proposes to require CAT Executing Brokers to pay Historical CAT Assessment 1A in accordance with such system.

⁹⁵ Section 11.4 of the CAT NMS Plan.

⁹⁶ The billing process and system are described in CAT Alert 2023-02 as well as the CAT FAQs related to the billing of CAT fees, the Industry Member CAT Reporter Portal User Guide, the FCAT Industry Member Onboarding Guide, the FCAT Connectivity Supplement for Industry Members and the CAT Billing Webinars (dated Sept. 28, 2023, and Nov. 7, 2023), each available on the CAT website.

⁹³ Section 11.3(f) of the CAT NMS Plan would prohibit the billing of Historical CAT Assessments after March 31, 2028.

⁹⁴ Section 11.3(b)(iii)(A) of the CAT NMS Plan.

(C) Failure To Pay CAT Fees

The CAT NMS Plan further states that:

Participants shall require each Industry Member to pay all applicable fees authorized under this Article XI within thirty (30) days after receipt of an invoice or other notice indicating payment is due (unless a longer payment period is otherwise indicated). If an Industry Member fails to pay any such fee when due (as determined in accordance with the preceding sentence), such Industry Member shall pay interest on the outstanding balance from such due date until such fee is paid at a per annum rate equal to the lesser of: (a) the Prime Rate plus 300 basis points; or (b) the maximum rate permitted by applicable law.⁹⁷

Accordingly, the Exchange previously has added this requirement to the Exchange's fee schedule. Specifically, paragraph (b)(2) of the fee schedule states:

Each CAT Executing Broker shall pay the CAT fees required pursuant to paragraph (a) within thirty days after receipt of an invoice or other notice indicating payment is due (unless a longer payment period is otherwise indicated). If a CAT Executing Broker fails to pay any such CAT fee when due, such CAT Executing Broker shall pay interest on the outstanding balance from such due date until such fee is paid at a per annum rate equal to the lesser of (i) the Prime Rate plus 300 basis points, or (ii) the maximum rate permitted by applicable law.

The requirements of paragraph (b)(2) would apply to Historical CAT Assessment 1A.

(7) Historical CAT Assessment Details

The CAT NMS Plan states that:

Details regarding the calculation of a CAT Executing Broker's Historical CAT Assessment will be provided upon request to such CAT Executing Broker. At a minimum, such details would include each CAT Executing Broker's executed equivalent share volume and corresponding fee by (1) Listed Options, NMS Stocks and OTC Equity Securities, (2) by transactions executed on each exchange and transactions executed otherwise than on an exchange, and (3) by buy-side transactions and sell-side transactions.⁹⁸

Such information would provide CEBBs and CEBBs with the ability to understand the details regarding the calculation of their Historical CAT Assessment.⁹⁹ CAT LLC will provide CAT Executing Brokers with these

details regarding the calculation of their Historical CAT Assessments on their monthly invoice for the Historical CAT Assessment.

In addition, CAT LLC will make certain aggregate statistics regarding Historical CAT Assessments publicly available. Specifically, the CAT NMS Plan states that, "[f]or each Historical CAT Assessment, at a minimum, CAT LLC will make publicly available the aggregate executed equivalent share volume and corresponding aggregate fee by (1) Listed Options, NMS Stocks and OTC Equity Securities, (2) by transactions executed on each exchange and transactions executed otherwise on an exchange, and (3) by buy-side transactions and sell-side transactions."¹⁰⁰ Such aggregate statistics will be available on the CAT website.

Furthermore, CAT LLC will make publicly available on the CAT website the total amount invoiced each month that Historical CAT Assessment 1A is in effect as well as the total amount invoiced for Historical CAT Assessment 1A for all months since its commencement. CAT LLC also will make publicly available on the CAT website the total costs to be collected from Industry Members for Historical CAT Assessment 1A. By reviewing statistics regarding how much has been invoiced and how much remains to be invoiced for Historical CAT Assessment 1A, Industry Members would have sufficient information to reasonably track how much longer Historical CAT Assessment 1A is likely to be in place.

(8) Billing Implementation

To date, CAT LLC, via FCAT, has billed Industry Members for Historical CAT Assessment 1 and certain Prospective CAT Fees. Industry Members will be billed for Historical CAT Assessment 1A via the same processes established for Historical CAT Assessment 1 and the Prospective CAT Fees. Accordingly, Industry Members have substantial experience with the CAT billing processes.

(9) Financial Accountability Milestones

The CAT NMS Plan states that "[n]o Participant will make a filing with the SEC pursuant to Section 19(b) of the Exchange Act regarding any Historical CAT Assessment until any applicable

Financial Accountability Milestone described in Section 11.6 has been satisfied."¹⁰¹ The CAT NMS Plan further states that "in all filings submitted by the Participants to the Commission under Section 19(b) of the Exchange Act, to establish or implement Post-Amendment Industry Member Fees pursuant to this Article, . . . the Participants shall clearly indicate whether such fees are related to Post-Amendment Expenses incurred during Period 1, Period 2, Period 3, or Period 4."¹⁰² As discussed in detail below, all applicable Financial Accountability Milestones for Historical CAT Assessment 1A—that is, Period 1, Period 2 and Period 3 of the Financial Accountability Milestones—have been satisfied. Furthermore, as discussed below, this filing clearly indicates that Historical CAT Assessment 1A relates to Post-Amendment Expenses incurred during Periods 1, 2 and 3 of the Financial Accountability Milestones.

(A) Period 1 of the Financial Accountability Milestones

In accordance with Section 11.6(b) of the CAT NMS Plan, Historical CAT Assessment 1A seeks to recover costs that are related to "all fees, costs, and expenses (including legal and consulting fees, costs, and expenses) incurred by or for the Company in connection with the development, implementation and operation of the CAT from the effective date of [Section 11.6 of the CAT NMS Plan] until such time as Full Implementation of CAT NMS Plan Requirements has been achieved"¹⁰³ ("Post-Amendment Expenses") incurred during FAM Period 1. FAM Period 1 began on June 22, 2020, the effective date of Section 11.6 of the CAT NMS Plan, and concluded on July 31, 2020, the date of Initial Industry Member Core Equity and Options Reporting. Section 1.1 of the CAT NMS Plan defines "Initial Industry Member Core Equity and Options Reporting" as:

The reporting by Industry Members (excluding Small Industry Members that are not OATS reporters) of both: (a) equities transaction data, excluding Customer Account Information, Customer-ID, and Customer Identifying Information; and (b) options transaction data, excluding Customer Account Information, Customer-ID and Customer Identifying Information.

Under Section 1.1 of the CAT NMS Plan, this Financial Accountability Milestone is considered complete as of

⁹⁷ Section 11.4 of the CAT NMS Plan.

⁹⁸ Section 11.3(a)(iv)(A) of the CAT NMS Plan.

⁹⁹ In approving the CAT Funding Model, the Commission stated that, "[i]n the Commission's view, providing CAT Execut[ing] Brokers information regarding the calculation of their CAT Fees will aid in transparency and permit CAT Execut[ing] Brokers to confirm the accuracy of their invoices for CAT Fees." CAT Funding Model Approval Order at 13454.

¹⁰⁰ Section 11.3(a)(iv)(B) of the CAT NMS Plan. In approving the CAT Funding Model, the Commission stated that "[t]he publication of the aggregate executed equivalent share volume and aggregate fee is appropriate because it would allow Participants and CAT Executing Brokers a high-level validation of executed volume and fees." CAT Funding Model Approval Order at 13454.

¹⁰¹ Section 11.3(b)(iii)(B)(III) of the CAT NMS Plan.

¹⁰² Section 11.6(b) of the CAT NMS Plan.

¹⁰³ Section 11.6 of the CAT NMS Plan.

the date identified in the Participants' Quarterly Progress Reports.¹⁰⁴ As indicated by the Participants' Quarterly Progress Report for the third quarter of 2020,¹⁰⁵ Initial Industry Member Core Equity and Option Reporting was completed on schedule on July 22, 2020, which is prior to the July 31, 2020 deadline.

Under the FAM Period 1 requirement of Initial Industry Member Core Equity and Options Reporting, Industry Members—excluding Small Industry Members that are not OATS reporters—were required to report two categories of data to the CAT: equities transaction data and options transaction data (both excluding Customer Account Information, Customer-ID, and Customer Identifying Information) by July 31, 2020. Pursuant to exemptive relief provided by the Commission, the Commission authorized the Participants' Compliance Rules to allow core equity reporting for Industry Members (Phase 2a) to begin on June 22, 2020 and core options reporting for Industry Members (Phase 2b) to begin on July 20, 2020.¹⁰⁶

In adopting the FAMs, the Commission stated that the equities transaction reporting required for FAM Period 1 “is consistent with the functionality that the Participants describe on the CAT NMS Plan website as ‘Production Go-Live for Equities 2a file submission and data integrity validations.’”¹⁰⁷ The Phase 2a Industry Member Data is described in detail in the SEC’s Phased Reporting Exemptive Relief Order, and includes the following data related to Eligible Securities that are equities:

- All events and scenarios covered by OATS, which includes information related to the receipt or origination of

orders, order transmittal, and order modifications, cancellations and executions;

- Reportable Events for: (1) proprietary orders, including market maker orders, for Eligible Securities that are equities; (2) electronic quotes in listed equity Eligible Securities (*i.e.*, NMS stocks) sent to a national securities exchange or FINRA’s Alternative Display Facility (“ADF”); (3) electronic quotes in unlisted Eligible Securities (*i.e.*, OTC Equity Securities) received by an Industry Member operating an interdealer quotation system (“IDQS”); and (4) electronic quotes in unlisted Eligible Securities sent to an IDQS or other quotation system not operated by a Participant or Industry Member;

- Firm Designated IDs (“FDIDs”), which Industry Members must report to the CAT as required by Sections 6.3(d)(i)(A) and 6.4(d)(ii)(C) of the CAT NMS Plan;

- Industry Members would be required to report all street side representative orders, including both agency and proprietary orders and mark such orders as representative orders, except in certain limited exceptions as described in the Industry Member Technical Specifications;

- The link between the street side representative order and the order being represented when: (1) the representative order was originated specifically to represent a single order received either from a customer or another broker-dealer; and (2) there is (a) an existing direct electronic link in the Industry Member’s system between the order being represented and the representative order and (b) any resulting executions are immediately and automatically applied to the represented order in the Industry Member’s system;

- Manual and Electronic Capture Time for Manual Order Events;

- Special handling instructions for the original receipt or origination of an order during Phase 2a; and

- When routing an order, whether the order was routed as an intermarket sweep order (“ISO”).

In Phase 2a, Industry Members were not required to report modifications of a previously routed order in certain limited instances, nor were they required to report a cancellation of an order received from a Customer after the order has been executed.¹⁰⁸

The Quarterly Progress Report for the third quarter of 2020 states that “Interim Step: Production Go-Live for Equities 2a file submission and data integrity validation (Large Industry Members and

Small OATS Reporters)” was completed on June 22, 2020. Accordingly, the FAM Period 1 requirement of reporting by Industry Members (excluding Small Industry Members that are not OATS reporters) of “equities transaction data, excluding Customer Account Information, Customer-ID, and Customer Identifying Information” was completed on June 22, 2020.

In adopting the FAMs, the Commission stated that the options transaction reporting required for FAM Period 1 is “consistent with the functionality that the Participants describe on the CAT NMS Plan website as ‘Production Go-Live for Options 2b file submission and data integrity validations.’”¹⁰⁹ The Phase 2b Industry Member Data is described in detail in the SEC’s Phased Reporting Exemptive Relief Order, and includes the Industry Member Data related to Eligible Securities that are options and related to simple electronic option orders, excluding electronic paired option orders. A simple electronic option order is an order to buy or sell a single option that is not related to or dependent on any other transaction for pricing and timing of execution that is either received or routed electronically by an Industry Member. Electronic receipt of an order is defined as the initial receipt of an order by an Industry Member in electronic form in standard format directly into an order handling or execution system. Electronic routing of an order is the routing of an order via electronic medium in standard format from one Industry Member’s order handling or execution system to an exchange or another Industry Member. An electronic paired option order is an electronic option order that contains both the buy and sell side that is routed to another Industry Member or exchange for crossing and/or price improvement as a single transaction on an exchange. Responses to auctions of simple orders and paired simple orders would be reportable in Phase 2b. Furthermore, combined orders in options would be treated in Phase 2b in the same way as equity representative orders are treated in Phase 2a. A combined order would mean, as permitted by SRO rules, a single, simple order in Listed Options created by combining individual, simple orders in Listed Options from a customer with the same exchange origin code before routing to an exchange. During Phase 2b, the single combined order sent to an exchange must be reported and marked as a combined order, but the linkage to the underlying

¹⁰⁴ The Quarterly Progress Reports are available at <https://www.catnmsplan.com/implementation-plan>.

¹⁰⁵ See Q3 2020 Quarterly Progress Report (Oct. 30, 2020) and Updated Q3 2020 Quarterly Progress Report (Jan. 29, 2021).

¹⁰⁶ See Phased Reporting Exemptive Relief Order. Under the CAT NMS Plan as adopted, the Participants were required, through their Compliance Rules, to require their Large Industry Members to commence reporting Industry Member Data to the Central Repository by November 15, 2018, and to require their Small Industry Members to commence reporting Industry Member Data to the Central Repository by November 15, 2019. Sections 6.7(a)(v) and (vi) of the CAT NMS Plan. The SEC granted exemptive relief from these provisions of the CAT NMS Plan to allow for the phased implementation of Industry Member reporting via five phases addressing the reporting requirements for Phase 2a Industry Member Data, Phase 2b Industry Member Data, Phase 2c Industry Member Data, Phase 2d Industry Member Data and Phase 2e Industry Member Data.

¹⁰⁷ Securities Exchange Act Rel. No. 88890 (May 15, 2020), 85 FR 31322, 31330 n.97 (May 22, 2020) (“FAM Adopting Release”).

¹⁰⁸ Phased Reporting Exemptive Relief Order at 23076–78.

¹⁰⁹ FAM Adopting Release at 31330, n.98.

orders is not required to be reported until Phase 2d.¹¹⁰

The Quarterly Progress Report for the third quarter of 2020 states that “Interim Step: Production Go-Live for Options 2b file submission and data integrity validations” was completed on July 20, 2020. Accordingly, the FAM Period 1 requirement of reporting by Industry Members (excluding Small Industry Members that are not OATS reporters) of “options transaction data, excluding Customer Account Information, Customer-ID and Customer Identifying Information” was completed on July 20, 2020.

As discussed above, the remaining Historical CAT Costs 1 to be recovered via Historical CAT Assessment 1A would include fees, costs and expenses incurred by or for the Company in connection with the development, implementation and operation of the CAT during the period from June 22, 2020 through July 31, 2020. The total costs for this period, as discussed above, are \$6,377,343. Participants would remain responsible for one-third of this cost (which they have previously paid), and Industry Members would be responsible for the remaining two-thirds, with CEBBs paying one-third (\$2,125,781) and CEBBs paying one-third (\$2,125,781) through Historical CAT Assessment 1 and Historical CAT Assessment 1A.

(B) Period 2 of the Financial Accountability Milestones

Historical CAT Assessment 1A seeks to recover costs that are related to Post-Amendment Expenses incurred during FAM Period 2. FAM Period 2 began on August 1, 2020, and concluded on December 31, 2020, the date of the Full Implementation of Core Equity Reporting. Section 1.1 of the CAT NMS Plan defines “Full Implementation of Core Equity Reporting” as:

the point at which: (a) Industry Member reporting (excluding reporting by Small Industry Members that are not OATS reporters) for equities transactions, excluding Customer Account Information, Customer-ID, and Customer Identifying Information, is developed, tested, and implemented at a 5% Error Rate or less and with sufficient intra-firm linkage, inter-firm linkage, national securities exchange linkage, and trade reporting facilities linkage to permit the Participants and the Commission to analyze the full lifecycle of an order across the national market system, excluding linkage of representative orders, from order origination through order execution or order cancellation; and (b) the query tool functionality required by Section

6.10(c)(i)(A) and Appendix D, Sections 8.1.1–8.1.3 and Section 8.2.1 incorporates the Industry Member equities transaction data described in condition (a) and is available to the Participants and to the Commission. This Financial Accountability Milestone shall be considered complete as of the date identified in a Quarterly Progress Report meeting the requirements of Section 6.6(c).

Under Section 1.1 of the CAT NMS Plan, this Financial Accountability Milestone is considered complete as of the date identified in the Participants’ Quarterly Progress Reports. As indicated by the Participants’ Quarterly Progress Report for the fourth quarter of 2020,¹¹¹ Full Implementation of Core Equity Reporting was completed on schedule by December 31, 2020.

Specifically, the Full Implementation of Core Equity Reporting requires the satisfaction of two prongs. The first prong requires Participants to have fully implemented the first phase of equities transaction reporting for Industry Members (excluding Small Industry Members that are not OATS reporters) at an Error Rate of less than 5%. In addition, equities transaction data produced by the CAT at this stage must also be sufficiently interlinked so as to permit full analysis of an order’s lifecycle across the national market, excluding full linkage of representative orders. As CAT LLC reported on its Quarterly Progress Reports, Phase 2a was fully implemented as of October 26, 2020, including intra-firm, inter-firm, national securities exchange, and trade reporting facilities linkages.¹¹² In addition to the reporting of Phase 2a Industry Member Data as described above with regard to FAM Period 1, the following linkage data was added to the CAT as described in the Quarterly Progress Reports for the third and fourth quarter of 2020:

- “Production Go-Live for Equities 2a Intrafirm Linkage validations” was completed on 7/27/2020;¹¹³
- “Production Go-Live for Firm to Firm Linkage validations for Equities 2a (Large Industry Members and Small OATS Reporters)” was completed on October 26, 2020; and
- “Production Go-Live for Equities 2a Exchange and TRF Linkage validations (Large Industry Members and Small OATS Reporters)” was completed on October 26, 2020.

Furthermore, as CAT LLC reported on its Quarterly Progress Report for the

fourth quarter of 2020, the average overall error rate for Phase 2a Industry Member Data was less than 5% as of December 31, 2020. The average overall error rate was calculated by dividing the compliance errors by processed records.

The second prong of this FAM requires that the equities transaction data collected by the CAT at this stage be made available to regulators through two basic query tools required by the CAT NMS Plan—a targeted query tool that will enable regulators to retrieve data via an online query screen with a variety of predefined selection criteria, and a user-defined direct query tool that will provide regulators with the ability to query data using all available attributes and data sources.¹¹⁴ As CAT LLC reported on its Quarterly Progress Reports, the query tool functionality incorporating the data from Phase 2a was available to the Participants and the Commission as of December 31, 2020.¹¹⁵

The Commission has determined that the Participants have sufficiently complied with the conditions set forth in the 2020 Orders and with the technical requirements for Quarterly Progress Reports set forth in Section 6.6(c) of the CAT NMS Plan for purposes of determining compliance with this FAM.¹¹⁶

As discussed above, the remaining Historical CAT Costs 1 to be recovered via Historical CAT Assessment 1A would include fees, costs and expenses incurred by or for the Company in connection with the development, implementation and operation of the CAT during the period from August 1, 2020 through December 31, 2020. The total costs for this period, as discussed above, are \$42,976,478. Participants would remain responsible for one-third of this cost (which they have previously paid), and Industry Members would be responsible for the remaining two-thirds, with CEBBs paying one-third (\$14,325,492.70) and CEBBs paying one-third (\$14,325,492.70) through

¹¹⁴ At the time of this FAM, Section 6.10(c)(i)(A) of the CAT NMS Plan required the Plan Processor to “provide Participants and the SEC with access to all CAT Data stored in the Central Repository” via an “online targeted query tool,” and Appendix D, Sections 8.1.1–8.1.3 of the CAT NMS Plan described the required functionality associated with this regulatory tool. Appendix D, Section 8.2.1 describes the required functionality associated with a user-defined direct query tool that will “deliver large sets of data that can then be used in internal surveillance or market analysis applications.”

¹¹⁵ See Q3 2020 Quarterly Progress Report (Oct. 30, 2020); Updated Q3 2020 Quarterly Progress Report (Jan. 29, 2021); and Q4 2020 Quarterly Progress Report (Jan. 29, 2021).

¹¹⁶ Securities Exchange Act Rel. No. 98848 (Nov. 2, 2023), 88 FR 77128, 77129 n.13 (Nov. 8, 2023) (“Settlement Exemptive Order”).

¹¹⁰ Phased Reporting Exemptive Relief Order at 23078.

¹¹¹ Q4 2020 Quarterly Progress Report (Jan. 29, 2021).

¹¹² For a description of the requirements of Phases 2a, see Phased Reporting Exemptive Relief Order.

¹¹³ Q3 2020 Quarterly Progress Report (Oct. 20, 2021).

Historical CAT Assessment 1 and Historical CAT Assessment 1A.

(C) Period 3 of the Financial Accountability Milestones

Historical CAT Assessment 1A seeks to recover costs that are related to Post-Amendment Expenses incurred during FAM Period 3. FAM Period 3 began on January 1, 2021, and concluded on December 31, 2021, the date of the Full Availability and Regulatory Utilization of Transactional Database Functionality. Section 1.1 of the CAT NMS Plan defines “Full Availability and Regulatory Utilization of Transactional Database Functionality” as:

the point at which: (a) reporting to the Order Audit Trail System (“OATS”) is no longer required for new orders; (b) Industry Member reporting for equities transactions and simple electronic options transactions, excluding Customer Account Information, Customer-ID, and Customer Identifying Information, with sufficient intra-firm linkage, inter-firm linkage, national securities exchange linkage, trade reporting facilities linkage, and representative order linkages (including any equities allocation information provided in an Allocation Report) to permit the Participants and the Commission to analyze the full lifecycle of an order across the national market system, from order origination through order execution or order cancellation, is developed, tested, and implemented at a 5% Error Rate or less; (c) Industry Member reporting for manual options transactions and complex options transactions, excluding Customer Account Information, Customer-ID, and Customer Identifying Information, with all required linkages to permit the Participants and the Commission to analyze the full lifecycle of an order across the national market system, from order origination through order execution or order cancellation, including any options allocation information provided in an Allocation Report, is developed, tested, and fully implemented; (d) the query tool functionality required by Section 6.10(c)(i)(A) and Appendix D, Sections 8.1.1–8.1.3, Section 8.2.1, and Section 8.5 incorporates the data described in conditions (b)–(c) and is available to the Participants and to the Commission; and (e) the requirements of Section 6.10(a) are met. This Financial Accountability Milestone shall be considered complete as of the date identified in a Quarterly Progress Report meeting the requirements of Section 6.6(c).

Under Section 1.1 of the CAT NMS Plan, this Financial Accountability Milestone is considered complete as of the date identified in the Participants’ Quarterly Progress Reports. As indicated by the Participants’ Quarterly Progress Report for the fourth quarter of 2021,¹¹⁷ Full Availability and Regulatory Utilization of Transactional Database

Functionality was completed on schedule by December 31, 2021.

Specifically, the “Full Availability and Regulatory Utilization of Transactional Database Functionality” requires the satisfaction of five prongs. The first prong requires that reporting to the Order Audit Trail System (“OATS”) is no longer required for new orders. As CAT LLC reported on its Quarterly Progress Report for the fourth quarter of 2021,¹¹⁸ FINRA retired OATS effective September 1, 2021.¹¹⁹ Accordingly, after the retirement of OATS, reporting to OATS was no longer required.

In addition to Phase 2a and Phase 2b Industry Member Data, the second and third prongs of “Full Availability and Regulatory Utilization of Transactional Database Functionality” require Industry Member reporting of Phase 2c Industry Member Data and Phase 2d Industry Member Data. The Phase 2c Industry Member Data is described in detail in the SEC’s Phased Reporting Exemptive Relief Order. That Order states that “Phase 2c Industry Member Data” is Industry Member Data related to Eligible Securities that are equities other than Phase 2a Industry Member Data, Phase 2d Industry Member Data, or Phase 2e Industry Member Data. Specifically, the Phase 2c Industry Member Data includes Industry Member Data that is related to Eligible Securities that are equities and that is related to: (1) Allocation Reports as required to be recorded and reported to the Central Repository pursuant to Section 6.4(d)(ii)(A)(1) of the CAT NMS Plan; (2) quotes in unlisted Eligible Securities sent to an IDQS operated by a CAT Reporter (reportable by the Industry Member sending the quotes) (except for quotes reportable in Phase 2d, as discussed below); (3) electronic quotes in listed equity Eligible Securities (*i.e.*, NMS stocks) that are not sent to a national securities exchange or FINRA’s Alternative Display Facility; (4) reporting changes to client instructions regarding modifications to algorithms; (5) marking as a representative order any order originated to work a customer order in price guarantee scenarios, such as a guaranteed VWAP; (6) flagging rejected external routes to indicate a route was not accepted by the receiving destination; (7) linkage of duplicate electronic messages related to a Manual Order Event between the electronic event and the original manual route; (8) special handling instructions on order route reports (other than the ISO, which is required to be reported in Phase 2a);

(9) quote identifier on trade events; (10) reporting of LTIDs (if applicable) for accounts with Reportable Events that are reportable to CAT as of and including Phase 2c; (11) reporting of date account opened or Account Effective Date (as applicable) for accounts and reporting of a flag indicating the Firm Designated ID type as account or relationship; (12) order effective time for orders that are received by an Industry Member and do not become effective until a later time; (13) the modification or cancellation of an internal route of an order; and (14) linkages to the customer orders(s) being represented for representative order scenarios, including agency average price trades, net trades, aggregated orders, and disconnected Order Management System (“OMS”)—Execution Management System (“EMS”) scenarios, as required in the Industry Member Technical Specifications.¹²⁰

Phase 2c Industry Member Data also includes electronic quotes that are provided by or received in a CAT Reporter’s order/quote handling or execution systems in Eligible Securities that are equities and are provided by an Industry Member to other market participants off a national securities exchange under the following conditions: (1) an equity bid or offer is displayed publicly or has been communicated (a) for listed securities to the ADF operated by FINRA; or (b) for unlisted equity securities to an “interdealer quotation system,” as defined in FINRA Rule 6420(c); or (2) an equity bid or offer which is accessible electronically by customers or other market participants and is immediately actionable for execution or routing; *i.e.*, no further manual or electronic action is required by the responder providing the quote in order to execute or cause a trade to be executed). With respect to OTC Equity Securities, OTC Equity Securities quotes sent by an Industry Member to an IDQS operated by an Industry Member CAT Reporter (other than such an IDQS that does not match and execute orders) are reportable by the Industry Member sending them in Phase 2c. Accordingly, any response to a request for quote or other form of solicitation response provided in a standard electronic format (*e.g.*, FIX) that meets this quote definition (*i.e.*, an equity bid or offer which is accessible electronically by customers or other market participants and is immediately actionable for execution or routing) would be reportable in Phase 2c.¹²¹

¹¹⁸ *Id.*

¹¹⁹ Securities Exchange Act Rel. No. 92239 (June 23, 2021), 86 FR 34293 (June 29, 2021).

¹²⁰ Phase Reporting Exemptive Relief Order at 23078–79.

¹²¹ *Id.* at 23079.

¹¹⁷ Q4 2021 Quarterly Progress Report (Jan. 17, 2022).

The Phase 2d Industry Member Data is described in detail in the SEC's Phased Reporting Exemptive Relief Order. "Phase 2d Industry Member Data" is Industry Member Data that is related to Eligible Securities that are options other than Phase 2b Industry Member Data, Industry Member Data that is related to Eligible Securities that are equities other than Phase 2a Industry Member Data or Phase 2c Industry Member Data, and Industry Member Data other than Phase 2e Industry Member Data. Phase 2d Industry Member Data includes with respect to the Eligible Securities that are options: (1) simple manual orders; (2) electronic and manual paired orders; (3) all complex orders with linkages to all CAT-reportable legs; (4) LTIDs (if applicable) for accounts with Reportable Events for Phase 2d; (5) date account opened or Account Effective Date (as applicable) for accounts with an LTID and flag indicating the Firm Designated ID type as account or relationship for such accounts; (6) Allocation Reports as required to be recorded and reported to the Central Repository pursuant to Section 6.4(d)(iii)(A)(1) of the CAT NMS Plan; (7) the modification or cancellation of an internal route of an order; and (8) linkage between a combined order and the original customer orders. Phase 2d Industry Member Data also would include electronic quotes that are provided by or received in a CAT Reporter's order/quote handling or execution systems in Eligible Securities that are options and are provided by an Industry Member to other market participants off a national securities exchange under the following conditions: a listed option bid or offer which is accessible electronically by customers or other market participants and is immediately actionable (*i.e.*, no further action is required by the responder providing the quote in order to execute or cause a trade to be executed). Accordingly, any response to a request for quote or other form of solicitation response provided in standard electronic format (*e.g.*, FIX) that meets this definition is reportable in Phase 2d for options.¹²²

Phase 2d Industry Member Data also includes with respect to Eligible Securities that are options or equities (1) receipt time of cancellation and modification instructions through Order Cancel Request and Order Modification Request events; (2) modifications of previously routed orders in certain instances; and (3) OTC Equity Securities quotes sent by an Industry Member to an IDQS operated by an Industry

Member CAT Reporter that does not match and execute orders. In addition, subject to any exemptive or other relief, Phase 2d Industry Member Data will include verbal or manual quotes on an exchange floor or in the over-the-counter market, where verbal quotes and manual quotes are defined as bids or offers in Eligible Securities provided verbally or that are provided or received other than via a CAT Reporter's order handling and execution system (*e.g.*, quotations provided via email or instant messaging).¹²³

The Quarterly Progress Report for the fourth quarter of 2021 states that "Phase 2a was fully implemented as of October 26, 2020;" "Phase 2b was fully implemented as of January 4, 2021;" "Phase 2c was implemented as of April 26, 2021;" and "Phase 2d was fully implemented as of December 13, 2021."¹²⁴ The Quarterly Progress Reports for 2021 provide additional detail regarding the implementation of these steps including the following:

- "Production Go-Live for Equities 2c reporting requirements (Large Industry Members)" was completed on April 26, 2021;
- "LTID Account Information Reporting Go-Live for Phases 2a, 2b and 2c (Large Industry Members)" was completed on April 26, 2021;
- "FCAT Plan Processor creates linkages of the lifecycle of order events based on the received data through Phase 2d Production Go-Live for Options 2d reporting requirements (Large Industry Members)" was completed on December 13, 2021;
- "Production Go-Live for Options 2d reporting requirements (Large Industry Members)" was completed on December 13, 2021;
- "Production Go-Live for Options 2b reporting requirements (Small OATS Reporters and Small Non-OATS Reporters)" was completed on December 13, 2021;
- "Production Go-Live for Equities 2c reporting requirements (Small OATS Reporters and Small Non-OATS Reporters)" was completed on December 13, 2021;
- "Production Go-Live for Options 2d reporting requirements (Small OATS Reporters and Small Non-OATS Reporters)" was completed on December 13, 2021;
- "LTID Account Information Reporting Go-Live for Phases 2d (Large Industry Members)" was completed on December 13, 2021; and
- "LTID Account Information Reporting Go-Live for Phases 2a, 2b, 2c

and 2d (Small Industry Members)" was completed on December 13, 2021.¹²⁵

The third prong of "Full Availability and Regulatory Utilization of Transactional Database Functionality" also imposes an Error Rate requirement of 5% or less. The Quarterly Progress Report for the fourth quarter of 2021 states the average overall error rate was less than 5% as of December 31, 2021. The average overall error rate was calculated by dividing the compliance errors by processed records.

The fourth prong of "Full Availability and Regulatory Utilization of Transactional Database Functionality" requires that the data collected by the CAT at this stage be made available to regulators through an online targeted query tool and a user-defined direct query tool. As CAT LLC reported on its Quarterly Progress Report for the fourth quarter of 2021, the query tool functionality incorporating the data from Phases 2a, 2b, 2c and 2d was available to the Participants and to the Commission as of December 31, 2021.¹²⁶

The fifth prong requires the requirements of Section 6.10(a) of the CAT NMS Plan to have been met. Section 6.10(a) of the CAT NMS Plan requires the Participants to use the tools described in Appendix D to "develop and implement a surveillance system, or enhance existing surveillance systems, reasonably designed to make use of the consolidated information contained in the Central Repository." The Exchange implemented a surveillance system, or enhanced existing surveillance systems, reasonably designed to make use of the consolidated information contained in the Central Repository as of December 31, 2021 in accordance with Section 6.10(a) of the CAT NMS Plan.¹²⁷

The Commission has determined that the Participants have sufficiently complied with the conditions set forth in the 2020 Orders and with the technical requirements for Quarterly Progress Reports set forth in Section 6.6(c) of the CAT NMS Plan for purposes of determining compliance with this FAM.¹²⁸

As discussed above, the remaining Historical CAT Costs 1 to be recovered via Historical CAT Assessment 1A would include fees, costs and expenses

¹²⁵ See Q2 2021 Quarterly Progress Report (July 27, 2021); and Q4 2021 Quarterly Progress Report (Jan. 17, 2022).

¹²⁶ See Q4 2021 Quarterly Progress Report (Jan. 17, 2022).

¹²⁷ See Q1 2021 Quarterly Progress Report (Apr. 30, 2021); Q2 2021 Quarterly Progress Report (July 27, 2021); Q3 2021 Quarterly Progress Report (Nov. 1, 2021); and Q4 2021 Quarterly Progress Report (Jan. 17, 2022).

¹²⁸ Settlement Exemptive Order at 77129 n.13.

¹²³ *Id.* at 23079–80.

¹²⁴ See Q4 2021 Quarterly Progress Report (Jan. 17, 2022).

¹²² *Id.*

incurred by or for the Company in connection with the development, implementation and operation of the CAT during the period from January 1, 2021 through December 31, 2021. The total costs for this period, as discussed above, are \$144,415,268. Participants would remain responsible for one-third of this cost (which they have previously paid), and Industry Members would be responsible for the remain two-thirds, with CEBBs paying one-third (\$48,138,422.70) and CEBBs paying one-third (\$48,138,422.70) through Historical CAT Assessment 1A and Historical CAT Assessment 1A.

(D) Additional Considerations Related to the Financial Accountability Milestones

As discussed above, CAT LLC has satisfied the Financial Accountability Milestones (“FAMs”) for Periods 1 through 3.¹²⁹ As discussed below, none of the circumstances related to NIA Electronic RFQ Responses, the 2023 Verbal Quotes Exemption, the November 2023 Order, or Executing Broker reporting, affect the conclusion that the FAMs for Periods 1 through 3 were satisfied in a timely fashion.

(i) NIA Electronic RFQ Responses

CAT LLC does not believe that the exemptive relief relating to the reporting of electronic responses for quotes (“RFQs”) that are not immediately actionable (“NIA Electronic RFQ Responses”) affect the conclusion that FAMs 1 through 3 have been satisfied. The only reason CAT LLC pursued this relief is because certain Industry Members introduced concerns that NIA Electronic RFQ Responses could be considered “orders” reportable pursuant to Rule 613(j)(8) and some Industry Members were not prepared to report such orders to CAT. Thus, the relief was requested on behalf of Industry Members. CAT LLC itself has not taken any position on whether NIA Electronic RFQ Responses are “orders,” as the definition of “order” is an SEC rule and the trading processes for NIA Electronic RFQ Responses are the Industry Members’, not those of the Participants or CAT LLC. Accordingly, CAT LLC stated in its letter that “Industry Members must determine whether trading interest falls within the definition of an ‘order’ for CAT

purposes. To the extent an NIA Electronic RFQ Response is not considered an ‘order’ as defined in Rule 613(j)(8) and the CAT NMS Plan, it would not be reportable to CAT.”¹³⁰

Only “orders” as defined in SEC Rule 613(j)(8) are reportable to CAT. There is no agreement across the industry or among regulators as to whether NIA Electronic RFQ Responses are “orders” reportable to CAT. Certain Industry Members have raised the question as to whether NIA Electronic RFQ Responses are orders, but others have argued that they are not orders under Rule 613(j)(8).¹³¹ Indeed, members of the Advisory Committee, which CAT LLC relies upon for guidance with regard to Industry Member issues, have not had a definitive view on whether NIA Electronic RFQ Responses are orders. As Rule 613(j)(8) is an SEC rule, CAT LLC believes that only the SEC can provide a definitive determination as to if, and under what circumstances, an NIA Electronic RFQ Response is considered an “order” reportable to CAT. The issue has persisted for some time. As a result, CAT LLC filed an exemptive request regarding NIA Electronic RFQ Responses for clarity on the interpretive issue. As recently as April 2024, Industry Members have re-raised this issue stating that the SEC agrees that it must provide additional guidance on this interpretive issue to resolve the CAT reporting issue for NIA Electronic RFQ Responses:

As further discussed in the prior FIF letters, even if the Commission had the legal authority to require the reporting of NIA RFQ responses to CAT without an amendment to Rule 613, the Commission has not provided guidance to industry members as to the conditions under which NIA RFQ responses would be reportable to CAT. In subsequent discussions with industry members, Commission representatives have agreed that, prior to NIA RFQ responses being reportable to CAT, it would be necessary for the Commission to provide further guidance to industry members as to the conditions under which NIA RFQ responses would be reportable to CAT.¹³²

On May 20, 2024, the Commission granted CAT LLC’s request for exemptive relief from certain CAT reporting requirements pertaining to NIA Electronic RFQ Responses to the extent such responses are considered “orders” reportable pursuant to Rule

613(j)(8).¹³³ The Commission, however, did not provide additional guidance regarding the conditions under which NIA Electronic RFQ Responses would be reportable to CAT. The Commission stated in its exemptive order that “[t]o the extent that the Participants are availing themselves of exemptive relief from a CAT NMS Plan requirement, such requirement shall not be included in the requirements for the Financial Accountability Milestones, provided that any conditions of the exemption are satisfied.”¹³⁴

When the Commission proposed the FAMs, the Participants expressed concern that, “by conditioning the ability of CAT LLC and the Participants to collect Post-Amendment Industry Member Fees on factors dependent on the efforts of Industry Members, the Commission’s proposals inadvertently establish a perverse incentive for Industry Members to devote less than maximum efforts to comply with their obligations related to the CAT as they will pay less fees in such instances.”¹³⁵ The Participants further warned that “Industry Members may request or require unanticipated reporting delays to address Industry Member implementation issues or concerns,” but that, “[f]aced with financial penalties for missed deadlines, the Participants may not be able to fully address legitimate industry concerns or accommodate requests for delays with respect to future deadlines.”¹³⁶ CAT LLC has engaged in good faith to help address NIA Electronic RFQ Responses and other concerns relevant to the ability of Industry Members to meet their CAT reporting obligations. CAT LLC should not be penalized financially for seeking in good faith to resolve a difficult interpretive issue for the benefit of Industry Members.

(ii) 2023 Verbal Quotes Exemption

CAT LLC does not believe that the Commission’s May 19, 2023 order granting temporary exemptive relief relating to certain verbal floor activity and unstructured verbal and electronic upstairs activity (the “2023 Verbal Quotes Exemption”) affects the conclusion that FAMs 1 through 3 have been satisfied. The 2023 Verbal Quotes Exemption, which was issued on May 19, 2023, is not relevant for purposes of FAM Periods 1 through 3, which only

¹²⁹ In May 2020, the Commission adopted amendments to the CAT NMS Plan that establish four Financial Accountability Milestones and set target deadlines by which these milestones must be achieved. These amendments also reduce the amount of any fees, costs, and expenses that may be recovered from Industry Members if the Participants fail to meet the target deadlines. FAM Adopting Release.

¹³⁰ See Letter from Brandon Becker, Chair, CAT NMS Plan Operating Committee to Vanessa Countryman, Secretary, Commission (Feb. 13, 2024) at 2.

¹³¹ See, e.g., Letter from Howard Meyerson, Managing Director, FIF, to Sai Rao, Counsel for Trading and Markets, Office of the Chair (Apr. 25, 2024).

¹³² *Id.*

¹³³ Securities Exchange Act Rel. No. 100181 (May 20, 2024), 89 FR 45715 (May 23, 2024).

¹³⁴ *Id.* at n.11.

¹³⁵ See Letter from Michael Simon, CAT NMS Plan Operating Committee Chair, to Vanessa Countryman, Secretary, Commission at 9 (Oct. 28, 2019).

¹³⁶ *Id.* at 10.

cover the period through December 31, 2021. The relevant exemption for this time period is the Commission's November 12, 2020 order, which granted relief for the same activity through July 31, 2023 (the "2020 Verbal Quotes Order").¹³⁷ The Commission has stated that, "to the extent that the Participants are availing themselves of exemptive relief from a CAT NMS Plan requirement, such requirement shall not be included in the requirements for a Financial Accountability Milestone, provided that the conditions of the exemption are satisfied."¹³⁸ Here, the 2020 Verbal Quotes Order was in effect and the conditions of the exemption were satisfied as of December 31, 2021, and therefore may be relied upon for purposes of determining compliance with FAM Periods 1 through 3.¹³⁹

(iii) November 2023 Order

CAT LLC does not believe that the Commission's November 2, 2023 order granting relief from certain CAT NMS Plan requirements (the "November 2023 Order") affects the conclusion that FAMs 1 through 3 have been satisfied. The November 2023 Order is not relevant for purposes of FAM Periods 1 through 3, which only cover the period through December 31, 2021. As described in the November 2023 Order, the relevant exemptive orders for this time period were issued on December 16, 2020, which also states that "the Commission has determined that the Participants have sufficiently complied with the conditions set forth in the prior Orders and with the technical requirements for Quarterly Progress Reports set forth in section 6.6(c) of the CAT NMS Plan, including for purposes of determining compliance with any applicable Financial Accountability

Milestones."¹⁴⁰ The November 2023 Exemption Order is consistent with the Commission's repeated statements in the FAM adopting release that it would have "authority to grant exemptive relief from any requirement associated with a particular Financial Accountability Milestone," citing Section 36 of the Exchange Act and Rule 608.¹⁴¹ Similarly, the CAT NMS Plan expressly contemplates the Commission's ability to grant exemptive relief from any CAT NMS Plan requirement.¹⁴²

(iv) Executing Broker Reporting

CAT LLC also completed the requirements of FAM Period 2, including the required linkages, by December 31, 2020. Although Participant exchanges may report the Executing Broker to CAT differently in certain situations, these reporting differences are irrelevant for linkage purposes as the fields used for CAT Executing Broker are not used for linkage.

(10) Additional Support for Reasonableness of Historical CAT Costs

The CAT Funding Model approved by the Commission permits the recovery of reasonable costs in each of the categories of CAT costs sought to be recovered via Historical CAT Assessment 1A.¹⁴³ As described in detail above and in further detail below, the CAT costs to be recovered for each category are reasonable. The following discusses in further detail how each of the following costs are reasonable: (1) costs incurred prior to the effective date of the CAT NMS Plan; (2) cloud hosting

services costs; (3) costs related to funding model filings; (4) costs related to litigation with the SEC regarding the CAT NMS Plan; (5) costs related to the Initial Plan Processor; (6) CAIS implementation costs; (7) public relations costs; (8) legal costs related to the limitation of liability provision in the CAT Reporter agreements; and (9) costs for the Chair of CAT Operating Committee. As discussed in detail below, each of these costs is reasonable and should be recoverable in accordance with the CAT Funding Model.

(A) Costs Incurred Prior to the Effective Date of CAT NMS Plan

CAT LLC believes that it is reasonable to seek recovery of costs incurred prior to when the CAT NMS Plan became effective in November 2016, such as legal and consulting fees incurred to create the CAT NMS Plan. Rule 613 specifically mandates that the CAT be created, implemented and maintained, and further provides that the CAT NMS Plan include a proposed allocation of estimated costs to fund the creation, implementation and maintenance of the CAT among the Participants (referred to as "plan sponsors"), and between the Participants and Industry Members (referred to as "members of the plan sponsors").¹⁴⁴ Consistent with Rule 613, the CAT NMS Plan, as approved by the Commission, specifically authorizes charging Industry Members fees for costs reasonably incurred prior to the date of the approval of the CAT NMS Plan by the Commission in November 2016, including legal and consulting costs. Section 11.1(c) of the CAT NMS Plan states that:

[i]n determining fees on Participants and Industry Members the Operating Committee shall take into account fees, costs and expenses (including legal and consulting fees and expenses) reasonably incurred by Participants on behalf of the Company prior to the Effective Date in connection with the creation and implementation of the CAT.

Accordingly, the CAT NMS Plan specifically permits the recovery of costs, including legal and consulting costs, reasonably incurred prior to November 2016 in connection with the creation and implementation of the CAT.

Furthermore, the costs incurred to create and implement the CAT prior to the effective date of the CAT NMS Plan ("Pre-Formation Costs") were reasonable both in scope and amount, in accordance with the requirements of Section 11.1(c) of the CAT NMS Plan.

¹⁴⁴ See, e.g., Rule 613(a)(1)(vii)(D) of the CAT NMS Plan.

¹³⁷ Securities Exchange Act Rel. No. 90405, 85 FR 73544 (Nov. 18, 2020) (the "2020 Verbal Quotes Exemption").

¹³⁸ See, e.g., Securities Exchange Act Rel. No. 89051 (June 11, 2020), 85 FR 36631, 36633 (June 17, 2020). The straightforward reading of the Commission's statement is that compliance with the conditions of an exemption will be measured as of the deadline for a particular FAM Period.

¹³⁹ As a condition to the 2020 Verbal Quotes Exemption, the Commission required that the Participants provide a written status update on the reporting of these quotes and orders by July 31, 2022, including the estimated costs of reporting these quotes and orders and an implementation plan for the reporting of these quotes and orders. As noted, the 2020 Verbal Quotes Order was in effect and the conditions of the exemption were satisfied as of December 31, 2021, and therefore may be relied upon for purposes of determining compliance with FAM Periods 1 through 3. In any event, on June 3, 2022, the Participants provided the required written status update. See Letter from Michael Simon, CAT NMS Plan Operating Committee Chair, to Vanessa Countryman, Secretary, Commission (June 3, 2022).

¹⁴⁰ *Id.* at 77129 n.12.

¹⁴¹ FAM Adopting Release at 31335 (May 22, 2020). Section 36 of the Exchange Act grants the Commission the authority to "conditionally or unconditionally exempt any person, security, or transaction . . . from any provision or provisions of [the Exchange Act] or of any rule or regulation thereunder, to the extent that such exemption is necessary or appropriate in the public interest, and is consistent with the protection of investors." 15 U.S.C. 78mm(a)(1). Under Rule 608(e) of Regulation NMS, the Commission may "exempt from [Rule 608], either unconditionally or on specified terms and conditions, any self-regulatory organization, member thereof, or specified security, if the Commission determines that such exemption is consistent with the public interest, the protection of investors, the maintenance of fair and orderly markets and the removal of impediments to, and perfection of the mechanism of, a national market system." 17 CFR 242.608(e).

¹⁴² Section 12.3 of the CAT NMS Plan ("[T]o the extent the SEC grants exemptive relief applicable to any provision of this Agreement, Participants and Industry Members shall be entitled to comply with such provision pursuant to the terms of the exemptive relief so granted at the time such relief is granted irrespective of whether this Agreement has been amended.")

¹⁴³ See Sections 11.1(a)(i) and 11.3(b)(iii)(B)(II) of the CAT NMS Plan.

During the four-year period from 2012 to 2016, a total of \$13,842,881 in Pre-Formation Costs were incurred. This is an average of approximately \$3.5 million per year over this period. The Pre-Formation Costs fell into three categories: legal costs, consulting costs and public relations costs. This includes legal costs of \$3,196,434; consulting costs of \$10,589,273; and public relations costs of \$57,174. The legal, consulting and public relations services were performed by WilmerHale, Deloitte and Peppercomm, respectively. The selection considerations and fees for these three firms are described in detail above and are described further below. The Pre-Formation Costs are direct costs of CAT, which have been funded entirely by the Participants through non-interest-bearing notes. The Pre-Formation Costs do not include the significant costs incurred by each of the individual Participants in responding to the adoption of Rule 613.

The Pre-Formation Costs are reasonable and appropriate as they reflect the extensive efforts that were necessary to create the CAT NMS Plan as mandated after the SEC's adoption of Rule 613. As described in more detail below, these efforts included, among other things, developing a plan for selecting the Plan Processor, soliciting and evaluating bids, engaging a diverse set of market participants and the SEC in the development of the Plan, interacting with the SEC in their oversight of the development of the Plan, and seeking appropriate exemptive relief to address areas of concern in Rule 613.¹⁴⁵

(i) Request for Proposal ("RFP")

The Participants determined to utilize an RFP to ensure that potential alternative solutions for creating the Plan could be presented and considered, and that a detailed and meaningful cost-benefit analysis could be performed. The SEC supported the use of an RFP, and approved its use as it is described in extensive detail in the CAT NMS Plan.¹⁴⁶

In the context of the SEC's adoption of Rule 613, commenters urged the

Commission to utilize an RFP process to assist in the planning and design of the NMS plan.¹⁴⁷ Specifically, the Commission explained:

In this regard, several commenters suggested that the Commission undergo a RFP or request for information ("RFI") process to create and implement a consolidated audit trail. Specifically, FIF urged the Commission to perform a RFP process "to determine the best technical solution for developing a consolidated audit trail." FIF suggested that the Commission "should outline a set of goals and guiding principles they are striving to achieve as part of the adopted CAT filing and leave the determination of data elements and other technical requirements to [an] industry working group." Similarly, Direct Edge suggested that Commission staff should form and engage in a working group to develop an RFP for publication by the Commission. DirectEdge explained that an RFP process would facilitate the identification of the costs and benefits of the audit trail, as well as the consideration of a wider range of technological solutions. Further, commenters, including Broadridge Financial Solutions, Inc., a technology provider, also requested more specific information about the audit trail system to better assess the Commission's initial cost estimates and to determine the best approach to the consolidated audit trail.¹⁴⁸

In response to these comments, the Commission modified Rule 613 to require the Participants to address certain important considerations regarding the features and details of the NMS plan and to extend the timeframe for submission of the CAT NMS Plan by the Participants from the 90 days as originally proposed to 270 days, in part, to accommodate a process that would address these considerations.¹⁴⁹ As the SEC noted, "[i]n light of the numerous specific requirements of Rule 613, the Participants concluded that publication of a request for proposal ('RFP') was necessary to ensure that potential alternative solutions to creating the consolidated audit trail can be presented and considered by the Participants and that a detailed and meaningful cost/benefit analysis can be performed, both of which are required considerations to be addressed in the CAT NMS Plan."¹⁵⁰

The SEC specifically recognized that the Participants planned to use an RFP when it approved the Selection Plan, and stated that the RFP was a reasonable

approach.¹⁵¹ As the SEC described in its approval order for the Selection Plan, "[t]he Participants filed the [Selection] Plan to govern how the SROs will proceed with formulating and submitting the CAT NMS Plan—and, as part of that process, how to review, evaluate, and narrow down the bids submitted in response to the RFP ('Bids')—and ultimately choosing the plan processor that will build, operate, and maintain the consolidated audit trail ('Plan Processor')."¹⁵² After evaluating the Selection Plan, including the use of an RFP process, the Commission stated that it "believes the [Selection] Plan is reasonably designed to govern the process by which the SROs will formulate and submit the CAT NMS Plan, including the review, evaluation, and narrowing down of Bids in response to the RFP, and ultimately choosing the Plan Processor that will build, operate, and maintain the consolidated audit trail."¹⁵³

On February 26, 2013, the Participants published an RFP soliciting bids from parties interested in serving as the plan processor for the CAT. Initially, 31 firms submitted intentions to bid. In the following months, the Participants engaged with potential bidders with respect to, among other things, the selection process, selection criteria, and potential bidders' questions and concerns. On March 21, 2014, the Participants received ten bids in response to the RFP.

(ii) Selection Plan

On September 4, 2013, the Participants filed with the Commission a national market system plan to govern the process for Participant review of the bids submitted in response to the RFP, the procedures for evaluating the bids, and, ultimately, selection of the plan processor (the "Selection Plan").¹⁵⁴ The Commission approved the Selection Plan as filed on February 21, 2014.¹⁵⁵ In approving the Selection Plan, the Commission concluded that "it is reasonably designed to achieve its objective of facilitating the development of the CAT NMS Plan and the selection of the Plan Processor."¹⁵⁶

The Selection Plan divided the review and evaluation of bids, and the selection of the plan processor, into various stages. Specifically, pursuant to the Selection Plan, a selection committee reviewed all bids and determined which

¹⁴⁵ The Participants described in detail the process for drafting the CAT NMS Plan in its original filing of the CAT NMS Plan. See Letter from Mike Simon, on behalf of the Participants of the CAT NMS Plan, to Brent J. Fields, Secretary, Commission (Sept. 30, 2014). A non-exclusive list of filings and activities associated with CAT, including certain pre-2016 filings, are available on the SEC's website: <https://www.sec.gov/divisions/marketreg/rule613-info>.

¹⁴⁶ See detailed discussion of RFP questions in Appendix C of the CAT NMS Plan, and incorporation of RFP requirements in Appendix D at D-2.

¹⁴⁷ For example, in its comments on proposed Rule 613, FIF suggested "that the SROs should select the processor through a 'request for proposal.'" Rule 613 Adopting Release at 45785.

¹⁴⁸ Rule 613 Adopting Release at 45738–39.

¹⁴⁹ Rule 613 Adopting Release at 45739.

¹⁵⁰ Securities Exchange Act Rel. No. 71596 (Feb. 21, 2014), 79 FR 11152, 11152 (Feb. 27, 2014) ("Selection Plan Approval Order").

¹⁵¹ *Id.*

¹⁵² *Id.* at 11153.

¹⁵³ *Id.* at 11159.

¹⁵⁴ See Securities Exchange Act Rel. No. 70892 (Nov. 15, 2013), 78 FR 69910 (Nov. 21, 2013).

¹⁵⁵ See Selection Plan Approval Order.

¹⁵⁶ Selection Plan Approval Order at 11160.

bids contained sufficient information to allow the Participants to meaningfully assess and evaluate the bids. The ten submitted bids were deemed “Qualified Bids,” and so passed to the next stage, in which each bidder presented its bids to the Participants on a confidential basis. On July 1, 2014, after conducting careful analysis and comparison of the bids, the Selection Committee voted and selected a shortlist of six eligible bidders. The Selection Committee determined which shortlisted bidders would be provided the opportunity to revise their bids. After the Selection Committee assessed and evaluated the revised bids, the Selection Committee selected the plan processor via two rounds of voting by the Participants, as described in the Selection Plan.

The Selection Plan established an Operating Committee responsible for formulating, drafting, and filing with the Commission the CAT NMS Plan and for ensuring that the Participants’ joint obligations under Rule 613 were met in a timely and efficient manner. In formulating the CAT NMS Plan, the Participants also engaged multiple persons across a wide range of roles and expertise, engaged the consulting firm Deloitte as project manager, and engaged the law firm WilmerHale to serve as legal counsel in drafting the Plan. Within this structure, the Participants focused on, among other things, comparative analyses of the proposed technologies and operating models, development of funding models to support the building and operation of the CAT, and detailed review of governance considerations. Given the complexity and scope of developing the CAT NMS Plan, these efforts were extensive.

When it approved the CAT NMS Plan in 2016, the Commission reiterated its belief that the Selection Plan remains a “reasonable approach,” that “the competitive bidding process to select the Plan Processor is a reasonable and effective way to choose a Plan Processor,” and that “the process set forth in the Selection Plan should be permitted to continue”:

In approving the Selection Plan, the Commission stated that the Selection Plan is reasonably designed to achieve its objective of facilitating the development of the CAT NMS Plan and the selection of the Plan Processor. The Commission also found that the Selection Plan is reasonably designed to govern the process by which the SROs will formulate and submit the CAT NMS Plan, including the review, evaluation, and narrowing down of Bids in response to the RFP, and ultimately choosing the Plan Processor that will build, operate, and maintain the consolidated audit trail. The Commission believes that the process set out

in the Selection Plan for selecting a Plan Processor remains a reasonable approach, which will facilitate the selection of Plan Processor through a fair, transparent and competitive process and that no modifications to the Selection Plan are required to meet the approval standard. . . . In response to the comment that offered support for a specific Bidder, the Commission agrees with the Participants that the competitive bidding process to select the Plan Processor is a reasonable and effective way to choose a Plan Processor and thus believes that the process set forth in the Selection Plan should be permitted to continue.¹⁵⁷

(iii) Engagement With Market Participants and SEC

During the process of developing the CAT NMS Plan, the Participants engaged in extensive and meaningful dialogue with market participants and the SEC. To this end, the Participants created a website to update the public on the progress of the CAT NMS Plan, published a request for comment on multiple issues related to the Plan, held multiple public events to inform the industry of the progress of the CAT and to address inquiries, and formed, and later expanded, a DAG to solicit more input from a representative industry group.¹⁵⁸

The DAG included representatives of Participants and Industry Members and conducted meetings to discuss, among other things, technical and operational aspects the Participants were considering for the Plan. The Participants issued press releases soliciting participants for the DAG, and a wide spectrum of firms was deliberately chosen to provide insight from various industry segments affected by CAT. The DAG meetings included discussions of topics such as option market maker quote reporting, requirements for capturing Customer IDs, timestamps and clock synchronization, reporting requirements for order handling scenarios, costs and funding, error handling and corrections, and potential elimination of systems made redundant by the CAT. From the inception of the DAG through September 2014, the DAG participated in 36 meetings, as well as a variety of DAG subcommittee meetings.

(iv) Request for Exemption From Certain Requirements Under Rule 613

Following multiple discussions between the Participants and both the DAG and the bidders, as well as among the Participants themselves, the Participants recognized that some

provisions of Rule 613 would not permit certain solutions to be included in the Plan that the Participants, in coordination with the DAG, determined advisable to effectuate the most efficient and cost-effective CAT. Specifically, “the SROs reached the conclusion that additional flexibility in certain of the minimum requirements specified in Rule 613 would allow them to propose a more efficient and cost-effective approach without adversely affecting the reliability or accuracy of CAT Data, or its security and confidentiality.”¹⁵⁹ Consequently, the Participants submitted a request for exemptive relief from certain provisions of Rule 613 regarding: (1) options market maker quotes; (2) Customer-IDs; (3) CAT-Reporter-IDs; (4) CAT-Order-IDs on allocation reports; and (5) timestamp granularity.¹⁶⁰ The Participants filed two supplements to the request for exemptive relief.¹⁶¹

After reviewing the exemptive request, the Commission determined that it was appropriate in the public interest and consistent with the protection of investors to grant the requested exemptive relief.¹⁶² In granting the exemptive relief, the Commission stated:

[T]he Commission is persuaded to provide flexibility in the discrete areas discussed in the Exemption Request so that the alternative approaches can be included in the CAT NMS Plan and subject to notice and comment. Doing so could allow for more efficient and cost-effective approaches than otherwise would be permitted. The Commission at this stage is not deciding whether the proposed approaches detailed below are more efficient or effective than those in Rule 613. However, the Commission believes the proposed approaches should be within the permissible range of alternatives available to the SROs.¹⁶³

The Commission further stated that the requested exemptive relief is consistent with the protection of investors. The Commission noted that:

Doing so will provide the public an opportunity to consider and comment on whether these proposed alternative approaches would indeed be more efficient and cost-effective than those otherwise required by Rule 613, and whether such approaches would adversely affect the reliability or accuracy of CAT Data or

¹⁵⁹ Securities Exchange Rel. No. 77265 (Mar. 1, 2016), 81 FR 11856 (Mar. 7, 2016) (“2016 Exemptive Order”).

¹⁶⁰ Letter from Robert Colby, FINRA, on behalf of the SROs, to Brent J. Fields, Secretary, Commission (Jan. 30, 2015).

¹⁶¹ See Letter from Robert Colby, FINRA, on behalf of the SROs, to Brent J. Fields, Secretary, Commission (Apr. 3, 2015); Letter from the SROs to Brent J. Fields, Secretary, Commission (Sept. 2, 2015).

¹⁶² See 2016 Exemptive Order.

¹⁶³ *Id.* at 11857.

¹⁵⁷ See CAT NMS Plan Approval Order at 84737.

¹⁵⁸ See Section D(11) of Appendix C of the CAT NMS Plan.

otherwise undermine the goals of Rule 613. Moreover, if—as the SROs represent—efficiency gains and cost savings would result from including the proposed approaches in the CAT NMS Plan without adverse effects, then the resultant benefits could potentially flow to investors (*e.g.*, lower broker-dealer reporting costs resulting in fewer costs passed on to Customers).¹⁶⁴

The Participants incorporated the exemptive relief into the proposed CAT NMS Plan, which was noticed for comment, and the Commission ultimately approved the CAT NMS Plan with the more efficient and cost-effective alternative approaches described in the exemptive relief. Accordingly, the Participants believe that the costs incurred in developing the exemptive request were critical to the creation of a better CAT than was originally contemplated by Rule 613, and therefore should be recoverable as part of Historical CAT Assessment 1A.

(v) Request for Extensions for Filing the CAT NMS Plan

Rule 613(a)(1) under Regulation NMS required the Participants to jointly file the CAT NMS Plan on or before April 28, 2013, less than a year after the adoption of Rule 613. In recognition of the complexity of the project to create the CAT NMS Plan as well as industry interest in limiting or eliminating certain requirements of Rule 613 (*e.g.*, addressing the reporting of options market maker quotes), the Participants requested two extensions of the deadline to file the CAT NMS Plan. The Participants described the need for additional time as follows:

The SROs stated in their Request Letter that they do not believe that the 270-day time period provided for in Rule 613(a)(1) provides sufficient time for the development of the RFP, formulation and submission of bids, and review and evaluation of such bids. The SROs also stated that they believe additional time beyond the 270 days provided for in Rule 613(a)(1) is necessary in order to provide sufficient time for effective consultation with and input from the industry and the public on the proposed solution chosen by the SROs for the creation of the consolidated audit trail at the conclusion of the RFP process and the NMS plan itself.¹⁶⁵

In recognition of the need for additional time to refine the technical description of and requirements for the CAT and to allow for additional evaluation of the proposed cost and funding considerations, the SEC granted

two extensions of this deadline.¹⁶⁶ The SEC determined that both extensions were appropriate, in the public interest, and consistent with the protection of investors.¹⁶⁷ In reaching this conclusion, the Commission stated that “it understands that the creation of a consolidated audit trail is a significant undertaking and that a proposed NMS plan must include detailed information and discussion about many things.”¹⁶⁸ The SEC also noted the following:

This additional time to complete the RFP process should allow the SROs to engage in a more thoughtful and comprehensive process for the development of an NMS plan. In this regard, the Commission notes that the additional time to solicit comment from the industry and the public at certain key points in the development of the NMS plan could identify issues that can be resolved earlier in the development of the consolidated audit trail and prior to filing the NMS plan with the Commission.¹⁶⁹

Given the Commission’s recognition of the reasonableness and value of the extension of the deadline to file the CAT NMS Plan, the Participants believe that the costs incurred in developing the extension request were important to the process of developing the CAT NMS Plan, and therefore should be recoverable as part of Historical CAT Assessment 1A.

(vi) Submission and Approval of the CAT NMS Plan

After extensive analyses and discussions with the DAG, bidders, market participants and the SEC staff, the Participants finalized the draft of the CAT NMS Plan and filed the CAT NMS Plan with the SEC on September 30, 2014. Following additional discussions, the Participants filed several amendments to the CAT NMS Plan during 2015 and 2016. With these additional changes, the SEC published the CAT NMS Plan for notice and comment in May 2016.¹⁷⁰ Following the comment period, the SEC approved the Plan in November 2016.¹⁷¹

(vii) Legal Costs Incurred Prior to the Effective Date of the CAT NMS Plan

The Pre-Formation Costs include legal costs of \$3,196,434. The legal services

were performed by WilmerHale. The selection considerations and fees for WilmerHale were described in detail above. Prior to the creation of CAT LLC, WilmerHale was engaged to represent the consortium of SROs, not the individual Participants. For administrative purposes, FINRA agreed to receive such legal bills, although such costs were shared among the Participants. Therefore, the legal costs incurred with respect to WilmerHale do not include legal costs incurred by the individual Participants. These pre-formation legal costs are described in detail above and are further described below:

- Analyzed various legal matters associated with the Selection Plan and drafted an amendment to Selection Plan;
- Assisted with the RFP and bidding process for the CAT Plan Processor;
- Analyzed legal matters related to the DAG;
- Drafted the CAT NMS Plan, analyzed various items related to the CAT NMS Plan, and responded to comment letters on the CAT NMS Plan;
- Provided legal support for the formation of the legal entity, the governance of the CAT, including governance support prior to the adoption of the CAT NMS Plan, which involved support for the full committee of exchanges and FINRA as well as subcommittees of this group (*e.g.*, Joint Subcommittee Group, Technical, Industry Outreach, Cost and Funding, and Other Products) and the DAG, and governance support during the transition to the new governance structure under the CAT NMS Plan;
- Drafted exemptive requests;
- Provided interpretations related to the CAT NMS Plan;
- Provided support with regard to discussions among the exchanges, FINRA and other third parties, such as Deloitte;
- Provided tax advice with regard to CAT’s status as a tax-exempt organization; and
- Provided support with regard to discussions with the SEC and its staff, including with respect to addressing interpretive and implementation issues.

(viii) Consulting Costs Incurred Prior to the Effective Date of the CAT NMS Plan

The Pre-Formation Costs include consulting costs of \$10,589,273. The consulting services were performed by Deloitte. The selection considerations and fees for Deloitte were described in detail above. Prior to the creation of CAT LLC, for administrative purposes, Deloitte was engaged by FINRA to provide consulting services related to

¹⁶⁴ *Id.*

¹⁶⁵ Securities Exchange Act Rel. No. 69060 (Mar. 7, 2013), 78 FR 15771, 15772 (Mar. 12, 2013) (“March 2013 Exemptive Order”).

¹⁶⁶ See March 2013 Exemptive Order; Securities Exchange Act Rel. No. 71018 (Dec. 6, 2013), 78 FR 75669 (Dec. 12, 2013) (“December 2013 Exemptive Order”).

¹⁶⁷ March 2013 Exemptive Order at 15772; December 2013 Exemptive Order at 75670.

¹⁶⁸ March 2013 Exemptive Order at 15772.

¹⁶⁹ *Id.* at 15773.

¹⁷⁰ See Securities Exchange Act Rel. No. 77724 (Apr. 27, 2016), 81 FR 30614 (May 17, 2016).

¹⁷¹ See CAT NMS Plan Approval Order.

CAT, but the costs were shared by the consortium of SROs per agreement. Therefore, the consulting costs incurred with respect to Deloitte do not include consulting costs incurred by the individual Participants. The pre-formation consulting costs include the following:

- Established and implemented program operations for the CAT project, including the program management office and workstream design;
- Assisted with the Plan Processor selection process, including but not limited to, the development of the RFP and the bidder evaluation process, and facilitation and consolidation of the Participants' independent reviews;
- Assisted with the development and drafting of the CAT NMS Plan, including conducting cost-benefit studies, reviewing technical requirements of other NMS plans, analyzing OATS and CAT requirements, and drafting appendices to the Plan;
- Provided governance support to the CAT, including governance support prior to the adoption of the CAT NMS Plan, which involved support for the full committee of exchanges and FINRA as well as subcommittees of this group (e.g., Joint Subcommittee Group, Technical, Industry Outreach, Cost and Funding, and Other Products) and the DAG;
- Provided support for updating the SEC on the progress of the development of the CAT;
- Provided support for industry outreach sessions, including with regard to program design and agenda development, program support and logistics and coordination; and
- Provided support in fact finding, drafting content and meeting coordination for WilmerHale with regard to the CAT and the development of the CAT NMS Plan.

Such Pre-Formation Costs did not include costs related to the Chair of the CAT NMS Plan Operating Committee, as the CAT NMS Plan had not yet been adopted.

(ix) Public Relations Costs Incurred Prior to the Effective Date of the CAT NMS Plan

The Pre-Formation Costs include public relations costs of \$57,174. The public relations services were performed by Peppercomm. The selection considerations and fees for Peppercomm are described in detail above. The costs related to Peppercomm were shared among the SROs. Therefore, the public relations costs do not include public relations costs incurred by the individual Participants. The pre-formation public relations costs include

services related to communications with the public regarding the CAT, including monitoring developments related to the CAT (e.g., congressional efforts, public comments and reaction to proposals, press coverage of the CAT), reporting such developments to CAT LLC, and drafting and disseminating communications to the public regarding such developments as well as reporting on developments related to the CAT.

(B) Cloud Hosting Services

In approving the CAT Funding Model, the Commission recognized that it is appropriate to recover reasonable costs related to cloud hosting services as a part of Historical CAT Assessments. CAT LLC believes that the costs related to cloud hosting services described in detail above are reasonable and appropriate given the strict data processing timelines and storage requirements imposed by the Commission-approved CAT NMS Plan and should be recoverable as a part of Historical CAT Assessment 1A.

(i) Reasonableness of AWS Costs Given the Requirements of the CAT NMS Plan

CAT LLC believes that the costs for the cloud hosting services are reasonable, both in terms of the level of the fees paid by CAT LLC for cloud hosting services provided by AWS and the scope of the services performed by AWS for CAT LLC. CAT LLC believes that both the scope and amount of the costs for cloud hosting services are reasonable given the current requirements of the CAT NMS Plan adopted pursuant to Rule 613, including the strict data processing timeline, storage and other technical requirements under the Commission-approved CAT NMS Plan.

CAT LLC believes that the level of fees for the cloud hosting services is reasonable, taking into consideration a variety of factors, including the expected volume of data and the breadth of services provided and market rates for similar services.

CAT LLC also believes that the scope of services provided by AWS for the CAT are appropriate given the current requirements of the Commission-approved CAT NMS Plan. As described above, the cloud hosting services costs reflect a variety of factors including, among other things:

- *Breadth of Cloud Activities.* AWS was engaged by FCAT, the Plan Processor, to provide a broad range of services to the CAT, including data ingestion, data management, and analytic tools. Services provided by AWS necessary to the CAT include storage services, databases, compute

services, and other services (such as networking, management tools and development operations ("DevOps") tools). AWS also was engaged to provide the various environments for CAT, such as the development, performance testing, test and production environments, which are required by the CAT NMS Plan.

- *High Data Volume.* The cost for AWS services for the CAT is a function of the volume of CAT Data. While it is not linear, the greater the amount of CAT Data, the greater the cost of AWS services to the CAT. The data volume handled by AWS now far exceeds the original volume estimates for the CAT.

• *Plan Requirements.* The cost for AWS services also reflects the technical requirements necessary to meet the stringent performance and other requirements for processing CAT Data. These Plan-dictated processing timelines, storage, testing, security and other technical requirements are significant drivers of AWS costs.

- *Cost Avoidance Efforts.* CAT LLC and FCAT have engaged in ongoing efforts to seek to avoid and minimize AWS costs where permissible under the Plan. Accordingly, these cost avoidance efforts have limited the extent of AWS costs.

In addition, various requirements of the CAT NMS Plan adopted pursuant to Rule 613 contribute to the significant cloud hosting services costs, and that various Plan requirements could be amended or removed without affecting the regulatory purpose of the CAT. Indeed, CAT LLC has repeatedly sought exemptive relief and filed amendments to the CAT NMS Plan, and has even filed suit against the Commission, to seek to revise or eliminate certain costly requirements related to the CAT. However, despite these efforts, absent the Commission granting exemptive relief or approving cost savings amendments to the CAT NMS Plan, CAT LLC, the Participants and Industry Members are all required to comply with such requirements.

(ii) Effect of CAT Design on CAT Costs

(a) Efficient CAT Design

CAT is reasonably designed to efficiently and effectively utilize cloud computing and storage services, given the requirements of the Commission-approved CAT NMS Plan, including requirements related to security, operational reliance and quality assurance, and maintainability.

The Plan Processor uses state-of-the-art software that meets the strict security standards of the CAT NMS Plan. CAT utilizes a big data processing framework

that is extensively used by large data processing companies, such as Apple, Meta, Netflix, IBM and Google. As such, it has substantial commercial support and support in the open-source community. It is also well suited for use with regard to iterative types of algorithms and query functions and analytics that the CAT requires, and it provides the heightened security necessary for the CAT.

The development and implementation of the design of CAT is not and has not been static. CAT LLC and the Plan Processor are always evaluating new innovations and service offerings from AWS and other providers to seek to maximize efficiency and cost avoidance while still satisfying the requirements of the CAT NMS Plan. These efforts have led to substantial savings to date. The cloud hosting costs for 2023 were less than the cloud hosting costs for 2022 by \$8 million despite processing seven trillion more events in 2023 due to the efficiency and cost avoidance efforts for cloud hosting services. For example, when AWS introduced new storage options, FCAT adopted the cost-efficient new storage option after establishing that the new offering would satisfy the security and other standards of the CAT NMS Plan. This change led to millions of dollars of savings in storage costs. Similarly, when AWS introduced a new compute processor, FCAT adopted this new compute processor, which led to millions of dollars in savings in compute costs. However, in other cases, new cloud technology developments could not be implemented in CAT because they would not satisfy the security or other requirements of the CAT NMS Plan.

When evaluating the design of the CAT, it must be kept in mind that the CAT is not a typical commercial technology project. The ability to make use of technology approaches that may lead to cost avoidance is also subject to the restrictive requirements of the CAT NMS Plan, such as processing timeframes, requirements for retention of data versions, query requirements, and security standards. Because such requirements are set forth in the CAT NMS Plan, any modification of such requirements are subject to the time-consuming process of amending the CAT NMS Plan or seeking an exemption from the relevant requirement. For example, CAT LLC recently has filed an amendment to address several of these expensive Plan requirements.¹⁷²

(b) CAT Was Designed To Minimize Industry Member Effort

The CAT System also was designed to minimize the extent to which Industry Members would need to alter their systems to report to CAT. During the design process, Industry Member groups argued that it would make more sense financially for the CAT to accommodate differences in industry systems, than for all Industry Members to change their systems. Moreover, such design choices would facilitate consistency, uniformity and accuracy in reporting. Requiring the CAT to make such accommodations may increase CAT costs while accommodating CAT Reporters.

Based on the requirements in the CAT NMS Plan and/or in response to industry requests for functionality to be embedded with the Plan Processor to streamline or limit Industry Member system changes, the CAT has been designed to limit the effect on Industry Members. The following provides examples of such accommodations:

- *Industry Member Reporting.* In light of the complexity of Industry Member market activity, the CAT's order reporting and linkage scenarios document for Industry Members is over 800 pages in length, addressing nearly 200 scenarios.¹⁷³ The Industry Member Technical Specifications allow for dozens of specific event types, which drive complexity for the Plan Processor, but streamline reporting for Industry Members. Furthermore, the Plan Processor greatly expanded Industry Member linkage requirements to support, among other things, child events and supplemental events, allowing for "stateless as-you-go" and "batch end-of-day" reporting when all data is available. Accordingly, CAT takes on the significant cost and effort of providing the required linkages between CAT events; correspondingly, Industry Members are not required to perform this costly task.

- *File Submission Process.* The CAT was designed to accommodate the varying needs of CAT Reporters with regard to the file submission process. For example, in a 2018 letter, FIF stated that "[t]he SFTP-based submission process is cumbersome, exposes industry members to unnecessary complexity, and puts the burden of support on the CAT Reporter rather than imbedding more functionality into the

Plan Processor."¹⁷⁴ Currently, FCAT provides two mechanisms for submitting files: SFTP via a private network, and the Web via Reporter Web Portal.

- *Error Corrections.* The industry also emphasized the need for the CAT to provide error correction tools and functionalities to identify, rectify and re-submit corrections within the required timeframe. For example, FIF stated in a 2018 letter the following:

To be clear, if OATS-like error correction tools are not made available on Day 1, hundreds of firms will be required to create and test their own tools or obtain vendor alternatives prior to the CAT Go-Live Date. Proprietary tools will require additional system builds, access to and ingestion of CAT data to perform system validation, and testing which will further stress the limited number of subject matter experts ("SMEs") dedicated to the implementation of CAT reporting. Should this occur, inevitably firms (especially small firms who lack the necessary IT staff to write code and develop proprietary systems), may be put in the position of passing onto investors the cost required to build hundreds of redundant systems.¹⁷⁵

CAT provides various tools to help Industry Members identify and rectify errors.

- *Data Ingestion Format.* The industry also recommended that CAT adopt a flexible input format that provides an option for Industry Members to submit data in formats that are already in use to reduce costs and potential reporting errors. For example, FIF argued the following:

FIF CAT WG is not proposing a specific format; rather, we are proposing flexibility of input formats which includes support of existing formats (e.g., OATS, FIX) as well as a baseline specification where all fields are defined, and normalized. The input formats must be clearly and thoroughly defined in Technical Specifications, including FAQs.

Mandating a uniform format for reporting data to the CAT simplifies the task for the Central Repository of consolidating/storing data, but it puts the burden on each CAT Reporter to accurately translate their current (e.g., OATS) reporting information into a uniform CAT interface. However, that is likely to yield more errors because it is very dependent on accurate, complete and timely information (Technical Specifications, FAQs, meta-data, competent CAT help desk) available to CAT Reporters, availability of sophisticated CAT test tools to validate interface protocols, and the skill levels of the estimated 300+ unique CAT Reporters/Submitters during Phase 1 of CAT. Concentrating the responsibility of data conversions with the Central Repository is a

¹⁷² See, e.g., Securities Exchange Act Rel. No. 99938 (Apr. 10, 2024), 89 FR 26983 (Apr. 16, 2024); Letter from Brandon Becker, CAT NMS Plan Operating Committee Chair, to Vanessa

Countryman, Secretary, Commission (Mar. 27, 2024) (proposing amendments to the CAT NMS Plan for \$23 million in annual savings).

¹⁷³ See CAT Industry Member Reporting Scenarios v.4.10 (Oct. 21, 2022).

¹⁷⁴ Letter from Janet Early, FIF, to Thesys CAT (Mar. 29, 2018).

¹⁷⁵ Letter from Christopher Bok, FIF, to Jay Clayton, Chair, Commission at 4 (Dec. 11, 2018).

reasonable trade-off that should yield fewer errors, and greater accuracy.¹⁷⁶

CAT provides such a flexible input format.

(c) Effect of Initial Plan Processor Design

The costs for cloud hosting services are appropriate and have not been adversely affected by the original design and approaches of the Initial Plan Processor. FCAT's design costs are the result of the requirements of the Commission-approved CAT NMS Plan.

When FCAT took over as the Plan Processor from Thesys, it utilized certain aspects of the technical specifications created by Thesys in its design. However, FCAT has not maintained aspects of the original design that would not be appropriate for the CAT. FCAT revised and enhanced the original technical specifications of the CAT System to increase its efficiency and efficacy, and to ensure its compliance with the CAT NMS Plan. For example, the Initial Plan Processor's approach utilized many more fields than FCAT's approach, which relies on additional linkages. With the additional linkages, the CAT System takes on more of the CAT-related burdens than the Industry Members. Such an approach serves to facilitate consistency, uniformity and accuracy in reporting.

Moreover, FCAT did not utilize the system built by the Initial Plan Processor; it rebuilt the CAT System based on revised technical specifications. For example, the Initial Plan Processor used an on-premises processing approach which was not geared toward the huge amounts of data stored in the CAT, while FCAT adopted a cloud-based solution in response to such data demands.

Furthermore, given the very short timeframe to develop the CAT System and the prior optimization of certain query tools (e.g., Diver) for regulatory use with significant amounts of data, FCAT determined to rely upon certain existing FINRA tools and adapt them for use with the CAT.

(iii) Consideration of AWS Alternatives

CAT LLC continues to support the selection of AWS as the cloud hosting services provider for CAT given the compliance, operational, and security requirements of the CAT. Independent analyses confirm these conclusions, noting that "AWS is an excellent choice for either strategic or tactical use and recommends considering AWS for

almost all cloud IaaS or IaaS+PaaS scenarios."¹⁷⁷ AWS provides the following benefits to CAT, among others:

- *Broad Suitability.* AWS has a long track record of successfully serving cloud customers with mission-critical projects.
- *Proven Scalability.* AWS has demonstrated that it is capable of building and delivering services on a large scale.
- *Track Record of Innovation.* AWS continues to rapidly innovate, both in terms of new domains of capability and at a fundamental level, thereby facilitating innovation for its customers.
- *Resiliency/Dependability.* Another benefit of AWS is its resiliency; it has a strong track record of stable services. As noted in a review of cloud service providers, "[c]ustomers like to have a broad set of options for resilience and for their cloud providers to have a strong track record of stable services (continuously available, without operational quirks). Only AWS fulfills both desires."¹⁷⁸
- *Technical and Customer Support.* AWS consistently provides high-quality technical and customer support and engagement. Given the size, scope and regulatory importance of CAT, customer support and engagement that CAT has with the highest levels of AWS are very important to the success of the CAT.
- *Scale.* AWS is capable of supporting large-scale solutions, which is critical given the size and magnitude of the CAT.

- *Security.* AWS provides the security features necessary for the CAT.

In addition, the nature of the CAT, including the amount of data it must process and the size of its data footprint, does not allow for a multi-cloud solution as this would be cost prohibitive and greatly increase the security boundary and associated risk profile of the CAT. For example, a multi-cloud hosting option would increase costs, complexity, and risk for operations with regard to, for example, DevOps, production support, and networking. Similarly, with regard to security, a multi-cloud solution would increase risk, including with regard to the need for data transfers between cloud providers and the expansion of the security boundary. With regard to labor, a multi-cloud solution would lose economies of scale due to the need to support unique cloud requirements.

Accordingly, the use of a single-cloud solution continues to provide advantages with regard to cost, complexity, and risk. Indeed, "[t]he best practice is to focus on a single primary strategic provider."¹⁷⁹

Furthermore, if another cloud service provider were determined to be a better match for the CAT at some future date, switching cloud service providers would be a very significant, expensive and time-consuming effort. Such an effort would likely be a 10-to-15-year commitment at a substantial expense. Such a move would require the replication or redesign of the underlying cloud environments (e.g., organizational setup, identify management, accounts, environments, DevOps tooling like release management/config management/network management), as the new provider likely would not have the same infrastructure and software. Once that process has been completed, an exabyte of CAT data would need to be securely migrated to the new platform.

(C) Funding Model Filings

CAT LLC believes that the recovery of costs related to the development of the funding model is appropriate, and that the amount and scope of such costs, as described above, are reasonable.

Funding the CAT is a critical aspect of Rule 613 and the CAT NMS Plan. Article XI of the CAT NMS Plan describes in detail the requirements for funding the CAT, and the Participants are required to comply with and enforce compliance with the funding requirements of the CAT NMS Plan, just as with other aspects of the Plan. Accordingly, the development and implementation of a funding model for the CAT is as much a part of the requirements of the CAT NMS Plan as the development and operation of the CAT System. CAT LLC sees no reason to distinguish the efforts to develop a funding model from, for example, efforts to develop the CAT System, in seeking to recover reasonable CAT costs.

Moreover, in approving the CAT Funding Model, the Commission recognized that it is appropriate to recover reasonable costs for legal services as a part of Historical CAT Assessments. As approved by the SEC, the CAT NMS Plan states that "the reasonably budgeted CAT costs shall include . . . legal costs."¹⁸⁰ In addition, the CAT NMS Plan also requires Participants to include in their fee filings "a brief description of the amount and type of the Historical CAT

¹⁷⁶ Letter from Mary Lou Von Kaenel, Managing Director, FIF, to Brent Fields, Secretary, Commission at 92 (July 18, 2016), <https://www.sec.gov/comments/4-698/4698-13.pdf>.

¹⁷⁷ See, e.g., Lydia Leong and Adrian Wong, Solution Comparison for Strategic Cloud Integrated IaaS and PaaS Providers (July 28, 2023) ("Strategic Cloud Assessment Article").

¹⁷⁸ Strategic Cloud Assessment Article.

¹⁷⁹ *Id.*

¹⁸⁰ Section 11.1(a)(i) of the CAT NMS Plan.

Costs, including . . . legal . . . costs.”¹⁸¹ In keeping with these provisions, this filing provides a brief description of reasonably budgeted legal costs above. These legal costs include costs related to the development of the CAT Funding Model.

In addition, the legal costs incurred for the assistance in developing the CAT Funding Model are reasonable in both amount and scope and should be recoverable as a part of Historical CAT Assessment 1A. As described above, the specialized services were performed by experienced counsel at negotiated rates for such services that reflect both the extent of the services and market rates. Moreover, the scope of the legal costs associated with the development of the funding model reflect the complexity of the task in satisfying the detailed requirements of the CAT NMS Plan, the standards of the Exchange Act, and the many perspectives of the different market constituents potentially affected by or interested in the funding model, including Industry Members, Participants and investors. The many and varied comments by market participants on CAT funding over the years demonstrate the complexity of the task.

(D) Costs Related to Litigation With the SEC

CAT LLC believes that the recovery of legal costs related to the litigation with the SEC regarding the CAT NMS Plan is appropriate, and that the amount and scope of such costs, as described above, are reasonable.

As a preliminary matter, as discussed above, the Commission recognized that it is appropriate to recover reasonable costs for legal services as a part of Historical CAT Assessments.¹⁸² Moreover, CAT LLC initiated such litigation, and incurred the related legal costs, because it was critical to address the Commission’s interpretations of the CAT NMS Plan. Among other things, such interpretations threatened to impose unnecessary costs on the CAT, which would be borne by the Participants and Industry Members. Indeed, in response to the litigation, the Commission provided exemptive relief that allowed alternative, more cost-effective approaches to the implementation of the CAT. Specifically, in the 2023 exemptive order, the Commission stated:

The conditional exemptive relief in this Order allows for the implementation of

alternative regulatory solutions that continue to advance the regulatory goals that Rule 613 and the CAT NMS Plan were intended to promote, while reducing the implementation and operational costs, burdens, and/or difficulties that would otherwise be incurred by the Participants and Industry Members that must fund the CAT.¹⁸³

CAT LLC believes it is reasonable and appropriate to incur costs to limit the need to incur even greater costs due to certain interpretations of the Plan.

In addition, the legal costs incurred during the litigation are reasonable in both amount and scope and should be recoverable as a part of Historical CAT Assessment 1A. As described above, the specialized services were performed by experienced counsel at market rates for such services. As such, the legal costs related to this litigation incurred during the period covered by Historical CAT Assessment 1A were reasonable.

Finally, Industry Members will directly benefit from the result of the litigation because it has addressed CAT NMS Plan requirements that would have imposed significantly greater costs on the CAT. Accordingly, it is reasonable and appropriate that the costs of such litigation be included in Historical CAT Costs 1.

(E) Costs Related to the Initial Plan Processor

CAT LLC believes that it is appropriate to recover costs related to the services performed by the Initial Plan Processor prior to November 15, 2017, which was the date by which Participants were required to begin reporting to the CAT, due to the delay in the commencement of reporting to the CAT. As discussed above, the Participants determined to exclude all CAT costs incurred from November 15, 2017 through November 15, 2018, which includes \$37,852,083 in Thesys costs incurred from November 15, 2017 through November 15, 2018 (as well as other CAT costs during this period). The remaining Thesys costs incurred after November 15, 2018 are the \$19,628,791 in capitalized developed technology costs for the period from November 16, 2018 through February 2019 incurred in the development of the CAT by the Initial Plan Processor, as well as a transition fee for the transition from the Initial Plan Processor to the successor Plan Processor. The Participants would remain responsible for 100% of these \$19,628,791 in costs.

CAT LLC believes that it is appropriate to recover costs related to the services performed by the Initial Plan Processor prior to November 15,

2017. CAT LLC notes that the development and implementation of the CAT System, while unprecedented in scope and design, is like any other large and innovative technology project in that, inevitably, there were adjustments and refinements in the technical approach as the project developed, even with substantial planning efforts and oversight prior to the build. This is even more likely when the project faces a very tight implementation schedule, such as the one imposed by the Commission in Rule 613 and the CAT NMS Plan. However, an adjusted approach does not mean that the funds were not valid expenditures and should not be recovered.

The reasonableness of Thesys costs should be evaluated by the Commission as of the time they were incurred, not in hindsight. As detailed above, the Commission concluded in 2016 that “the competitive bidding process to select the Plan Processor is a reasonable and effective way to choose a Plan Processor,” and that “the process set forth in the Selection Plan should be permitted to continue.”¹⁸⁴ Following this process, the Participants notified the Commission of the selection of Thesys as the Initial Plan Processor on January 17, 2017.¹⁸⁵ At the time, neither the Commission nor the industry argued that the selection of the Initial Plan Processor was unreasonable or otherwise inconsistent with the CAT NMS Plan, nor did they predict the selection would result in unanticipated delays in the implementation of the CAT System. On the contrary, on April 4, 2017, the President of SIFMA wrote that “SIFMA looks forward to commencing work with the SROs and Thesys.”¹⁸⁶

As noted in the CAT Funding Model Approval Order, the Commission recognized that “[t]he CAT NMS Plan contemplates that the costs of the CAT are to be allocated between the Participants and Industry Members.”¹⁸⁷ If the CAT Funding Model had existed on Day 1, the risk of any unanticipated costs or challenges associated with the Initial Plan Processor would have been fairly and reasonably shared among the Participants and Industry Members on an ongoing basis. Given that the

¹⁸⁴ CAT NMS Plan Approval Order at 84737.

¹⁸⁵ Letter from the Participants to Brent J. Fields, Secretary, SEC (Jan. 18, 2017), <https://www.sec.gov/divisions/marketreg/rule613-info-notice-of-plan-processor-selection.pdf>.

¹⁸⁶ Letter from Kenneth E. Bentsen, Jr., SIFMA, to Participants re: Selection of Thesys as CAT Processor (Apr. 4, 2017), <https://www.sifma.org/wp-content/uploads/2017/05/SIFMA-Submits-Comment-Letter-to-SRO-on-the-selection-of-Thesys-as-the-CAT-Processor.pdf>.

¹⁸⁷ CAT Funding Model Approval Order at 13421.

¹⁸¹ Section 11.3(b)(iii)(B)(II) of the CAT NMS Plan.

¹⁸² See Sections 11.1(a)(i) and 11.3(b)(iii)(B)(II) of the CAT NMS Plan.

¹⁸³ Settlement Exemptive Order at 77129–30.

Commission concluded in 2012 that the costs of the CAT would be shared by the Participants and Industry Members, it is not fair or reasonable to determine in hindsight that all of the risk involved in developing the CAT should be allocated entirely to the Participants.

(F) CAIS Implementation Costs

CAT LLC believes that the recovery of CAIS-related costs is appropriate, and that the amount and scope of such costs, as described above, are reasonable, and that the reasonableness of historical costs should be evaluated by the Commission as of the time they were incurred, not in hindsight.

In approving the CAT Funding Model, the Commission recognized that it is appropriate to recover reasonable CAIS operating costs as a part of Historical CAT Assessments. As approved by the SEC, the CAT NMS Plan states that “the reasonably budgeted CAT costs shall include . . . CAIS operating fees.”¹⁸⁸ In addition, the CAT NMS Plan also requires Participants to include in their fee filings “a brief description of the amount and type of the Historical CAT Costs, including . . . CAIS operating fees.”¹⁸⁹ In keeping with these provisions, this filing provides a brief description of reasonably budgeted CAIS operating fees.

In addition, CAT LLC determined that the CAIS operating fees described above are reasonable in both amount and scope and should be recoverable as a part of Historical CAT Assessment 1A. The “CAIS Operating Costs” for Historical CAT Costs 1 total \$9,480,587, with Pre-FAM costs of \$2,072,908, FAM 1 costs of \$254,998, FAM 2 costs of \$1,590,298, and FAM 3 costs of \$5,562,383. As described above, the CAIS operating fees were incurred with regard to two categories of CAIS-related efforts: (1) the acceleration of the reporting of LTIDs; and (2) the development of the CAIS Technical Specifications and the building of CAIS. These two categories of costs are discussed in more detail below.

(i) LTID Reporting

During the period covered by Historical CAT Assessment 1A, the CAIS operating costs included costs related to the acceleration of the reporting of LTIDs earlier than originally contemplated during this period at the request of the SEC and in accordance with exemptive relief granted by the SEC.¹⁹⁰ As the SEC

approved in this exemptive relief, the Participants proposed “to require the reporting of LTIDs to the CAT in Phases 2c and 2d, instead of with the rest of Customer Account Information in Phase 2e, which potentially could result in an earlier elimination of broker-dealer recordkeeping, reporting and monitoring requirements of the Large Trader Rule.”¹⁹¹ To implement the reporting of LTIDs to the CAT, the following steps were taken during the period covered by Historical CAT Assessment 1A:

- After FCAT developed the LTID Technical Specifications, the LTID Technical Specifications were published on January 31, 2020, with additional updates provided to the LTID Technical Specifications through April 2021.¹⁹²
- The LTID account information testing environment opened on August 24, 2020.
- The LTID account information reporting production environment opened on December 14, 2020. CAT Reporters were required to request their production readiness certification for account information related to LTIDs by the deadline of April 9, 2021.
- The LTID account information reporting for Phases 2a, 2b and 2c for Large Industry Members went live on April 26, 2021.
- The LTID account information reporting for Phases 2d for Large Industry Members went live on December 13, 2021.
- The LTID account information reporting for Phases 2a, 2b, 2c and 2d for Small Industry Members went live on April 26, 2021.

Throughout this project, FCAT and CAT LLC worked closely with the industry on LTID and CAIS reporting. Between December 2019 and December 2021, at least 57 checkpoint calls, webinars, and technical working group meetings with industry representatives were hosted to address issues and to educate CAT Reporters regarding LTID and CAIS reporting.¹⁹³

The LTID reporting project was successfully completed in a timely fashion, and the fees related to the project were reasonable. Accordingly, CAT LLC appropriately seeks to recover such costs via Historical CAT Assessment 1A.

¹⁹¹ *Id.* at 23078–79, n.70.

¹⁹² The LTID Technical Specifications, including original drafts and updated versions, are available on the Industry Member Specifications page of the CAT website (<https://www.catnmsplan.com/specifications/im>).

¹⁹³ Such contact points with the industry are described in detail on the Events web page of the CAT website (<https://www.catnmsplan.com/events>).

(ii) CAIS Reporting

During the period covered by Historical CAT Assessment 1A, FCAT began the development of the full CAIS Technical Specifications and the building of CAIS. The CAIS Technical Specifications were developed during this period as follows:

- Iterative drafts of the CAIS Technical Specifications were published on June 30, 2020, December 1, 2020, and January 1, 2021.¹⁹⁴
- The full, final CAIS Technical Specifications were published on January 29, 2021.
- Updated versions of the CAIS Technical Specifications were published throughout 2021.¹⁹⁵

As discussed above, FCAT and CAT LLC frequently engaged with the industry regarding the development of CAIS, hosting regular checkpoint calls, webinars, and technical working group meetings with industry representatives to address any issues, including addressing the interplay between Industry Members’ existing customer systems and CAIS, and to educate CAT Reporters regarding LTID and CAIS reporting. Such engagement was critical to the CAIS development process as the CAIS project was unprecedented in terms of its content, scope and complexity.

During this period, FCAT also commenced the building of the CAIS system in accordance with the CAIS Technical Specifications during the period covered by Historical CAT Assessment 1A. The CAIS system was ready for industry testing shortly after the end of this period in January 2022.

The CAIS Technical Specifications and the CAIS system, as developed during this period, continue to be used. Industry Members have been required to report, and have continuously reported, required data to CAIS on a daily basis since November 7, 2022, consistent with interim reporting obligations. The CAIS system accepts and validates the CAIS data submitted by Industry Members and provides Industry Members with initial feedback on data errors. In light of the unprecedented nature of the CAIS system, certain changes to the system, such as changes related to error corrections and the CAIS regulatory portal, were necessary to finalize CAIS reporting. FCAT worked to address

¹⁹⁴ The CAIS Technical Specifications, including original drafts and updated versions, are available on the Industry Member Specifications page of the CAT website (<https://www.catnmsplan.com/specifications/im>).

¹⁹⁵ Six updated versions of the CAIS Technical Specifications were published during 2021, in March, May, June, August, October and December.

¹⁸⁸ Section 11.1(a)(i) of the CAT NMS Plan.

¹⁸⁹ Section 11.3(b)(iii)(B)(II) of the CAT NMS Plan.

¹⁹⁰ See Phased Reporting Exemptive Relief Order at 23079–80.

these remaining issues,¹⁹⁶ and, as of May 31, 2024, FCAT indicated that it had achieved the final CAIS reporting milestone. Accordingly, CAT LLC appropriately seeks to recover CAIS operating costs via Historical CAT Assessment 1A.

(G) Public Relations Costs

CAT LLC believes that the recovery of public relations costs is appropriate and that the amount and scope of such costs, as described above, are reasonable.

The Commission has long recognized that external public relations costs are reasonably associated with creating, implementing and maintaining the CAT. In the CAT NMS Plan Approval Order, the Commission estimated that the Participants had collectively spent approximately \$2,400,000 in preparation of the CAT NMS Plan on external public relations, legal, and consulting costs, and estimated that the Participants would continue to incur external public relations costs associated with maintaining the CAT upon approval of the CAT NMS Plan.¹⁹⁷

In approving the CAT Funding Model, the Commission recognized that it is appropriate to recover reasonable costs for public relations services as a part of Historical CAT Assessments. As approved by the SEC, the CAT NMS Plan states that “the reasonably budgeted CAT costs shall include . . . public relations costs.”¹⁹⁸ In addition, the CAT NMS Plan also requires Participants to include in their fee filings “a brief description of the amount and type of the Historical CAT Costs, including . . . public relations costs.”¹⁹⁹ In keeping with these provisions, a brief description of reasonable public relations costs are described above.

In addition, CAT LLC determined that the public relations costs described above are reasonable in both amount and scope and should be recoverable as a part of Historical CAT Assessment 1A. The services performed by the public relations firms through 2021 were limited in scope to assist CAT LLC, which has no employees of its own, to be better positioned to understand and address CAT matters to the benefit of all market participants and to communicate on important CAT topics with the public. In addition, the costs for these services were appropriately limited.

During the 10-year period covered by Historical CAT Assessment 1A, the average cost per year for these services was approximately \$36,000.

(H) Legal Costs Related to the Limitation of Liability Provision in CAT Reporter Agreements

CAT LLC believes that the recovery of legal costs related to the limitation of liability provision, including costs related to the proceedings before the SEC and costs related to the proposed amendment to the Consolidated Audit Trail Reporter Agreement and the Consolidated Audit Trail Reporting Agent Agreement (the “Reporting Agreements”) is appropriate and that the amount and scope of such costs as described above are reasonable.

As a preliminary matter, as discussed above, the Commission recognized that it is appropriate to recover reasonable costs for legal services as a part of Historical CAT Assessments.²⁰⁰ In addition, CAT LLC determined that the legal costs incurred for the assistance with regard to the limitation of liability provisions are reasonable in both amount and scope and should be recoverable as a part of Historical CAT Assessment 1A.

Moreover, it is critical that CAT LLC, which has no employees of its own, have the ability to fund a legal defense in litigation and other legal proceedings against it. In response to CAT LLC requiring Industry Members to agree to the limitation of liability provision to submit data to the CAT, SIFMA filed an application for review of actions taken by CAT LLC and the Participants pursuant to Sections 19(d) and 19(f) of the Exchange Act. Contemporaneously with the filing of this proceeding, SIFMA moved for a stay of the requirement that Industry Members sign a Reporter Agreement, or in the alternative, asked the Commission to further delay the launch of CAT reporting on June 22, 2020. CAT LLC must have the resources to defend itself from litigious actions by others, like these.

Although a limitation of liability provision ultimately was not adopted as proposed, it was a reasonable provision to propose for the CAT Reporter Agreements, given that such provisions are in accordance with industry norms. Limitations of liability are ubiquitous within the securities industry and have long governed the economic relationships between self-regulatory organizations and the entities that they regulate. For example, U.S. securities

exchanges have adopted rules to limit their liability for losses that Industry Members incur through their use of exchange facilities.²⁰¹ Similarly, FINRA’s former order audit trail, OATS, which has functioned as an integrated audit trail of order, quote, and trade data for equity securities, required FINRA members to acknowledge an agreement that includes a limitation of liability provision.²⁰² In addition, such a provision was intended to ensure the financial stability of the CAT. Accordingly, it was reasonable for CAT LLC to propose the use of such a provision.²⁰³

Furthermore, as described above, the specialized services were performed by experienced counsel at market rates for such services. Accordingly, the legal costs for the efforts related to the limitation of liability provision were reasonable.

(I) Costs for the Chair of the CAT Operating Committee

CAT LLC believes that the recovery of consulting costs related to the Chair of the CAT Operating Committee is appropriate and that the amount and scope of such costs are reasonable.

As a preliminary matter, the selection of the Chair of the Operating Committee complies with the requirements of Section 4.2 of the CAT NMS Plan. The initial Chair that served during the period covered by Historical CAT Assessment 1A was designated by a Participant as the Participant’s alternate voting member. Accordingly, the Chair is a representative of the Participants, as required by the CAT NMS Plan.

In addition, in approving the CAT Funding Model, the Commission recognized that it is appropriate to recover reasonable costs for consulting as a part of Historical CAT Assessments. As approved by the SEC, the CAT NMS Plan states that “the reasonably budgeted CAT costs shall include . . . consulting . . .” costs.²⁰⁴ In addition, the CAT NMS Plan also requires Participants to include in their fee filings “a brief description of the amount and type of the Historical CAT

²⁰¹ See, e.g., NASDAQ Equities Rule 4626.

²⁰² FINRA Rule 1013(a)(1)(R) requires all applicants for FINRA Membership to acknowledge the FINRA Entitlement Program Agreement and Terms of Use, which applies to OATS. Industry Members click to indicate that they agree to its terms—including its limitation of liability provision—every time they access FINRA’s OATS system to report trade information (i.e., repeatedly over the course of a trading day for many Industry Members).

²⁰³ See Letter from Michael Simon, Chair, CAT Operating Committee, to Vanessa Countryman, Secretary, Commission (Dec. 18, 2020).

²⁰⁴ Section 11.1(a)(i) of the CAT NMS Plan.

¹⁹⁶ See, e.g., CAT Q4 2023 Quarterly Progress Report (Jan. 30, 2024) (<https://www.catnmsplan.com/sites/default/files/2024-01/CAT-Q4-2023-QPR.pdf>).

¹⁹⁷ CAT NMS Plan Approval Order at 84917–18.

¹⁹⁸ Section 11.1(a)(i) of the CAT NMS Plan.

¹⁹⁹ Section 11.3(b)(iii)(B)(II) of the CAT NMS Plan.

²⁰⁰ See Sections 11.1(a)(i) and 11.3(b)(iii)(B)(II) of the CAT NMS Plan.

Costs, including . . . consulting”²⁰⁵ costs. In keeping with these provisions, a brief description of reasonable consulting costs is included in this filing, and such reasonable consulting costs include the costs related to the Chair position.

The Participants determined that the position of the Chair was a critical role for the implementation of the CAT, and an independent Chair would appropriately consider and address the views of each of the Participants. The Participants also determined that it was important to have a Chair with a strong background regarding issues related to the regulatory obligations of self-regulatory organizations, including their obligations under national market system plans. The compensation paid to the Chair is appropriate for a person with such background and skills. The average annual amount paid to the Chair from 2017 through the end of FAM 3 was \$292,733.30. Separate from the Chair, CAT LLC relies upon a Leadership Team of representatives of the SROs to oversee the day-to-day implementation of the CAT NMS Plan. CAT LLC does not compensate any member of the Leadership Team.

(11) Fee Implementation Assistance for Industry Members

(A) Reconciliation of CAT Invoices

(i) Reconciliation of CAT Invoices to Underlying Trades Provided by CAT

CAT LLC understands that there are three types of reconciliation processes related to the invoices:

- *Reconciliation of CAT Invoices to Underlying Trades:* Reconciling the CAT invoice amount to the underlying trades provided by CAT;
- *Matching Trades to Books and Records:* Providing the means to match the underlying trades provided by CAT with CAT invoices to other books and records independently maintained by individual CAT Reporters (e.g., exchange trade journals/ acknowledgements) and data sources of self-regulatory organizations independent of CAT; and

- *Order Originator Identification:* Providing the ability to identify the order originator for the underlying trades provided by CAT with CAT invoices, which would facilitate firms' ability to pass through CAT Fees to their customers.

As discussed further below, CAT LLC only considers the first type of process to be a “reconciliation” and the only type of process that is required under

the CAT NMS Plan. CAT LLC provides the means to reconcile the CAT invoice amount to the underlying trades provided by CAT.

The CAT NMS Plan does not require CAT LLC to facilitate the second type of process: matching underlying trades for a CAT invoice with a firm's internal books and records. CAT LLC has access only to the underlying trades provided by CAT; it does not have access to a firm's internal books and records. Although beyond the requirements of the CAT NMS Plan and involving firm specific considerations, CAT LLC voluntarily has provided guidance and processes to assist CAT Reporters in their efforts to match the underlying trades with their own books and records.

The CAT NMS Plan also does not require CAT LLC to provide the ability to identify the order originator for the underlying trades for the CAT invoices. Accordingly, the billing guidance and processes do not provide CAT Reporters with the ability to identify the order originator for the underlying trades provided by CAT with CAT invoices. CAT LLC has been working closely with CAT Reporters to explain its billing approach and to address any outstanding billing questions. But, it should not be lost that CAT LLC provides information sufficient to allow CAT Reporters to reconcile CAT invoice amounts with the underlying trades provided by CAT LLC.

(ii) Match the Underlying Trades Provided by CAT With CAT Invoices to Firms' Internal Books and Records Independent of CAT

The CAT NMS Plan does not require CAT LLC to facilitate the matching of underlying trades for a CAT invoice with a firm's internal books and records, which may consist of trading data from various sources external to CAT. Although beyond the requirements of the CAT NMS Plan and involving firm specific considerations, CAT LLC voluntarily has provided guidance and processes to assist CAT Reporters in their efforts to match the underlying trades with their own books and records.

In this regard, it is important to recognize that CAT LLC has developed a billing approach that greatly improves upon existing billing practices for similar regulatory fees (e.g., fees related to Section 31). Accordingly, with the additional information voluntarily provided by CAT LLC, CAT Reporters generally will have sufficient information to match their underlying trades provided by CAT with their own internal books and records that are

independent of CAT or to SRO data that is independent of CAT data. However, CAT LLC emphasizes that providing such additional information is not required by the CAT NMS Plan.

To facilitate the introduction of CAT fees, CAT LLC has worked with FCAT to develop an approach to CAT billing that is consistent with existing billing constructs used with regard to Section 31-related sales values fees, subject to certain enhancements. Under this billing approach, FCAT is providing additional linkage elements, not necessarily provided in the Section 31-sales value fee context, to facilitate CAT Reporters' ability to match the underlying trades provided by CAT with their internal books and records and to reduce the complexity of that process. Specifically, FCAT is providing various key elements of the trade itself, such as the tradeID and branch sequence,²⁰⁶ to CAT Reporters in the trade billing details provided with their CAT invoices (“Additional Trade Details”). As a result, CAT Reporters now have numerous alternative methods for matching a trade with their internal books and records where they previously did not have such matching methods in other fee contexts.

With the Additional Trade Details, CAT LLC and FCAT believe that the overwhelming majority of underlying trades provided by CAT bills can be matched with a CAT Reporter's internal books and records. CAT LLC recognizes that there may be certain cases in which such matching is more difficult given various firm-specific considerations, but believes that such instances are significantly more limited than with regard to the SRO fees charged in relation to Section 31.²⁰⁷ By providing Additional Trade Details that are not available in other fee contexts, FCAT enhances the Industry Members' ability to match the underlying trades provided

²⁰⁶ See CAT Technical Specifications for Billing Trade Details; Trade Details Schema (<https://catnmsplan.com/sites/default/files/2024-02/02.05.24-Billing-Trade-Details-Schema.json>); CAT Billing Scenarios, Version 1.0 (Nov. 30, 2023) (<https://www.catnmsplan.com/sites/default/files/2024-01/01.12.2024-CAT-Billing-Scenarios-v1.0.pdf>).

²⁰⁷ For years, broker-dealers have faced similar reconciliation issues with regard to SRO fees related to Section 31. Broker-dealers have responded to this issue in the Section 31 context by exercising their discretion as to whether and the manner and extent to which they pass on those fees (e.g., by rounding up its fees to the nearest cent, or decide to charge for, or not charge for, certain transactions, or assess a specific fee or incorporate the costs into other fee programs). See, e.g., Securities Exchange Act Rel. No. 49928 (June 28, 2004), 69 FR 41060, 41072 (July 7, 2004) (noting that broker-dealers may “over-collect” Section 31-related fees charged to their clients due to rounding practices, and double-counting with regard to certain transactions).

²⁰⁵ Section 11.3(b)(iii)(B)(II) of the CAT NMS Plan.

with CAT invoices with books and records and SRO data, both of which are independent of CAT data.

(iii) CAT LLC Is Not Required To Facilitate CAT Reporters' Ability To Pass Through Fees to Their Customers

Similar to other regulatory fees, the CAT NMS Plan does not address the manner or extent to which CAT Executing Brokers may seek to pass any CAT fees on to their customers, nor does it impose any obligation on CAT LLC or the Plan Processor to facilitate firms' ability to do so. Accordingly, Historical CAT Assessment 1A does not address the process by which any CAT Reporters may pass through the fee to their customers. Likewise, the CAT billing approach provided by the Plan Processor is designed to address the needs of CAT Reporters with regard to the reconciliation of CAT invoices with the underlying trades provided by CAT LLC with the invoices; they are not designed to address issues related to any pass-through fees. Accordingly, facilitating CAT Reporters' ability to pass through fees to their clients is outside the scope of this fee filing. Nevertheless, as described below, CAT LLC and the Plan Processor have expended significant efforts to provide technical assistance to Industry Members regarding the implementation of Historical CAT Assessment 1A, including providing Additional Trade Details that provide significant details about each underlying trade.

(a) Originating Brokers Versus Executing Brokers

In its approval of the CAT Funding Model, the Commission approved charging CAT fees to the CAT Executing Broker, rather than the originating broker. This fee filing must comply with the requirements of the CAT Funding Model, and, therefore, charges the Historical CAT Assessment 1A to CAT Executing Brokers.

Moreover, charging originating brokers would introduce significant complexity to the billing process from the CAT's perspective, and would increase the costs of implementing CAT fees. Charging the CAT Executing Broker is simple and straightforward, and leverages a one-to-one relationship between billable events (trades) and billable parties, similar to other transaction-based fees. In contrast, for a single trade event, there may be many originating brokers, and each trade must be broken down on a pro-rata basis, to account for one or more layers of aggregation, disaggregation, and representation of the underlying orders. While CAT is indeed designed to

capture and unwind complex aggregation scenarios, the data and linkages are structured to facilitate regulatory use, and not a billing mechanism that assesses fees on a distinct set of executed trades; it is not simply a matter of using existing CAT linkages. Furthermore, charging originating brokers would implicate issues related to lifecycle linkage rates, and issues related to corrections, cancellations and allocations, while charging CAT Executing Brokers would avoid such issues.

(b) Identification of Order Originator for Underlying Trades

As noted, the CAT NMS Plan does not address the manner or extent to which CAT Executing Brokers may seek to pass any CAT Fees on to their customers, nor does it impose any obligation on CAT LLC or the Plan Processor to facilitate firms' ability to do so. Nevertheless, the Additional Trade Details provided with regard to the underlying trades on CAT invoices may assist with this process. Like with Section 31-related sales value fees, however, it is not always possible to trace every fee on a transaction back to the originating party. Industry Members have faced these issues under Section 31-related sales values fees for many years.²⁰⁸ However, with the Additional Trade Details provided under the CAT billing approach, in many cases, CAT Reporters will be able to identify the order originator for the underlying trades provided by CAT with CAT invoices. In some cases, CAT LLC believes that certain issues related to certain types of market activity may implicate CAT Reporters' ability to identify the order originator for a limited set of underlying trades for the CAT invoices. Although CAT LLC does not believe that it is required to address these issues, CAT LLC and FCAT have been carefully researching and analyzing these types of issues as they are identified, and have been working voluntarily to assist CAT Reporters with these issues as necessary and when possible. In addition, CAT LLC intends to continue to provide CAT Reporters with billing guidance through FAQs,

²⁰⁸ "FINRA charges a Regulatory Transaction Fee ('RTF') to industry members to reimburse FINRA for the Section 31 fees that FINRA pays to the Commission. FINRA does not currently provide industry members with the data that industry members require for proper reconciliation of RTF fees. This has been a major problem for the industry for many years." Letter from Howard Meyerson, Managing Director, FIF, to Robert Cook, Chief Executive Officer, FINRA at 2 (Dec. 15, 2023) (<https://fif.com/index.php/working-groups/category/271-comment-letters?download=2820:fif-letter-to-finra-on-pass-through-of-finra-cat-fees&view=category>).

CAT Alerts and Helpdesk responses to address outstanding billing questions.

(B) Significant Technical Assistance

CAT LLC has worked with FCAT to provide significant technical assistance to Industry Members to allow the Industry Members to understand how Historical CAT Assessments will be implemented and billed, including webinars, CAT alerts, mock invoices, and responses to questions posed to the FCAT Help Desk.

- *Technical Specifications and Scenarios.* CAT LLC has provided detailed technical documentation for CAT billing, including (1) technical specifications, which describe the CAT Billing Trade Details Files associated with monthly CAT invoices, including detailed information about data elements and file formats as well as access instructions, network and transport options;²⁰⁹ (2) trade details schemas;²¹⁰ and (3) CAT billing scenarios.²¹¹

- *Industry Webinars.* CAT LLC has hosted two industry webinars specifically dedicated to CAT billing. The first webinar, hosted on September 28, 2023, discussed the operational implementation of the CAT Reporter billing process.²¹² The second webinar, hosted on November 7, 2023, provided (1) a demonstration of the CAT Reporter Portal and how to access CAT billing documents, including CAT invoices; and (2) additional information on underlying trade details in relation to the CAT Reporter billing process and an overview of the CAT Contact Management System.²¹³ 485 participants and 394 participants attended the two webinars, respectively.

- *CAT Alert.* CAT LLC has published a detailed CAT Alert that describes how FCAT, as the Plan Processor acting on behalf of CAT LLC, will calculate applicable fees, issue invoices to and collect payment from CAT Executing Brokers.²¹⁴

²⁰⁹ CAT Technical Specifications for Billing Trade Details, Version 1.0 r1 (Dec. 8, 2023) (https://catnmsplan.com/sites/default/files/2023-12/12.07.2023-CAT-Technical-Specifications-for-Billing-Trade-Details-v1.0r1_CLEAN.pdf).

²¹⁰ Trade Details Schema (<https://catnmsplan.com/sites/default/files/2024-02/02.05.24-Billing-Trade-Details-Schema.json>).

²¹¹ CAT Billing Scenarios, Version 1.0 (Nov. 30, 2023) (<https://www.catnmsplan.com/sites/default/files/2024-01/01.12.2024-CAT-Billing-Scenarios-v1.0.pdf>).

²¹² CAT Billing Webinar, Part 1 (Sept. 28, 2023) (<https://www.catnmsplan.com/events/part-1-cat-billing-webinar>).

²¹³ CAT Billing Webinar, Part 2 (Nov. 7, 2023) (<https://www.catnmsplan.com/events/part-2-cat-billing-webinar>).

²¹⁴ See CAT Alert 2023-02 (Oct. 12, 2023) (<https://www.catnmsplan.com/sites/default/files/2023-10/10.12.23-CAT-Alert-2023-02.pdf>).

- *Frequently Asked Questions (FAQs)*. CAT LLC also has continued to engage with the industry on billing issues by making responses to billing FAQs available on the CAT website. The FAQs address a broad range of frequently asked questions, including, for example, which Industry Members will receive invoices, how fees are calculated, when and how fees are required to be paid, how to access invoices, and how to update the billing contact. To date, responses to 31 FAQs are available on the CAT website, and CAT LLC will provide additional responses to FAQs as warranted.²¹⁵

- *Substantial Past Experience with CAT Billing Processes*. To date, CAT LLC, via FCAT, has billed Industry Members for Historical CAT Assessment 1 and certain Prospective CAT Fees. Industry Members will be billed for Historical CAT Assessment 1A via the same processes established for Historical CAT Assessment 1 and the Prospective CAT Fees. Accordingly, Industry Members have substantial experience with the CAT billing processes.

- *Help Desk Assistance*. CAT LLC also provides detailed, individualized assistance to Industry Members regarding CAT fees and the billing process through the FCAT Help Desk.²¹⁶ For example, the Help Desk assisted with 406 cases related to the billing of CAT fees from July 2023 through March 2024.

By providing such detailed and sustained assistance to Industry Members regarding CAT fees and billing, CAT LLC has successfully addressed questions raised by Industry Members regarding the CAT fees and billing processes.

(C) Notice to Industry Members

In keeping with past practice, CAT LLC provided notice of the proposed Historical CAT Assessment 1A via CAT Fee Alert on April 1, 2026,²¹⁷ one month prior to the effective date of Historical CAT Assessment 1A on May 1, 2026. Such notice provides Industry Members with sufficient time to address any technological or other requirements

necessary for implementing Historical CAT Assessment 1A.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the requirements of the Exchange Act. The Exchange believes that the proposed rule change is consistent with Section 6(b)(5) of the Act,²¹⁸ which requires, among other things, that the Exchange's rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest, and not designed to permit unfair discrimination between customers, issuers, brokers and dealers. The Exchange also believes that the proposed rule change is consistent with the provisions of Section 6(b)(4) of the Act,²¹⁹ because it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers. The Exchange further believes that the proposed rule change is consistent with Section 6(b)(8) of the Act,²²⁰ which requires that the Exchange's rules not impose any burden on competition that is not necessary or appropriate in furtherance of the purpose of the Exchange Act. These provisions also require that the Exchange be "so organized and [have] the capacity to be able to carry out the purposes" of the Act and "to comply, and . . . to enforce compliance by its members and persons associated with its members," with the provisions of the Exchange Act.²²¹ Accordingly, a reasonable reading of the Act indicates that it intended that regulatory funding be sufficient to permit an exchange to fulfill its statutory responsibility under the Act, and contemplated that such funding would be achieved through equitable assessments on the members, issuers, and other users of an exchange's facilities.

(1) Implementation of CAT Funding Model in CAT NMS Plan

Section 11.1(b) of the CAT NMS Plan states that "[t]he Participants shall file with the SEC under Section 19(b) of the Exchange Act any such fees on Industry Members that the Operating Committee approves." Per Section 11.1(b) of the CAT NMS Plan, the Exchange has filed

this fee filing to implement the Industry Member CAT fees included in the CAT Funding Model. The Exchange believes that this proposal is consistent with the Exchange Act because it is consistent with, and implements, the CAT Funding Model in the CAT NMS Plan, and is designed to assist the Exchange and its Industry Members in meeting regulatory obligations pursuant to the CAT NMS Plan. In approving the CAT NMS Plan, the SEC noted that the Plan "is necessary and appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanism of a national market system, or is otherwise in furtherance of the purposes of the Act."²²² Similarly, in approving the CAT Funding Model, the SEC concluded that the CAT Funding Model met this standard.²²³ As this proposal implements the Plan and the CAT Funding Model described therein, and applies specific requirements to Industry Members in compliance with the Plan, the Exchange believes that this proposal furthers the objectives of the Plan, as identified by the SEC, and is therefore consistent with the Exchange Act.

(2) Calculation of Fee Rate for Historical CAT Assessment 1A Is Reasonable

The SEC has determined that the CAT Funding Model is reasonable and satisfies the requirements of the Exchange Act. Specifically, the SEC has concluded that the method for determining Historical CAT Assessments as set forth in Section 11.3 of the CAT NMS Plan, including the formula for calculating the Historical Fee Rate, the identification of the parties responsible for payment and the transactions subject to the fee rate for the Historical CAT Assessment, is reasonable and satisfies the Exchange Act.²²⁴ In each respect, as discussed above, Historical CAT Assessment 1A is calculated, and would be applied, in accordance with the requirements applicable to Historical CAT Assessments as set forth in the CAT NMS Plan. Furthermore, as discussed below, the Exchange believes that each of the figures for the variables in the SEC-approved formula for calculating the fee rate for Historical CAT Assessment 1A is reasonable and consistent with the Exchange Act. Calculation of the fee rate for Historical CAT Assessment 1A requires the figures for the Historical CAT Costs 1, the

²¹⁵ See CAT Billing FAQs, Section V of CAT FAQs (https://www.catnmsplan.com/faq?search_api_fulltext=&field_topics=271&sort_by=field_faq_number).

²¹⁶ The CAT NMS Plan requires that the Plan Processor "staff a CAT help desk, as described in Appendix D, CAT Help Desk, to provide technical expertise." Section 6.10(c)(vi) of the CAT NMS Plan. See also Section 10.3 of Appendix D of the CAT NMS Plan for a description of the Plan requirements for the CAT Help Desk.

²¹⁷ CAT Fee Alert 2026-1 (Apr. 1, 2026) (<https://www.catnmsplan.com/sites/default/files/2026-04/04.01.26-CAT-Fee-Alert-2026-1.pdf>).

²¹⁸ 15 U.S.C. 78f(b)(6).

²¹⁹ 15 U.S.C. 78f(b)(4).

²²⁰ 15 U.S.C. 78f(b)(8).

²²¹ See Section 6(b)(1) of the Exchange Act.

²²² CAT NMS Plan Approval Order at 84696.

²²³ CAT Funding Model Approval Order at 13481.

²²⁴ *Id.*

executed equivalent share volume for the prior twelve months, the determination of Historical Recovery Period 1A, and the projection of the executed equivalent share volume for Historical Recovery Period 1A. Each of these variables is reasonable and satisfies the Exchange Act, as discussed throughout this filing.

(A) Historical CAT Costs 1

The formula for calculating a Historical Fee Rate requires the amount of Historical CAT Costs to be recovered. Specifically, Section 11.3(b)(iii)(B)(II) of the CAT NMS Plan requires a fee filing to provide:

a brief description of the amount and type of the Historical CAT Costs, including (1) the technology line items of cloud hosting services, operating fees, CAIS operating fees, change request fees, and capitalized developed technology costs, (2) legal, (3) consulting, (4) insurance, (5) professional and administration and (6) public relations costs.

In accordance with this requirement, the Exchange has set forth the amount and type of Historical CAT Costs 1 for each of these categories of costs above.

Section 11.3(b)(iii)(B)(II) of the CAT NMS Plan also requires that the fee filing provide “sufficient detail to demonstrate that the Historical CAT Costs are reasonable and appropriate.” As discussed below, the Exchange believes that the amounts set forth in this filing for each of these cost categories is “reasonable and appropriate.” Each of the costs included in Historical CAT Costs 1 are reasonable and appropriate because the costs are consistent with standard industry practice, based on the need to comply with the requirements of the CAT NMS Plan, incurred subject to negotiations performed on an arm’s length basis, and/or are consistent with the needs of any legal entity, particularly one with no employees.

(i) Technology: Cloud Hosting Services

In approving the CAT Funding Model, the Commission recognized that it is appropriate to recover costs related to cloud hosting services as a part of Historical CAT Assessments.²²⁵ CAT LLC determined that the costs related to cloud hosting services described in this filing are reasonable and should be included as a part of Historical CAT Costs 1. As described above, the cloud hosting services costs reflect, among other things, the breadth of the CAT cloud activities, data volume far in excess of the original volume estimates,

the need for specialized cloud services given the volume and unique nature of the CAT, the processing time requirements of the Plan, and regular efforts to seek to minimize costs where permissible under the Plan. CAT LLC determined that use of cloud hosting services is necessary for implementation of the CAT, particularly given the substantial data volumes associated with the CAT, and that the fees for cloud hosting services negotiated by FCAT were reasonable, taking into consideration a variety of factors, including the expected volume of data and the breadth of services provided and market rates for similar services.²²⁶ Indeed, the actual costs of the CAT are far in excess of the original estimated costs of the CAT due to various factors, including the higher volumes and greater complexity of the CAT than anticipated when Rule 613 was originally adopted.

To comply with the requirements of the Plan, the breadth of the cloud activities related to the CAT is substantial. The cloud services not only include the production environment for the CAT, but they also include two industry testing environments, support environments for quality assurance and stress testing and disaster recovery capabilities. Moreover, the cloud storage costs are driven by the requirements of the Plan, which requires the storage of multiple versions of the data, from the original submitted version of the data through various processing steps, to the final version of the data.

Data volume is a significant driver of costs for cloud hosting services. When the Commission adopted the CAT NMS Plan in 2016, it estimated that the CAT would need to receive 58 billion records per day²²⁷ and that annual operating costs for the CAT would range from \$36.5 million to \$55 million.²²⁸ Through 2021, the actual data volumes have been five times that original estimate. The data volumes for each period are set forth in detail above.²²⁹

In addition to the effect of the data volume on the cloud hosting costs, the processing timelines set forth in the Plan contribute to the cloud hosting costs. Although CAT LLC has proactively sought to manage cloud hosting costs while complying with the Plan, including through requests to the

Commission for exemptive relief and an amendment to the CAT NMS Plan, stringent CAT NMS Plan requirements do not allow for any material flexibility in cloud architecture design choices, processing timelines (e.g., the use of non-peak processing windows), or lower-cost storage tiers. As a result, the required CAT processing timelines contribute to the cloud hosting costs of the CAT.

The costs for cloud hosting services also reflect the need for specialized cloud hosting services given the data volume and unique processing needs of the CAT. The data volume as well as the data processing needs of the CAT necessitate the use of cloud hosting services. The equipment, power and services required for an on-premises data model, the alternative to cloud hosting services, would be cost prohibitive. Moreover, as CAT was being developed, there were limited cloud hosting providers that could satisfy all the necessary CAT requirements, including the operational and security criteria. Over time more providers offering cloud hosting services that would satisfy these criteria have entered the market. CAT LLC will continue to evaluate alternative cloud hosting services, recognizing that the time and cost to move to an alternative cloud provider would be substantial.

The reasonableness of the cloud hosting services costs is further supported by key cost discipline mechanisms for the CAT—a cost-based funding structure, cost transparency, cost management efforts (including regular efforts to lower compute and storage costs where permitted by the Plan) and oversight. Together, these mechanisms help ensure the ongoing reasonableness of the CAT’s costs and the level of fees assessed to support those costs.²³⁰

(ii) Technology: Operating Fees

In approving the CAT Funding Model, the SEC recognized that it is appropriate to recover costs related to operating fees as a part of Historical CAT Assessments.²³¹ CAT LLC determined that the costs related to operating fees described in this filing are reasonable and should be included as a part of Historical CAT Costs 1. The operating fees include the negotiated fees paid by CAT LLC to the Plan Processor to operate and maintain the system for order-related information and to

²²⁶ For a discussion of the amount and type of cloud hosting services fees, see Sections 3(a)(2)(B)(i)(a)(I), 3(a)(2)(B)(i)(b)(I), 3(a)(2)(B)(i)(c)(I) and 3(a)(2)(B)(i)(d)(I) above.

²²⁷ Appendix D–4 of the CAT NMS Plan at n.262.

²²⁸ CAT NMS Plan Approval Order at 84801.

²²⁹ See Sections 3(a)(2)(B)(i)(a)(I), 3(a)(2)(B)(i)(b)(I), 3(a)(2)(B)(i)(c)(I) and 3(a)(2)(B)(i)(d)(I) above.

²³⁰ See Securities Exchange Act Rel. No. 97151 (Mar. 15, 2023), 88 FR 17086, 17117 (Mar. 21, 2023) (describing key cost discipline mechanisms for the CAT).

²³¹ Section 11.3(b)(iii)(B)(II)(B)(1) of the CAT NMS Plan.

²²⁵ Section 11.3(b)(iii)(B)(II)(B)(1) of the CAT NMS Plan.

perform business operations related to the system, including compliance, security, testing, training, communications with the industry (*e.g.*, management of the FINRA CAT Helpdesk, FAQs, website and webinars) and program management. CAT LLC determined that the selection of FCAT as the Plan Processor was reasonable and appropriate given its expertise with securities regulatory reporting, after a process of considering other potential candidates.²³² CAT LLC also determined that the fixed price contract, negotiated on an arm's length basis with the goals of managing costs and receiving services required to comply with the CAT NMS Plan and Rule 613, was reasonable and appropriate, taking into consideration a variety of factors, including the breadth of services provided and market rates for similar types of activity.²³³ The services performed by FCAT for each period and the costs related to such services are described above.²³⁴

(iii) Technology: CAIS Operating Fees

In approving the CAT Funding Model, the SEC recognized that it is appropriate to recover costs related to CAIS operating fees as a part of Historical CAT Assessments.²³⁵ CAT LLC determined that the costs related to CAIS operating fees described in this filing are reasonable and should be included as a part of Historical CAT Costs 1. The CAIS operating fees include the fees paid to the Plan Processor to operate and maintain CAIS and to perform the business operations related to the system, including compliance, security, testing, training, communications with the industry (*e.g.*, management of the FINRA CAT Helpdesk, FAQs, website and webinars) and program management. CAT LLC determined that the FCAT-negotiated fees for Kingland's CAIS-related services, negotiated on an arm's length basis with the goals of managing costs and receiving services required to comply with the CAT NMS Plan, taking into consideration a variety of factors, including the services to be provided and market rates for similar types of activity, were reasonable and appropriate.²³⁶ The services performed by Kingland for each period and the

costs for each period are described above.²³⁷

(iv) Technology: Change Request Fees

In approving the CAT Funding Model, the SEC recognized that it is appropriate to recover costs related to change request fees as a part of Historical CAT Assessments.²³⁸ CAT LLC determined that the costs related to change request fees described in this filing are reasonable and should be included as a part of Historical CAT Costs 1. It is common practice to utilize a change request process to address evolving needs in technology projects. This is particularly true for a project like CAT that is the first of its kind, both in substance and in scale. The substance and costs of each of the change requests are evaluated by the Operating Committee, and approved in accordance with the requirements for Operating Committee meetings. In each case, CAT LLC determined that the change requests were necessary to implement the CAT. As described above, the change requests cover various technology changes, including, for example, changes related to CAT reporting, data feeds and exchange functionality. CAT LLC also determined that the costs for each change request were appropriate for the relevant technology change. A description of the change requests for each FAM Period and their total costs is described above.²³⁹ As noted above, the total costs for change requests through FAM Period 3 represent a small percentage of Historical CAT Costs 1—that is, 0.25% of Historical CAT Costs 1.

(v) Capitalized Developed Technology Costs

In approving the CAT Funding Model, the SEC recognized that it is appropriate to recover costs related to capitalized developed technology costs as a part of Historical CAT Assessments.²⁴⁰ Capitalized developed technology costs include costs related to certain development costs, costs related to certain modifications, upgrades and other changes to the CAT, CAIS implementation fees and license fees. The amount and type of costs for each period are described in more detail above.²⁴¹ CAT LLC determined that

these costs are reasonable and should be included as a part of Historical CAT Costs 1.

These costs involve the activity of both the Initial Plan Processor and FCAT, as the successor Plan Processor.²⁴² With regard to the Initial Plan Processor, the Participants utilized an RFP to seek proposals to build and operate the CAT, receiving a number of proposals in response to the RFP. The Participants carefully reviewed and considered each of the proposals, including holding in-person meetings with each of the Bidders. After several rounds of review, the Participants selected the Initial Plan Processor in accordance with the CAT NMS Plan. CAT LLC entered into an agreement with the Initial Plan Processor in which CAT LLC would pay the Initial Plan Processor a negotiated, fixed price fee.²⁴³ In addition, as described above, CAT LLC determined that it was appropriate to enter into an agreement with FCAT as the successor Plan Processor.²⁴⁴

(vi) Legal

In approving the CAT Funding Model, the SEC recognized that it is appropriate to recover costs related to legal fees as a part of Historical CAT Assessments.²⁴⁵ CAT LLC determined that the legal costs described in this filing are reasonable and should be included as a part of Historical CAT Costs 1. Given the unique nature of the CAT, the number of parties involved with the CAT (including, for example, the SEC, Participants, Industry Members, and vendors) and the many regulatory issues associated with the CAT, the scope of the necessary legal services is substantial. CAT LLC determined that the scope of the legal services is necessary to implement and maintain the CAT and that the legal rates reflect the specialized services necessary for such a project. When hiring each law firm for a CAT project, CAT LLC interviewed multiple firms, and determined to hire each firm based on a variety of factors, including the relevant expertise and fees. In each case, CAT LLC determined that the hourly fee rates were in line with market rates for the specialized legal expertise. In addition, CAT LLC determined that the total costs incurred for each CAT project were appropriate given the breadth of services provided. The services performed by each law firm for each

²³² See Section 3(a)(2)(B)(i)(a)(III) above.

²³³ See Sections 3(a)(2)(B)(i)(a)(II), 3(a)(2)(B)(i)(b)(II), 3(a)(2)(B)(i)(c)(II) and 3(a)(2)(B)(i)(d)(II) above.

²³⁴ *Id.*

²³⁵ Section 11.3(b)(iii)(B)(II)(B)(1) of the CAT NMS Plan.

²³⁶ See Sections 3(a)(2)(B)(i)(a)(III), 3(a)(2)(B)(i)(b)(III), 3(a)(2)(B)(i)(c)(III) and 3(a)(2)(B)(i)(d)(III) above.

²³⁷ *Id.*

²³⁸ Section 11.3(b)(iii)(B)(II)(B)(1) of the CAT NMS Plan.

²³⁹ See Sections 3(a)(2)(B)(i)(a)(IV), 3(a)(2)(B)(i)(b)(IV), 3(a)(2)(B)(i)(c)(IV) and 3(a)(2)(B)(i)(d)(IV) above.

²⁴⁰ Section 11.3(b)(iii)(B)(II)(B)(1) of the CAT NMS Plan.

²⁴¹ See Sections 3(a)(2)(B)(i)(a)(V), 3(a)(2)(B)(i)(b)(V), 3(a)(2)(B)(i)(c)(V) and 3(a)(2)(B)(i)(d)(V) above.

²⁴² *Id.*

²⁴³ See Section 3(a)(2)(B)(i)(a)(V) above.

²⁴⁴ See Section 3(a)(2)(B)(i)(a)(II) above.

²⁴⁵ Section 11.3(b)(iii)(B)(II)(B)(2) of the CAT NMS Plan.

period and the costs related to such services are described above.²⁴⁶

(vii) Consulting

In approving the CAT Funding Model, the SEC recognized that it is appropriate to recover consulting costs as a part of Historical CAT Assessments.²⁴⁷ CAT LLC determined that the consulting costs described in this filing are reasonable and should be included as a part of Historical CAT Costs 1. Because there are no CAT employees²⁴⁸ and because of the significant number of issues associated with the CAT, the consultants provided assistance in the management of various CAT matters and the processes related to such matters.²⁴⁹ CAT LLC considered a variety of factors in choosing a consulting firm and determined to select Deloitte after an interview process.²⁵⁰ CAT LLC also determined that the consulting services were provided at reasonable market rates, as the fees were negotiated annually and comparable to the rates charged by other consulting firms for similar work.²⁵¹ Moreover, the total costs for such consulting services were appropriate in light of the breadth of services provided by Deloitte. The services performed by Deloitte and the costs related to such services are described above.²⁵²

(viii) Insurance

In approving the CAT Funding Model, the SEC recognized that it is appropriate to recover insurance costs as a part of Historical CAT Assessments.²⁵³ CAT LLC determined that the insurance costs described in this filing are reasonable and should be included as a part of Historical CAT Costs 1. CAT LLC determined that it is common practice to have directors' and officers' liability insurance, and errors and omissions liability insurance. CAT LLC further determined that it was important to have cyber security insurance given the nature of the CAT, and such a decision

is consistent with the CAT NMS Plan, which states that the cyber incident response plan may include "[i]nsurance against security breaches."²⁵⁴ In selecting the insurance providers for these policies, CAT LLC engaged in an evaluation of alternative insurers, including a comparison of the pricing offered by the alternative insurers.²⁵⁵ Based on this analysis, CAT LLC determined that the selected insurance policies provided appropriate coverage at reasonable market rates.²⁵⁶

(ix) Professional and Administration

In approving the CAT Funding Model, the SEC recognized that it is appropriate to recover professional and administration costs as a part of Historical CAT Assessments.²⁵⁷ CAT LLC determined that the professional and administration costs described in this filing are reasonable and should be included as a part of Historical CAT Costs 1. Because there are no CAT employees, all required accounting, financial, tax, cash management and treasury functions for CAT LLC have been outsourced at market rates. In addition, the required annual financial statement audit of CAT LLC is included in professional and administration costs, which costs are also at market rates.

CAT LLC determined to hire a financial advisory firm, Anchin, to assist with financial matters for the CAT. CAT LLC interviewed Anchin as well as other potential financial advisory firms to assist with the CAT project, considering a variety of factors in its analysis, including the firm's relevant expertise and fees.²⁵⁸ The hourly fee rates for this firm were in line with market rates for the financial advisory services provided.²⁵⁹ Moreover, the total costs for such financial advisory services was appropriate in light of the breadth of services provided by Anchin. The services performed by Anchin and the costs related to such services are described above.²⁶⁰

CAT LLC also determined to engage an independent accounting firm, Grant Thornton, to complete the audit of CAT LLC's financial statements, in

accordance with the requirements of the CAT NMS Plan. CAT LLC interviewed this firm as well as another potential accounting firm to audit CAT LLC's financial statements, considering a variety of factors in its analysis, including the relevant expertise and fees of each of the firms. CAT LLC determined that Grant Thornton was well-qualified for the role given the balance of these considerations.²⁶¹ Grant Thornton's fixed fee rate compensation arrangement was reasonable and appropriate, and in line with the market rates charged for these types of accounting services.²⁶² Moreover, the total costs for such financial advisory services was appropriate in light of the breadth of services provided by Grant Thornton. The services performed by Grant Thornton and the costs related to such services are described above.²⁶³

The professional and administrative costs also include costs related to the receipt of certain market data from Exegy. After performing an analysis of the available market data vendors to confirm that the data provided met the SIP Data requirements of the CAT NMS Plan and comparing the costs of the vendors providing the required SIP Data, CAT LLC determined to purchase market data from Exegy. Exegy provided the data elements required by the CAT NMS Plan, and the fees were reasonable and in line with market rates for the market data received.²⁶⁴

The professional and administrative costs also include costs related to a third party security assessment of the CAT performed by RSM. The assessment was designed to verify and validate the effective design, implementation and operation of the controls specified by NIST Special Publication 800-53, Revision 4 and related standards and guidelines. Such a security assessment is in line with industry practice and important given the data included in the CAT. CAT LLC determined to engage RSM to perform the security assessment, after considering a variety of factors in its analysis, including the firm's relevant expertise and fees. The fees were reasonable and in line with market rates for such an assessment.²⁶⁵

(x) Public Relations Costs

In approving the CAT Funding Model, the SEC recognized that it is appropriate to recover public relations costs as a

²⁴⁶ See Sections 3(a)(2)(B)(i)(a)(VI), 3(a)(2)(B)(i)(b)(VI), 3(a)(2)(B)(i)(c)(VI) and 3(a)(2)(B)(i)(d)(VI) above.

²⁴⁷ Section 11.3(b)(iii)(B)(II)(B)(3) of the CAT NMS Plan.

²⁴⁸ As stated in the filing of the proposed CAT NMS Plan, "[i]t is the intent of the Participants that the Company have no employees." Securities Exchange Act Rel. No. 77724 (Apr. 27, 2016), 81 FR 30614, 30621 (May 17, 2016).

²⁴⁹ CAT LLC uses certain third parties to perform tasks that may be performed by administrators for other NMS Plans. See, e.g., CTA Plan and CQ Plan.

²⁵⁰ See Section 3(a)(2)(B)(i)(a)(VII) above.

²⁵¹ See Sections 3(a)(2)(B)(i)(a)(VII), 3(a)(2)(B)(i)(b)(VII), 3(a)(2)(B)(i)(c)(VII) and 3(a)(2)(B)(i)(d)(VII) above.

²⁵² *Id.*

²⁵³ Section 11.3(b)(iii)(B)(II)(B)(4) of the CAT NMS Plan.

²⁵⁴ Section 4.1.5 of Appendix D of the CAT NMS Plan.

²⁵⁵ See Sections 3(a)(2)(B)(i)(a)(VIII), 3(a)(2)(B)(i)(b)(VIII), 3(a)(2)(B)(i)(c)(VIII) and 3(a)(2)(B)(i)(d)(VIII) above.

²⁵⁶ *Id.*

²⁵⁷ Section 11.3(b)(iii)(B)(II)(B)(5) of the CAT NMS Plan.

²⁵⁸ See Section 3(a)(2)(B)(i)(a)(IX) above.

²⁵⁹ See Sections 3(a)(2)(B)(i)(a)(IX), 3(a)(2)(B)(i)(b)(IX), 3(a)(2)(B)(i)(c)(IX) and 3(a)(2)(B)(i)(d)(IX) above.

²⁶⁰ *Id.*

²⁶¹ See Section 3(a)(2)(B)(i)(a)(IX) above.

²⁶² See Sections 3(a)(2)(B)(i)(a)(IX), 3(a)(2)(B)(i)(b)(IX), 3(a)(2)(B)(i)(c)(IX) and 3(a)(2)(B)(i)(d)(IX) above.

²⁶³ *Id.*

²⁶⁴ See Section 3(a)(2)(B)(i)(a)(IX) above.

²⁶⁵ *Id.*

part of Historical CAT Assessments.²⁶⁶ CAT LLC determined that the public relations costs described in this filing are reasonable and should be included as a part of Historical CAT Costs 1. CAT LLC determined that the types of public relations services utilized were beneficial to the CAT and market participants more generally. Public relations services were important for various reasons, including monitoring comments made by market participants about CAT and understanding issues related to the CAT discussed on the public record.²⁶⁷ By engaging a public relations firm, CAT LLC was better positioned to understand and address CAT issues to the benefit of all market participants.²⁶⁸ Moreover, CAT LLC determined that the rates charged for such services were in line with market rates.²⁶⁹ As noted above, the total public relations costs through FAM Period 3 represent a small percentage of Historical CAT Costs 1—that is, 0.1% of Historical CAT Costs 1.

(B) Total Executed Equivalent Share Volume for the Prior 12 Months

The total executed equivalent share volume of transactions in Eligible Securities for the 12-month period from March 2025 through February 2026 was 5,980,937,549,360.49 executed equivalent shares. CAT LLC determined the total executed equivalent share volume for the prior twelve months by counting executed equivalent shares in the same manner as it will count executed equivalent shares for CAT billing purposes.

(C) Historical Recovery Period 1A

CAT LLC has determined to establish a Historical Recovery Period of 24 months for Historical CAT Assessment 1A and that such length is reasonable. CAT LLC determined that the length of Historical Recovery Period 1A appropriately weighs the need for a reasonable fee rate for Historical CAT Assessment 1A that spreads the Historical CAT Costs over an appropriate amount of time and the need to repay the loans notes to the Participants in a timely fashion. CAT LLC determined that 24 months for Historical Recovery Period 1A would establish a fee rate that is lower than other transaction-based fees, including

fees assessed pursuant to Section 31.²⁷⁰ In addition, in establishing a Historical Recovery Period of 24 months, CAT LLC recognized that the total cost for Historical CAT Assessment 1A was less than the total costs for 2022 and 2023, and therefore it would be appropriate to recover those costs in two years.

(D) Projected Executed Equivalent Share Volume for Historical Recovery Period 1A

CAT LLC has determined to calculate the projected total executed equivalent share volume for the 24 months of Historical Recovery Period 1A by doubling the executed equivalent share volume for the prior 12 months. The Operating Committee determined that such an approach was reasonable as the CAT's annual executed equivalent share volume has increased from prior years (e.g., the executed equivalent share volume for 2024 was 4,295,884,600,069.4) and the Operating Committee believes that it is reasonable to conclude that the annual executed equivalent share volume will remain at the higher level. Accordingly, the projected total executed equivalent share volume for Historical Recovery Period 1A is projected to be 11,961,875,098,720.98 executed equivalent shares.²⁷¹

(E) Actual Fee Rate for Historical CAT Assessment 1A

(i) Decimal Places

As noted in the Plan amendment for the CAT Funding Model, as a practical matter, the fee filing for a Historical CAT Assessment would provide the exact fee per executed equivalent share to be paid for each Historical CAT Assessment, and describe the relevant number of decimal places for the fee rate.²⁷² Accordingly, proposed paragraph (a)(2)(B) of the fee schedule would set forth a fee rate of \$0.000002 per executed equivalent share. CAT LLC determined that the use of six decimal places is reasonable as it balances the accuracy of the calculation with the potential systems and other impracticalities of using additional decimal places in the calculation.

(ii) Reasonable Fee Level

The Exchange believes that imposing Historical CAT Assessment 1A with a

fee rate of \$0.000002 per executed equivalent share is reasonable because it provides for a revenue stream for the Company that is aligned with the remaining Historical CAT Costs 1 and such costs would be spread out over an appropriate recovery period, as discussed above. Moreover, the Exchange believes that the level of the fee rate is reasonable, as it is comparable to other transaction-based fees. Indeed, Historical CAT Assessment 1A is significantly lower than fees assessed pursuant to Section 31 (e.g., \$0.00007 per share to \$0.00072 per share),²⁷³ and, as a result, the magnitude of Historical CAT Assessment 1A is small, and therefore will mitigate any potential adverse economic effects or inefficiencies. Furthermore, the reasonable fee rate for Historical CAT Assessment 1A further supports CAT LLC's decision to seek to recover the costs described herein.

(3) Historical CAT Assessment 1A Provides for an Equitable Allocation of Fees

Historical CAT Assessment 1A provides for an equitable allocation of fees, as it equitably allocates CAT costs between and among the Participants and Industry Members. The SEC approved the CAT Funding Model, finding that each aspect of the CAT Funding Model satisfied the requirements of the Exchange Act, including the formula for calculating Historical CAT Assessments as well as the Industry Members to be charged the Historical CAT Assessments.²⁷⁴ In approving the CAT Funding Model, the SEC stated that “[t]he Participants have sufficiently demonstrated that the proposed allocation of fees is appropriate.”²⁷⁵ Accordingly, the CAT Funding Model sets forth the requirements for allocating fees related to Historical CAT Costs among Participants and Industry Members, and the fee filings for Historical CAT Assessments must comply with those requirements.

Historical CAT Assessment 1A provides for an equitable allocation of fees as it complies with the requirements regarding the calculation of Historical CAT Assessments as set forth in the CAT NMS Plan. For example, as described above, the calculation of Historical CAT Assessment 1A complies with the formula set forth in Section 11.3(b) of the CAT NMS Plan. In addition, Historical CAT Assessment 1A would be charged to CEBBs and CEBBs in

²⁶⁶ Section 11.3(b)(iii)(B)(II)(B)(6) of the CAT NMS Plan.

²⁶⁷ See Section 3(a)(2)(B)(i)(a)(X) above.

²⁶⁸ See Sections 3(a)(2)(B)(i)(a)(X), 3(a)(2)(B)(i)(b)(X), 3(a)(2)(B)(i)(c)(X) and 3(a)(2)(B)(i)(d)(X) above.

²⁶⁹ *Id.*

²⁷⁰ As the SEC noted in the CAT Funding Model Approval Order, recent Section 31 fees ranged from \$0.00007 per share to \$0.00072 per share. CAT Funding Model Approval Order at 13469.

²⁷¹ This projection was calculated by multiplying 5,980,937,549,360.49 executed equivalent shares by two.

²⁷² CAT Funding Model Approval Order at 13445, n.677.

²⁷³ *Id.* at 13469.

²⁷⁴ See Section 11.3(b) of the CAT NMS Plan.

²⁷⁵ CAT Funding Model Approval Order at 13412.

accordance with Section 11.3(b) of the CAT NMS Plan. Furthermore, the Participants would continue to remain responsible for their designated share of Past CAT Costs through the cancellation of loans made by the Participants to CAT LLC.

In addition, as discussed above, each of the inputs into the calculation of Historical CAT Assessment 1A—Historical CAT Costs 1 (including Excluded Costs) and the exclusion of costs previously invoiced via Historical CAT Assessment 1, the count for the executed equivalent share volume for the prior 12 months, the length of the Historical Recovery Period, and the projected executed equivalent share volume for the Historical Recovery Period—are reasonable. Moreover, these inputs lead to a reasonable fee rate for Historical CAT Assessment 1A that is lower than other fee rates for transaction-based fees. A reasonable fee rate allocated in accordance with the requirements of the CAT Funding Model provides for an equitable allocation of fees.

(4) Historical CAT Assessment 1A Is Not Unfairly Discriminatory

Historical CAT Assessment 1A is not an unfairly discriminatory fee. The SEC approved the CAT Funding Model, finding that each aspect of the CAT Funding Model satisfied the requirements of the Exchange Act. In reaching this conclusion, the SEC analyzed the potential effect of Historical CAT Assessments calculated pursuant to the CAT Funding Model on affected categories of market participants, including Participants (including exchanges and FINRA), Industry Members (including subcategories of Industry Members, such as alternative trading systems, CAT Executing Brokers and market makers), and investors generally, and considered market effects related to equities and options, among other things. Historical CAT Assessment 1A complies with the requirements regarding the calculation of Historical CAT Assessments as set forth in the CAT NMS Plan. In addition, as discussed above, each of the inputs into the calculation of Historical CAT Assessment 1A and the resulting fee rate for Historical CAT Assessment 1A is reasonable. Therefore, Historical CAT Assessment 1A does not impose an unfairly discriminatory fee on Industry Members.

Finally, the Exchange believes the proposed fees established pursuant to the CAT Funding Model promote just and equitable principles of trade, and, in general, protect investors and the public interest, and are provided in a

transparent manner and specificity in the fee schedule. The Exchange also believes that the proposed fees are reasonable because they would provide ease of calculation, ease of billing and other administrative functions, and predictability of a fee based on fixed rate per executed equivalent share. Such factors are crucial to estimating a reliable revenue stream for CAT LLC and for permitting Exchange members to reasonably predict their payment obligations for budgeting purposes.

B. Self-Regulatory Organization's Statement on Burden on Competition

Section 6(b)(8) of the Act²⁷⁶ requires that the Exchange's rules not impose any burden on competition that is not necessary or appropriate in furtherance of the purpose of the Exchange Act. The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange notes that Historical CAT Assessment 1A implements provisions of the CAT NMS Plan that were approved by the Commission and is designed to assist the Exchange in meeting its regulatory obligations pursuant to the Plan.

In addition, all Participants (including exchanges and FINRA) are proposing to introduce Historical CAT Assessment 1A on behalf of CAT LLC to implement the requirements of the CAT NMS Plan. Therefore, this is not a competitive fee filing, and, therefore, it does not raise competition issues between and among the Participants.

Furthermore, in approving the CAT Funding Model, the SEC analyzed the potential competitive impact of the CAT Funding Model, including competitive issues related to market services, trading services and regulatory services, efficiency concerns, and capital formation.²⁷⁷ The SEC also analyzed the potential effect of CAT fees calculated pursuant to the CAT Funding Model on affected categories of market participants, including Participants (including exchanges and FINRA), Industry Members (including subcategories of Industry Members, such as alternative trading systems, CAT Executing Brokers and market makers), and investors generally, and considered market effects related to equities and options, among other things. Based on this analysis, the SEC approved the CAT Funding Model as compliant with the Exchange Act. Historical CAT

Assessment 1A is calculated and implemented in accordance with the CAT Funding Model as approved by the SEC.

As discussed above, each of the inputs into the calculation of Historical CAT Assessment 1A is reasonable and the resulting fee rate for Historical CAT Assessment 1A calculated in accordance with the CAT Funding Model is reasonable. Therefore, Historical CAT Assessment 1A would not impose any burden on competition that is not necessary or appropriate in furtherance of the purpose of the Exchange Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Not applicable.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act²⁷⁸ and paragraph (f) of Rule 19b-4²⁷⁹ thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-C2-2026-011 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.

²⁷⁶ 15 U.S.C. 78f(b)(8).

²⁷⁷ CAT Funding Model Approval Order at 13479-13481.

²⁷⁸ 15 U.S.C. 78s(b)(3)(A).

²⁷⁹ 17 CFR 240.19b-4(f).

All submissions should refer to file number SR-C2-2026-011. 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-C2-2026-011 and

should be submitted on or before June 4, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁸⁰

J. Matthew DeLesDernier,
Deputy Secretary.

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BILLING CODE 8011-01-P

²⁸⁰ 17 CFR 200.30-3(a)(12).



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Part III

Securities and Exchange Commission

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Fee Schedule Entitled "Consolidated Audit Trail Funding Fees"; Notice

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–105430; File No. SR–CBOE–2026–043]

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Fee Schedule Entitled “Consolidated Audit Trail Funding Fees”

May 11, 2026.

Pursuant to Section 19(b)(1) under the Securities Exchange Act of 1934 (“Act”),¹ and Rule 19b–4 thereunder,² notice is hereby given that on April 27, 2026, Cboe Exchange, Inc. (the “Exchange” or “Cboe Options”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of the Substance of the Proposed Rule Change

Cboe Exchange, Inc. (the “Exchange” or “Cboe Options”) proposes to amend its fee schedule entitled “Consolidated Audit Trail Funding Fees”³ to establish fees for Industry Members⁴ related to certain historical costs of the National Market System Plan Governing the Consolidated Audit Trail (the “CAT NMS Plan” or “Plan”) incurred prior to January 1, 2022 that were not previously invoiced via Historical CAT Assessment 1. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Commission’s website (<https://www.sec.gov/rules/sro.shtml>), the Exchange’s website (https://www.cboe.com/us/options/regulation/rule_filings/bzx/), and at the principal office of the Exchange.

II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On July 11, 2012, the Commission adopted Rule 613 of Regulation NMS, which required the self-regulatory organizations (“SROs”) to submit a national market system (“NMS”) plan to create, implement and maintain a consolidated audit trail that would capture customer and order event information for orders in NMS securities across all markets, from the time of order inception through routing, cancellation, modification or execution.⁵ On November 15, 2016, the Commission approved the CAT NMS Plan.⁶ Under the CAT NMS Plan, the Operating Committee has the discretion to establish funding for CAT LLC to operate the CAT, including establishing fees for Industry Members to be assessed by CAT LLC that would be implemented on behalf of CAT LLC by the Participants.⁷ On September 5, 2025, CAT LLC proposed a revised funding model to fund the CAT (“CAT Funding Model”).⁸ On March 16, 2026, the Commission approved the CAT Funding Model, after concluding that the model satisfied the requirements of Section 11A of the Exchange Act and Rule 608 thereunder.⁹

The CAT Funding Model provides a framework for the recovery of the costs to create, develop and maintain the CAT, including providing a method for allocating costs to fund the CAT among Participants and Industry Members. The CAT Funding Model establishes two categories of fees: (1) CAT fees assessed by CAT LLC and payable by certain Industry Members to recover a portion of historical CAT costs previously paid by the Participants (“Historical CAT Assessment” fees); and (2) CAT fees assessed by CAT LLC and payable by Participants and Industry Members to fund prospective CAT costs (“Prospective CAT Costs” fees).¹⁰

Under the CAT Funding Model, “[t]he Operating Committee will establish one or more fees (each a ‘Historical CAT Assessment’) to be payable by Industry Members with regard to CAT costs previously paid by the Participants (‘Past CAT Costs’).”¹¹ In establishing a Historical CAT Assessment, the Operating Committee will determine a “Historical Recovery Period” and calculate a “Historical Fee Rate” for that Historical Recovery Period. Then, for each month in which a Historical CAT Assessment is in effect, each CEBB and CEBS would be required to pay the fee—the Historical CAT Assessment—for each transaction in Eligible Securities executed by the CEBB or CEBS from the prior month as set forth in CAT Data, where the Historical CAT Assessment for each transaction will be calculated by multiplying the number of executed equivalent shares in the transaction by one-third and by the Historical Fee Rate.¹²

Each Historical CAT Assessment to be paid by CEBBs and CEBSs is designed to contribute toward the recovery of two-thirds of the Historical CAT Costs. Because the Participants previously have paid Past CAT Costs via loans to the Company, the Participants would not be required to pay any Historical

¹⁰ Under the CAT Funding Model, the Operating Committee may establish one or more Historical CAT Assessments. Section 11.3(b) of the CAT NMS Plan. This filing only establishes Historical CAT Assessment 1A related to certain Historical CAT Costs as described herein; it does not address any other potential Historical CAT Assessment related to other Historical CAT Costs. In addition, under the CAT Funding Model, the Operating Committee also may establish CAT Fees related to CAT costs going forward. Section 11.3(a) of the CAT NMS Plan. This filing does not address any potential CAT Fees related to CAT costs going forward. Any such other fee for any other Historical CAT Assessment or CAT Fee for Prospective CAT Costs will be subject to a separate fee filing.

¹¹ Section 11.3(b) of the CAT NMS Plan.

¹² In approving the CAT Funding Model, the Commission stated that, “[i]n the Commission’s view, the proposed recovery of the Past CAT Costs via the Historical CAT Assessment is appropriate.” CAT Funding Model Approval Order at 13450.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

³ The Exchange and each of its affiliated exchanges (Cboe BYX Exchange, Inc., Cboe BZX Exchange, Inc., Cboe C2 Exchange, Inc., Cboe EDGA Exchange, Inc., and Cboe EDGX Exchange, Inc.) are filing to adopt the same amendment to this fee schedule.

⁴ An “Industry Member” is defined as “a member of a national securities exchange or a member of a national securities association.” See Exchange Rule 7.20(u); see also Section 1.1 of the CAT NMS Plan. Unless otherwise specified, capitalized terms used in this rule filing are defined as set forth in the CAT NMS Plan and/or the CAT Compliance Rule. See Chapter 7, Section B of the Exchange’s Rulebook.

⁵ Securities Exchange Act Rel. No. 67457 (July 18, 2012), 77 FR 45721 (Aug. 1, 2012) (“Rule 613 Adopting Release”).

⁶ Securities Exchange Act Rel. No. 79318 (Nov. 15, 2016), 81 FR 84696 (Nov. 23, 2016) (“CAT NMS Plan Approval Order”).

⁷ Section 11.1(b) of the CAT NMS Plan.

⁸ Securities Exchange Act Rel. No. 103960 (Sept. 12, 2025), 90 FR 44910 (Sept. 17, 2025).

⁹ Securities Exchange Act Rel. No. 105003 (Mar. 16, 2026), 91 FR 13410 (Mar. 29, 2026) (“CAT Funding Model Approval Order”). This CAT Funding Model replaced the prior funding model that was approved by the Commission on September 6, 2023. Securities Exchange Act Rel. No. 98290 (Sept. 6, 2023), 88 FR 62628 (Sept. 12, 2023).

CAT Assessment. In lieu of a Historical CAT Assessment, the Participants' one-third share of Historical CAT Costs will be paid by the cancellation of loans made by the Participants to the Company on a pro rata basis based on the outstanding loan amounts due under the loans, instead of through the payment of a CAT fee.¹³ In addition, the Participants also will be 100% responsible for certain Excluded Costs (as discussed below).

CAT LLC proposes to charge CEBBs and CEBs (as described in more detail below) Historical CAT Assessment 1A to recover certain historical CAT costs incurred prior to January 1, 2022, in accordance with the CAT Funding Model. To implement this fee on behalf of CAT LLC, the CAT NMS Plan requires the Participants to "file with the SEC under Section 19(b) of the Exchange Act any such fees on Industry Members that the Operating Committee approves, and such fees shall be labeled as 'Consolidated Audit Trail Funding Fees.'" ¹⁴ The Plan further states that "Participants will be required to file with the SEC pursuant to Section 19(b) of the Exchange Act a filing for each Historical CAT Assessment."¹⁵ Accordingly, the purpose of this filing is to implement a Historical CAT Assessment on behalf of CAT LLC for

Industry Members, referred to as Historical CAT Assessment 1A, in accordance with the CAT NMS Plan.¹⁶

The Exchange, along with the other Participants in the CAT, previously filed a fee filing to implement Historical CAT Assessment 1.¹⁷ Based on the fee filing for Historical CAT Assessment 1, Historical CAT Assessment 1 was expected to be in effect from the first invoice in November 2024 until \$212,039,879.34 (two-thirds of Historical CAT Costs 1) was invoiced to CAT Executing Brokers collectively.¹⁸ However, Historical CAT Assessment 1 ceased before the entire amount was invoiced.¹⁹ The last invoice for Historical CAT Assessment 1 was provided on December 2025, after only \$173,075,024 of the total \$212,039,879.34 had been invoiced to Industry Members.²⁰ Accordingly, \$38,964,855.34 of Historical CAT Costs 1 has not been invoiced. Historical CAT Assessment 1A would seek to recover this outstanding amount of Historical CAT Costs 1 that has not been invoiced.

(1) CAT Executing Brokers

Historical CAT Assessment 1A will be charged to each CEBB and CEBs for each applicable transaction in Eligible Securities.²¹ The CAT NMS Plan defines a "CAT Executing Broker" to mean:

(a) with respect to a transaction in an Eligible Security that is executed on an exchange, the Industry Member identified as the Industry Member responsible for the order on the buy-side of the transaction and the Industry Member responsible for the sell-side of the transaction in the equity order trade event and option trade event in the CAT Data submitted to the CAT by the relevant exchange pursuant to the Participant Technical Specifications; and (b) with respect to a transaction in an Eligible Security that is executed otherwise than on an exchange and required to be reported to an equity trade reporting facility of a registered national securities association, the Industry Member identified as the executing broker and the Industry Member identified as the contra-side executing broker in the TRF/ORF/ADF transaction data event in the CAT Data submitted to the CAT by FINRA pursuant to the Participant Technical Specifications; provided, however, in those circumstances where there is a non-Industry Member identified as the contra-side executing broker in the TRF/ORF/ADF transaction data event or no contra-side executing broker is identified in the TRF/ORF/ADF transaction data event, then the Industry Member identified as the executing broker in the TRF/ORF/ADF transaction data event would be treated as CAT Executing Broker for the Buyer and for the Seller.²²

The following fields of the Participant Technical Specifications indicate the CAT Executing Brokers for the transactions executed on an exchange.

EQUITY ORDER TRADE (EOT)²³

No.	Field name	Data type	Description	Include key
12.n.8/13.n.8	member	Member Alias	The identifier for the member firm that is responsible for the order on this side of the trade. Not required if there is no order for the side as indicated by the NOBUYID/ NOSELLID instruction. This must be provided if orderID is provided.	C

¹³ Section 11.3(b)(ii) of the CAT NMS Plan.

¹⁴ Section 11.1(b) of the CAT NMS Plan.

¹⁵ Section 11.3(b)(iii)(B)(I) of the CAT NMS Plan.

¹⁶ Note that there may be one or more Historical CAT Assessments. Section 11.3(b) of the CAT NMS Plan.

¹⁷ Securities Exchange Act Release No. 100938 (September 5, 2024), 89 FR 73802 (September 11, 2024) (SR-CBOE-2024-038) ("Historical CAT Assessment 1 Filing").

¹⁸ See Consolidated Audit Trail Funding Fees (a)(1).

¹⁹ In response to the Eleventh Circuit's decision vacating the prior CAT NMS Plan funding model, the last invoices for Historical CAT Assessment 1 were sent in December 2025 based on November 2025 transactions. See *American Securities*

Association v. SEC, No. 23-13396 (11th Cir. July 25, 2025).

²⁰ CAT Fee Alert 2025-4 (Nov. 25, 2025).

²¹ In its approval order for the CAT Funding Model, the Commission determined that charging CAT fees to CAT Executing Brokers was appropriate. In reaching this conclusion the Commission noted that the use of CAT Executing Brokers is appropriate because the CAT Funding Model is based upon the calculation of *executed* equivalent shares, and, therefore, charging CAT Executing Brokers would reflect their executing role in each transaction. Furthermore, the Commission noted that, because CAT Executing Brokers are already identified in transaction reports from the exchanges and FINRA's equity trade reporting facilities recorded in CAT Data, charging CAT

Executing Brokers could streamline the billing process. CAT Funding Model Approval Order at 13413.

²² Section 1.1 of the CAT NMS Plan. In its approval order for the CAT Funding Model, the Commission "recognize[d] that Industry Members may pass-through CAT fees for customer executed volume." See CAT Funding Model Approval Order at 13424.

²³ See Table 23, Section 4.7 (Order Trade Event) of the CAT Reporting Technical Specifications for Plan Participants, Version 4.2.0-r2 (Feb. 24, 2026), https://www.catnmsplan.com/sites/default/files/2026-02/02.24.2026-CAT_Reporting_Technical_Specifications_for_Participants_4.2.0-r2.pdf ("CAT Reporting Technical Specifications for Plan Participants").

OPTION TRADE (OT)²⁴

No.	Field name	Data type	Description	Include key
16.n.13/17.n.13	member	Member Alias	The identifier for the member firm that is responsible for the order.	R

In addition, the following fields of the Participant Technical Specifications would indicate the CAT Executing Brokers for the transactions executed otherwise than on an exchange.

TRF/ORF/ADF TRANSACTION DATA EVENT (TRF)²⁵

No.	Field name	Data type	Description	Include key
26	reportingExecutingMpid	Member Alias	MPID of the executing party	R
28	contraExecutingMpid	Member Alias	MPID of the contra-side executing party ..	C

(2) Calculation of Fee Rate for Historical CAT Assessment 1A

The Operating Committee determined the fee rate to be used in calculating Historical CAT Assessment 1A based on the Historical CAT Costs for Historical CAT Assessment 1A and the projected total executed share volume of all transactions in Eligible Securities for the Historical Recovery Period for Historical CAT Assessment 1A (“Historical Recovery Period 1A”), as discussed in detail below. Based on this calculation, the Operating Committee has determined that the fee rate for Historical CAT Assessment 1A would be \$0.000002, as discussed in detail below.

(A) Executed Equivalent Shares for Transactions in Eligible Securities

Under the CAT NMS Plan, for purposes of calculating each Historical CAT Assessment, executed equivalent shares in a transaction in Eligible Securities will be reasonably counted as follows: (1) each executed share for a transaction in NMS Stocks will be counted as one executed equivalent share; (2) each executed contract for a transaction in Listed Options will be counted based on the multiplier applicable to the specific Listed Options (*i.e.*, 100 executed equivalent shares or such other applicable multiplier); and (3) each executed share for a transaction in OTC Equity Securities shall be counted as 0.01 executed equivalent share.²⁶

(B) Historical CAT Costs

The CAT NMS Plan states that “[t]he Operating Committee will reasonably determine the Historical CAT Costs sought to be recovered by each Historical CAT Assessment, where the Historical CAT Costs will be Past CAT Costs minus Past CAT Costs reasonably excluded from Historical CAT Costs by the Operating Committee. Each Historical CAT Assessment will seek to recover from CAT Executing Brokers two-thirds of Historical CAT Costs incurred during the period covered by the Historical CAT Assessment.”²⁷ Historical CAT Assessment 1, the original Historical CAT Assessment, was implemented to recover \$212,039,879.34 of Historical CAT Costs 1 from CEBBs and CEBBs collectively.²⁸ As described in the fee filings for Historical CAT Assessment 1, Historical CAT Costs 1 of \$212,039,879.34 includes Past CAT Costs of \$401,312,909 minus certain Excluded Costs of \$83,253,090. As described in the filing for Historical CAT Assessment 1, Participants collectively will remain responsible for one-third of Historical CAT Costs 1 (which is \$106,019,939.67), plus the Excluded Costs of \$83,253,090. Accordingly, CEBBs collectively will be responsible for one-third of Historical CAT Costs 1 (which is \$106,019,939.67), and CEBBs collectively will be responsible for one-third of Historical CAT Costs 1 (which is \$106,019,939.67), for a total of \$212,039,879.34. CEBBs and CEBBs collectively have been invoiced for \$173,075,024 of the

\$212,039,879.34 of Historical CAT Costs 1 via Historical CAT Assessment 1. Accordingly, Historical CAT Assessment 1A would charge CEBBs and CEBBs collectively for the remaining \$38,964,855.34 of Historical CAT Costs 1 that was not invoiced to CEBBs and CEBBs via Historical CAT Assessment 1. Historical CAT Assessment 1A will be designed to recover the remaining \$38,964,855.34 of Historical CAT Costs 1 from CEBBs and CEBBs collectively, with CEBBs collectively responsible for \$19,482,427.67 and CEBBs collectively responsible for \$19,482,427.67.

(i) Historical CAT Costs 1

The following describes in detail Historical CAT Costs 1 with regard to four separate historical time periods as well as Past CAT Costs excluded from Historical CAT Costs 1 (“Excluded Costs”). The following cost details are provided in accordance with the requirement in the CAT NMS Plan to provide in the fee filing “a brief description of the amount and type of Historical CAT Costs, including (1) the technology line items of cloud hosting services, operating fees, CAIS operating fees, change request fees, and capitalized developed technology costs, (2) legal, (3) consulting, (4) insurance, (5) professional and administration and (6) public relations costs.”²⁹ Each of the costs described below are reasonable, appropriate and necessary for the creation, implementation and maintenance of CAT. These Historical

²⁴ See Table 52, Section 5.2.5.1 (Simple Option Trade Event) of the CAT Reporting Technical Specifications for Plan Participants.

²⁵ See Table 62, Section 6.1 (TRF/ORF/ADF Transaction Data Event) of the CAT Reporting Technical Specifications for Plan Participants.

²⁶ Section 11.3(a)(i)(B) and 11.3(b)(i)(B) of the CAT NMS Plan. In approving the CAT Funding Model, the Commission concluded that “in the Commission’s view, the use of executed equivalent share volume as the basis for determining and allocating CAT costs during the two-year interim period is appropriate and consistent with the

funding principles of the CAT NMS Plan.” CAT Funding Model Approval Order at 13427.

²⁷ Section 11.3(b)(i)(C) of the CAT NMS Plan.

²⁸ See Historical CAT Assessment 1 Filing at 73824.

²⁹ Section 11.3(b)(iii)(B)(II)(B) of the CAT NMS Plan.

CAT Costs 1 are the same as described in the fee filing for Historical CAT Assessment 1.³⁰

(a) Historical CAT Costs Incurred Prior to June 22, 2020 (Pre-FAM Costs)

Historical CAT Costs 1 would include costs incurred by CAT prior to June 22, 2020 ("Pre-FAM Period") and already

funded by the Participants, excluding Excluded Costs (described further below). Historical CAT Costs 1 would include costs for the Pre-FAM Period of \$124,290,730. The Participants would remain responsible for one-third of this cost (which they have previously paid) (\$41,430,243.33), and Industry Members would be responsible for the remaining

two-thirds, with CEBBs paying one-third (\$41,430,243.33) and CEBBs paying one-third (\$41,430,243.33). These costs do not include Excluded Costs, as discussed further below. The following table breaks down Historical CAT Costs 1³¹ for the Pre-FAM Period into the categories set forth in Section 11.3(b)(iii)(B)(II) of the CAT NMS Plan.

Operating expense	Historical CAT costs 1 for Pre-FAM Period (prior to June 22, 2020)
Capitalized Developed Technology Costs *	\$51,847,150
Technology Costs	33,568,579
Cloud Hosting Services	10,268,840
Operating Fees	21,085,485
CAIS Operating Fees	2,072,908
Change Request Fees	141,346
Legal	19,674,463
Consulting	17,013,414
Insurance	880,419
Professional and administration	1,082,036
Public relations	224,669
Total Operating Expenses	124,290,730

* The non-cash amortization of these capitalized developed technology costs of \$2,115,545 incurred during the period prior to June 22, 2020 have been appropriately excluded from the above table.³²

The Pre-FAM Period includes a broad range of CAT-related activity from 2012 through June 22, 2020, including the evaluation of the requirements of SEC Rule 613, the development of the CAT NMS Plan, the evaluation and selection of the initial and successor Plan Processors, the commencement of the creation and implementation of the CAT to comply with Rule 613 and the CAT NMS Plan, including technical specifications for transaction reporting and regulatory access, and related technology and the commencement of reporting to the CAT. The following describes the costs for each of the categories for the Pre-FAM Period.

(I) Technology Costs—Cloud Hosting Services

The \$10,268,840 in technology costs for cloud hosting services represent costs incurred for services provided by the cloud services provider for the CAT,

Amazon Web Services, Inc. ("AWS"), during the Pre-FAM Period.

As part of its proposal for acting as the successor Plan Processor for the CAT, FCAT selected AWS as a subcontractor to provide cloud hosting services. In 2019, after reviewing the capabilities of other cloud services providers, FCAT determined that AWS was the only cloud services provider at that time sufficiently mature and capable of providing the full suite of necessary cloud services for the CAT, including, for example, the security, resiliency and complexity necessary for the CAT computing requirements. The use of cloud hosting services is standard for this type of high-volume data activity and reasonable and necessary for implementation of the CAT, particularly given the substantial data volumes associated with the CAT.

Under the Plan Processor Agreement with FCAT, CAT LLC is required to pay FCAT the fees incurred by the Plan

Processor for cloud hosting services provided by AWS as FCAT's subcontractor on a monthly basis for the cloud hosting services, and FCAT, in turn, pays such fees to AWS. The fees for cloud hosting services were negotiated by FCAT on an arm's length basis with the goals of managing cost and receiving services required to comply with the CAT NMS Plan and Rule 613, taking into consideration a variety of factors, including the expected volume of data, the breadth of services provided and market rates for similar services. The fees for cloud hosting services during the Pre-FAM Period were paid to FCAT by CAT NMS, LLC³³ and subsequently Consolidated Audit Trail, LLC (as previously noted, both entities are referred to generally as "CAT LLC"),³⁴ and FCAT, in turn, paid AWS. CAT LLC was funded via loan contributions by the Participants.³⁵

AWS was engaged by FCAT to provide a broad array of cloud hosting

³⁰ See generally Historical CAT Assessment 1 Filing.

³¹ The costs described in this table of costs for the Pre-FAM Period were calculated based upon CAT LLC's review of applicable bills and invoices and related financial statements. CAT LLC financial statements are available on the CAT website. In addition, in accordance with Section 6.6(a)(i) of the CAT NMS Plan, in 2018 CAT LLC provided the SEC with "an independent audit of fees, costs, and expenses incurred by the Participants on behalf of the Company prior to the Effective Date of the Plan that will be publicly available." The audit is available on the CAT website.

³² With respect to certain costs that were "appropriately excluded," such excluded costs

relate to the amortization of capitalized technology costs, which are amortized over the life of the Plan Processor Agreement. As such costs have already been otherwise reflected in the filing, their inclusion would double count the capitalized technology costs. In addition, amortization is a non-cash expense.

³³ CAT NMS, LLC was formed by FINRA and the U.S. national securities exchanges to implement the requirements of SEC Rule 613 under the Exchange Act. SEC Rule 613 required the SROs to jointly submit to the SEC the CAT NMS Plan to create, implement and maintain the CAT. The SEC approved the CAT NMS Plan on November 15, 2016. CAT NMS Plan Approval Order.

³⁴ On August 29, 2019, the Participants formed a new Delaware limited liability company named Consolidated Audit Trail, LLC for the purpose of conducting activities related to the CAT from and after the effectiveness of the proposed amendment of the CAT NMS Plan to replace CAT NMS, LLC. See Securities Exchange Act Rel. No. 87149 (Sept. 27, 2019), 84 FR 52905 (Oct. 3, 2019).

³⁵ For each of the costs paid by CAT NMS, LLC and Consolidated Audit Trail, LLC as discussed throughout this filing, CAT NMS, LLC and Consolidated Audit Trail, LLC paid these costs via loan contributions by the Participants to CAT NMS, LLC and Consolidated Audit Trail, LLC, respectively.

services for the CAT, including data ingestion, data management, and analytic tools. Services provided by AWS include storage services, databases, compute services and other services (such as networking, management tools and DevOps tools). AWS also was engaged to provide various environments for CAT, such as development, performance testing, test and production environments.

The cost for AWS services for the CAT is a function of the volume of CAT Data. The greater the amount of CAT Data, the greater the cost of AWS

services to the CAT. During the Pre-FAM Period from the engagement of AWS in February 2019 through June 2020, AWS provided cloud hosting services for volumes of CAT Data far in excess of the volume predictions set forth in the CAT NMS Plan. The CAT NMS Plan states, when all CAT Reporters are submitting their data to the CAT, it “must be sized to receive[,] process and load more than 58 billion records per day,”³⁶ and that “[i]t is expected that the Central Repository will grow to more than 29 petabytes of raw, uncompressed data.”³⁷ However,

the volume of CAT Data for the Pre-FAM Period was far in excess of these predicted levels. By the end of this period, data submitted to the CAT included options and equities Participant Data,³⁸ Phase 2a and Phase 2b Industry Member Data³⁹ (including certain linkages), as well as SIP Data,⁴⁰ reference data and other types of Other Data.⁴¹ The following chart provides data regarding the average daily volume, cumulative total events, total compute hours and storage footprint of the CAT during the Pre-FAM Period.⁴²

	Date range: 3/29/19 to 4/12/20 *	Date range: 4/13/20 to 6/21/20 **
Average Daily Volume in Billions		
Participant—Equities	5	5
Participant—Options	80	981
Industry Member—Equities		3
Industry Member—Options		0.04
SIP—Options & Equities	64	70
Average Total Daily Volume	149	166
Cumulative Total Events for the Period	3,890	4,990
Total Compute Hours for the Period	*** N/A	5,663,247
Storage Footprint at End of Period (Petabytes)	30.57	47.96

* The Participant Equities in RSA format.

** Start of Industry Member reporting on 4/13/2020.

*** Note that, although there were compute hours during this period, data related to such compute hours are no longer available in current data.

(II) Technology Costs—Operating Fees

The \$21,085,485 in technology costs related to operating fees represent costs incurred with regard to activities of FCAT as the Plan Processor. Operating fees are those fees paid by CAT LLC to FCAT as the Plan Processor to operate and maintain the CAT and to perform business operations related to the system, including compliance, security, testing, training, communications with the industry (e.g., management of the FINRA CAT Helpdesk, FAQs, website and webinars) and program management as required by the CAT NMS Plan.

FCAT was selected to assume the role of the successor Plan Processor. Prior to this selection, the Participants engaged in discussions with two prior Bidders⁴³ for the successor Plan Processor role. The Operating Committee formed a Selection Subcommittee in accordance with Section 4.12 of the CAT NMS Plan to evaluate and review Bids and to make

a recommendation to the Operating Committee with respect to the selection of the successor Plan Processor. In an April 9, 2019 letter to the Commission, the Participants described the reasons for its selection of the successor Plan Processor:

The Selection Subcommittee considered factors including, but not limited to, the following, in recommending FINRA to the Operating Committee as the successor Plan Processor:

a. FINRA’s specialized technical expertise and capabilities in the area of broker-dealer technology;

b. The need to appoint a successor Plan Processor with specialized expertise to develop, implement, and maintain the CAT System in accordance with the CAT NMS Plan and SEC Rule 613;

c. FINRA’s detailed proposal in response to CATLLC’s recent inquiries; and

d. FINRA’s data query and analytics systems demonstration to the Participants.

Based on these and other factors, the Selection Subcommittee determined that FINRA was the most appropriate Bidder to become the successor Plan Processor.⁴⁴

On February 26, 2019, the Operating Committee (with FINRA recusing itself) voted to select FINRA as the successor Plan Processor pursuant to Section 6.1(t) of the CAT NMS Plan.⁴⁵ On March 29, 2019, CAT LLC and FCAT (a wholly owned subsidiary of FINRA) entered into a Plan Processor Agreement pursuant to which FCAT would perform the functions and duties of the Plan Processor contemplated by the CAT NMS Plan, including the management and operation of the CAT.

Under the Plan Processor Agreement with FCAT, CAT LLC is required to pay FCAT a negotiated monthly fixed price for the operation of the CAT. This fixed price contract was negotiated on an

³⁶ Appendix D–4 of the CAT NMS Plan at n.262.

³⁷ Appendix D–5 of the CAT NMS Plan.

³⁸ See Section 6.3(d) of the CAT NMS Plan.

³⁹ See Securities Exchange Rel. No. 88702 (Apr. 20, 2020), 85 FR 23075 (Apr. 24, 2020) (“Phased Reporting Exemptive Relief Order”) for a description of Phase 2a and Phase 2b Industry Member Data.

⁴⁰ See Section 6.5(a)(ii) of the CAT NMS Plan.

⁴¹ See Appendix C–109 of the CAT NMS Plan.

⁴² Note that the volume data described in this table does not include CAIS data.

⁴³ The term “Bidder” is defined in Section 1.1 of the CAT NMS Plan.

⁴⁴ Letter from Michael J. Simon, Chair, CAT NMS, LLC Operating Committee, to Brent J. Fields, Secretary, SEC (Apr. 9, 2019), <https://www.sec.gov/divisions/marketreg/rule613-info-notice-of-plan-processor-selection-040919.pdf>.

⁴⁵ *Id.*

arm's length basis with the goals of managing costs and receiving services required to comply with the CAT NMS Plan and Rule 613, taking into consideration a variety of factors, including the breadth of services provided and market rates for similar types of activity. The operating fees during the Pre-FAM Period were paid to FCAT by CAT LLC.

From March 29, 2019 (the commencement of the Plan Processor Agreement with FCAT) through June 22, 2020 (the end of the Pre-FAM Period), the Plan Processor's activities with respect to the CAT included the following:

- Commenced user acceptance testing with market data provided by Exegy Incorporated ("Exegy"), a market data provider;⁴⁶
- Published Technical Specifications and related reporting scenarios documents for Phase 2a, 2b and 2c reporting for Industry Members, after substantial engagement with SEC staff, Industry Members and Participants on the Technical Specifications;
- Facilitated testing for Phase 2a and 2b reporting for Industry Members;
- Began developing Technical Specifications and related reporting scenarios documents for Phase 2d reporting for Industry Members, after substantial engagement with SEC staff, Industry Members and Participants on the Technical Specifications;
- Published Central Repository Access Technical Specifications, and provided regulator access to test data from Industry Members;
- Facilitated Participant exchanges that support options market makers sending Quote Sent Time to the CAT;
- Facilitated the introduction of OPRA and Options NBBO Other Data to CAT;
- Addressed compliance items, including drafting CAT policies and procedures, and addressing requirements under Regulation SCI;
- Provided support to the Operating Committee, the Compliance Subcommittee and CAT working groups;
- Assisted with interpretive efforts and exemptive requests regarding the CAT NMS Plan;
- Oversaw the security of the CAT;
- Monitored the operation of the CAT, including with regard to Participant and Industry Member reporting;
- Provided support to subcontractors under the Plan Processor Agreement;

⁴⁶ The use of Exegy to provide market data, including the costs and market data provided, is discussed below in Section 3(a)(2)(B)(a)(IX).

- Provided support in discussions with Participants, the SEC and its staff;
- Operated the FINRA CAT Helpdesk, which is the primary source for answers to questions about CAT, including questions regarding: clock synchronization, firm reporting responsibilities, interpretive questions, technical specifications for reporting to CAT and more;
- Facilitated communications with the industry, including via FAQs, CAT Alerts, meetings, presentations and webinars;
- Administered the CAT website and all of its content;⁴⁷ and
- Provided technical support and assistance with connectivity, data access, and user support, including the use of CAT Data and query tools, for Participants and the SEC staff.

(III) Technology Costs—CAIS Operating Fees

The \$2,072,908 in technology costs related to CAIS operating fees represent the fees paid for FCAT's subcontractor charged with the development and operation of CAT's Customer and Account Information System ("CAIS"). The CAT is required under the CAT NMS Plan to capture and store Customer Identifying Information and Customer Account Information in a database separate from the transactional database and to create a CAT-Customer-ID for each Customer.

During the Pre-FAM Period, the CAIS-related services were provided by the Plan Processor through the Plan Processor's subcontractor, Kingland Systems Incorporation ("Kingland"). Kingland had experience operating in the securities regulatory technology space, and as a part of its proposal for acting as the Plan Processor for the CAT, FCAT selected Kingland as a subcontractor to provide certain CAIS-related services.

Under the Plan Processor Agreement with FCAT, CAT LLC was required to pay to the Plan Processor the fees incurred by FCAT for CAIS-related services provided by FCAT through Kingland on a monthly basis. FCAT negotiated the fees for Kingland's CAIS-related services on an arm's length basis with the goals of managing costs and receiving services required to comply with the CAT NMS Plan, taking into consideration a variety of factors, including the services to be provided and market rates for similar types of activity. The fees for CAIS-related services during the Pre-FAM Period

were paid by CAT LLC to FCAT. FCAT, in turn, paid Kingland.

During the Pre-FAM Period, Kingland began development of the CAIS Technical Specifications and the building of CAIS. In addition, Kingland also worked on the build related to the CCID Alternative, an alternative approach to customer information that was not included in the CAT NMS Plan as originally adopted.⁴⁸ Furthermore, Kingland also worked on the acceleration of the reporting of large trader identifiers ("LTID") earlier than originally contemplated during this period, in accordance with exemptive relief granted by the SEC.⁴⁹

(IV) Technology Costs—Change Request Fees

The technology costs related to change request fees include costs related to certain modifications, upgrades or other changes to the CAT. Change requests are standard practice and necessary to reflect operational changes, including changes related to new market developments, such as new market participants. In general, if CAT LLC determines that a modification, upgrade or other change to the functionality or service is necessary and appropriate, CAT LLC will submit a request for such a change to the Plan Processor. The Plan Processor will then respond to the request with a proposal for implementing the change, including the cost (if any) of such a change. CAT LLC then determines whether to approve the proposed change. The change request costs were paid by CAT LLC to FCAT. During the Pre-FAM Period, CAT LLC incurred costs of \$141,346 related to change requests implemented by FCAT. Such change requests related to a development fee regarding the OPRA and SIP data feeds, and the reprocessing of certain exchange data.⁵⁰

(V) Technology Costs—Capitalized Developed Technology Costs

This category of costs includes capitalizable application development costs incurred in the development of the CAT. The capitalized developed technology costs for the Pre-FAM Period of \$51,847,150 relate to technology provided by the Initial Plan Processor and the successor Plan Processor.

⁴⁸ For a discussion of the CCID Alternative, see Securities Exchange Act Rel. No. 88393 (Mar. 17, 2020), 85 FR 16152 (Mar. 20, 2020).

⁴⁹ Phased Reporting Exemptive Relief Order at 23079–80.

⁵⁰ Note that CAT LLC also has incurred costs related to specific Industry Members (e.g., reprocessing costs related to Industry Member reporting errors).

⁴⁷ The CAT website is <https://www.catnmsplan.com>.

Initial Plan Processor: Thesys CAT, LLC. The capitalized developed technology costs related to the Initial Plan Processor include costs incurred with regard to testing for Participant reporting, Participant reporting to the CAT, a security assessment of the CAT, and the development of the billing function for the CAT.

On January 17, 2017, the Selection Committee of the CAT NMS Plan selected the Initial Plan Processor, Thesys Technologies, LLC, for the CAT NMS Plan pursuant to Article V of the CAT NMS Plan.⁵¹ The Participants utilized a request for proposal (“RFP”) to seek proposals to build and operate the CAT, receiving a number of proposals in response to the RFP. The Participants carefully reviewed and considered each of the proposals, including holding in-person meetings with each of the Bidders. After several rounds of review, the Participants selected the Initial Plan Processor in accordance with the CAT NMS Plan, taking into consideration that the Initial Plan Processor had experience operating in the securities regulatory technology space, among other considerations. On April 6, 2017, CAT LLC entered into an agreement with Thesys CAT LLC (“Thesys CAT”), a Thesys affiliate, to perform the functions and duties of the Plan Processor contemplated by the CAT NMS Plan, including the management and operation of the CAT. Under the agreement, CAT LLC would pay Thesys CAT a negotiated, fixed price fee for its role as the Initial Plan Processor. Effective January 30, 2019, the Plan Processor Agreement with Thesys CAT was terminated, and FCAT was subsequently selected as the successor Plan Processor.

From January 17, 2017 through January 30, 2019, the time in which Thesys CAT was engaged for the CAT, but excluding the period from November 15, 2017 through January 30, 2019, the Initial Plan Processor engaged in various activities with respect to the CAT, including preparing iterative drafts of Participant Technical Specifications, Industry Member Technical Specifications and the Central Repository Access Technical Specifications. In addition, Thesys CAT also developed CAT technology, addressed compliance items, including drafting CAT policies and procedures, addressing Regulation SCI requirements, establishing a CAT Compliance Officer and a Chief Information Security

Officer, addressed security-related matters for the CAT, and worked towards the initiation of Participant reporting per the Participant Technical Specifications.

Successor Plan Processor: FCAT. The capitalized developed technology costs related to FCAT include: (1) development costs incurred during the application development stage to meet various agreed-upon milestones regarding the CAT, including the completion of go-live functionality related to options ingestion and validation, equities regulatory services agreement query tool updates and unlinked options data query, options linkages release, Industry Member Phase 2a file submission and data integrity (including error corrections), and Industry Member testing, including reporting relationships, ATS order type management, basic reporting statistics, SFTP data integrity feedback and error correction; (2) costs related to certain modifications, upgrades, or other changes to the CAT that were not contemplated by the agreement between CAT LLC and the Plan Processor, including a one-time development fee for a secure analytics workspace, a one-time development fee for an Industry Member connectivity solution, and a one-time development fee for the acceleration of multi-factor authentication; (3) CAIS implementation fees; and (4) license fees.

(VI) Legal Costs

The legal costs of \$19,674,463 represent the fees paid for legal services provided by two law firms, Wilmer Cutler Pickering Hale and Dorr LLP (“WilmerHale”) and Pillsbury Winthrop Shaw Pittman LLP (“Pillsbury”), during the Pre-FAM Period. The legal costs exclude those costs incurred from November 15, 2017 through November 15, 2018.

Law Firm: WilmerHale. Following the adoption of Rule 613, the Participants determined it was necessary to engage external legal counsel to advise the Participants with respect to corporate and regulatory legal matters related to the CAT, including drafting and developing the CAT NMS Plan. The Participants considered a variety of factors in their analysis of prospective law firms, including (1) the firm’s qualifications, resources and expertise; (2) the firm’s relevant experience and understanding of the regulatory matters raised by the CAT and in advising on matters of similar scope; (3) the composition of the legal team; and (4) professional fees. Following a series of interviews, the Participants acting as a

consortium determined that WilmerHale was well qualified given the balance of these considerations and engaged WilmerHale in February 2013.

WilmerHale’s billing rates are negotiated on an annual basis and are determined with reference to the rates charged by other leading law firms for similar work. The Participants assess WilmerHale’s performance and review prospective budgets and staffing plans submitted by WilmerHale on an annual basis. WilmerHale’s compensation arrangements are reasonable and appropriate, and in line with the rates charged by other leading law firms for similar work.

The legal costs for WilmerHale during the Pre-FAM Period included costs incurred from 2013 until June 22, 2020 to address corporate and regulatory legal matters related to the CAT. The legal fees for this law firm during the period from February 2013 until the formation of the CAT NMS, LLC on November 15, 2016 were paid directly by the exchanges and FINRA to WilmerHale. After the formation of CAT NMS LLC, the legal fees were paid by CAT LLC to WilmerHale.

After WilmerHale was engaged in 2013 through the end of the Pre-FAM Period on June 22, 2020 (excluding the legal costs from November 15, 2017 through November 15, 2018), WilmerHale provided legal assistance to the CAT on a variety of matters, including with regard to the following:

- Analyzed various legal matters associated with the Selection Plan, and drafted an amendment to the Selection Plan;
- Assisted with the RFP and bidding process for the CAT Plan Processor;
- Analyzed legal matters related to the Development Advisory Group (“DAG”);
- Drafted the CAT NMS Plan, analyzed various items related to the CAT NMS Plan, and responded to comment letters on CAT NMS Plan;
- Provided legal support for the formation of the legal entity, the governance of the CAT, including governance support prior to the adoption of the CAT NMS Plan, which involved support for the full committee of exchanges and FINRA as well as subcommittees of this group (e.g., Joint Subcommittee Group, Technical, Industry Outreach, Cost and Funding and Other Products) and the DAG, governance support during the transition to the new governance structure under the CAT NMS Plan, and governance support after the adoption of the CAT NMS Plan, which involved support for the Operating Committee, Advisory Committee, Compliance

⁵¹ Letter from the Participants to Brent J. Fields, Secretary, SEC (Jan. 18, 2017), <https://www.sec.gov/divisions/marketregrule613-info-notice-of-plan-processor-selection.pdf>.

Subcommittee and CAT working groups;

- Assisted with the development of the CAT funding model and drafted related amendments of the CAT NMS Plan and related filings;
- Negotiated and drafted the plan processor agreements with the Initial Plan Processor and the successor Plan Processor;
- Provided assistance with compliance with Regulation SCI;
- Assisted with clock synchronization study;
- Provided assistance with respect to the establishment of CAT security;
- Drafted exemptive requests from CAT NMS Plan requirements, including with regard to options market maker quotes, Customer IDs, CAT Reporter IDs, linking allocations to executions, CAT reporting timeline, FDIDs, customer and account information, timestamp granularity, small industry members, data facility reporting and linkage, allocation reports, SRO-assigned market participant identifiers and cancelled trade indicators, thereby seeking to implement changes that would be cost effective and benefit Industry Members and Participants;
- Assisted with the Implementation Plan required pursuant to Section 6.6(c)(i) of the CAT NMS Plan;
- Provided advice regarding CAT policies and procedures;
- Analyzed the SEC's amendment of the CAT NMS Plan regarding financial accountability;
- Provided interpretations of and related to the CAT NMS Plan;
- Provided support with regard to discussions with the SEC and its staff, including with respect to addressing interpretive and implementation issues; and
- Assisted with third-party vendor agreements.

Law Firm: Pillsbury. The legal costs for CAT during the Pre-FAM Period include costs related to the legal services performed by Pillsbury. The Participants interviewed this law firm as well as other potential law firms to provide legal assistance regarding certain liability matters. After considering a variety of factors in its analysis, including the relevant expertise and fees of the firm, CAT LLC determined to hire Pillsbury in April 2019. The hourly fee rates for this law firm were in line with market rates for specialized legal expertise. The legal fees were paid by CAT LLC to Pillsbury. The legal costs for Pillsbury during the Pre-FAM Period included costs incurred from April 2019 until June 22, 2020 to address legal matters regarding the agreements between CAT Reporters and

CAT LLC concerning certain terms associated with CAT Reporting (the "Reporter Agreement"). During that period, Pillsbury advised CAT LLC regarding applicable legal matters, participated in negotiations between the Participants and Industry Members, participated in meetings with senior SEC staff, the Chairman, and Commissioners, represented CAT LLC and the Participants in an SEC administrative proceeding, and drafted a proposed amendment to the CAT NMS Plan regarding liability matters. Liability issues related to the CAT are important matters that needed to be resolved and clarified. CAT LLC's efforts to seek such resolution and clarity work to the benefit of Participants, Industry Members and other market participants. Moreover, litigation involving CAT LLC is an expense of operating the CAT, and, therefore, is appropriately an obligation of both Participants and Industry Members under the CAT Funding Model.

(VII) Consulting Costs

The consulting costs of \$17,013,414 represent the fees paid to the consulting firm Deloitte & Touche LLP ("Deloitte") as project manager during the Pre-FAM Period, from October 2012 until June 22, 2020. These consulting costs include costs for advisory services related to the operation of the CAT, and meeting facilitation and communications coordination, vendor support and financial analyses.

To help facilitate project management given the unprecedented complexity and scope of the CAT project, the Participants determined it was necessary to engage a consulting firm to assist with the CAT project in 2012, following the adoption of Rule 613. A variety of factors were considered in the analysis of prospective consulting firms, including (1) the firm's qualifications, resources, and expertise; (2) the firm's relevant experience and understanding of the regulatory issues raised by the CAT and in coordinating matters of similar scope; (3) the composition of the consulting team; and (4) professional fees. Following a series of interviews, the exchanges and FINRA as a consortium determined that Deloitte was well qualified given the balance of these considerations and engaged Deloitte on October 1, 2012.

Deloitte's fee rates are negotiated on an annual basis and are in line with market rates for this type of specialized consulting work. CAT LLC assesses Deloitte's performance and reviews prospective budgets and staffing plans submitted by Deloitte on an annual basis. Deloitte's compensation

arrangements are reasonable and appropriate, and in line with the rates charged by other leading consulting firms for similar work.

The consulting costs for CAT during the period from 2012 until the formation of the CAT NMS, LLC were paid directly by the Participants to Deloitte. After the formation of CAT NMS, LLC, the consulting fees were paid by CAT LLC to Deloitte. CAT LLC reviewed the consulting fees each month and approved the invoices.

After Deloitte was hired in 2012 through the end of the Pre-FAM Period on June 22, 2020 (excluding the consulting costs from November 15, 2017 through November 15, 2018), Deloitte provided a variety of consulting services, including the following:

- Established and implemented program operations for the CAT project, including the program management office and workstream design;
- Assisted with the Plan Processor selection process, including but not limited to, the development of the RFP and the bidder evaluation process, and facilitation and consolidation of the Participant's independent reviews;
- Assisted with the development and drafting of the CAT NMS Plan, including conducting cost-benefit studies, analyzing OATS and CAT requirements, and drafting appendices to the Plan;
- Assisted with cost and funding-related activities for the CAT, including the development of the CAT funding model and assistance with loans and the CAT bank account for CAT funding;
- Provided governance support to the CAT, including governance support prior to the adoption of the CAT NMS Plan, which involved support for the full committee of exchanges and FINRA as well as subcommittees of this group (e.g., Joint Subcommittee Group, Technical, Industry Outreach, Cost and Funding and Other Products) and the DAG, governance support during the transition to the new governance structure under the CAT NMS Plan and governance support after the adoption of the CAT NMS Plan, which involved support for the Operating Committee, Advisory Committee, Compliance Subcommittee and CAT working groups;
- Provided support to the Operating Committee, the Chair of the Operating Committee and the Leadership Team, including project management support, coordination and planning for meetings and communications, and interfacing with law firms and the SEC;
- Assisted with industry outreach and communications regarding the CAT, including assistance with industry

outreach events, the development of the CAT website, frequently asked questions, and coordinating with the CAT LLC's public relations firm;

- Provided support for updating the SEC on the progress of the development of the CAT;

- Provided active planning and coordination with and support for the Initial Plan Processor with regard to the development of the CAT, and reported to the Participants on the progress;

- Coordinated efforts regarding the selection of the successor Plan Processor;

- Assisted with the transition from the Initial Plan Processor to the successor Plan Processor, including support for the Operating Committee and successor Plan Processor for the new role; and

- Provided support for third-party vendors for the CAT, including FCAT, Anchin and the law firms engaged by CAT LLC.

(VIII) Insurance

The insurance costs of \$880,419 represent the cost incurred for insurance for CAT during the Pre-FAM Period. Commencing in 2020, CAT LLC performed an evaluation of various potential alternatives for CAT insurance policies, which included engaging in discussions with different insurance companies and conducting cost comparisons of various alternative approaches to insurance. Based on an analysis of a variety of factors, including coverage and premiums, CAT LLC determined to purchase cyber security liability insurance, directors' and officers' liability insurance, and errors and omissions liability insurance from USI Insurance Services LLC ("USI"). Such policies are standard for corporate entities, and cyber security liability insurance is important for the CAT System. The annual premiums for these policies were competitive for the coverage provided. The annual premiums were paid by CAT LLC to USI.

(IX) Professional and Administration Costs

In adopting the CAT NMS Plan, the Commission amended the Plan to add a requirement that CAT LLC's financial statements be prepared in compliance with GAAP, audited by an independent public accounting firm, and made publicly available.⁵² The professional and administration costs include costs related to accounting and accounting advisory services to support the operating and financial functions of

CAT, financial statement audit services by an independent accounting firm, preparation of tax returns, and various cash management and treasury functions. In addition, professional and administration costs for the Pre-FAM Period include costs related to the receipt of market data and a security assessment. The costs for these professional and administration services were \$1,082,036 for the Pre-FAM Period.

Financial Advisory Firm: Anchin Accountants & Advisors ("Anchin"). CAT LLC determined to hire a financial advisory firm, Anchin, to assist with financial matters for the CAT in April 2018. CAT LLC interviewed Anchin as well as other potential financial advisory firms to assist with the CAT project, considering a variety of factors in its analysis, including the firm's relevant expertise and fees. The hourly fee rates for this firm were in line with market rates for these financial advisory services. The fees for these services were paid by CAT LLC to Anchin.

After Anchin was hired in April 2018 through the end of the Pre-FAM Period on June 22, 2020 (excluding the period from April 2018 through November 15, 2018), Anchin provided a variety of services, including the following:

- Developed, updated and maintained internal controls;
- Provided cash management and treasury functions;
- Facilitated bill payments;
- Provided monthly bookkeeping;
- Reviewed vendor invoices and documentation in support of cash disbursements;
- Provided accounting research and consultations on various accounting, financial reporting and tax matters;
- Addressed not-for-profit tax and accounting considerations;
- Prepared tax returns;
- Addressed various accounting, financial and operating inquiries from Participants;
- Developed and maintained quarterly and annual operating and financial budgets, including budget to actual fluctuation analyses;
- Addressed accounting and financial reporting matters relating to the transition from CAT NMS, LLC to Consolidated Audit Trail, LLC, including supporting the dissolution of CAT NMS, LLC;
- Supported compliance with the CAT NMS Plan;
- Worked with and provided support to the Operating Committee and various CAT working groups;
- Prepared monthly, quarterly and annual financial statements;

- Supported the annual financial statement audits by an independent auditor;

- Reviewed historical costs from inception; and

- Provided accounting and financial information in support of SEC filings.

Accounting Firm: Grant Thornton LLP ("Grant Thornton"). In February 2020, CAT LLC determined to engage an independent accounting firm, Grant Thornton, to complete the audit of CAT LLC's financial statements, in accordance with the requirements of the CAT NMS Plan. CAT LLC interviewed this firm as well as another potential accounting firm to audit CAT LLC's financial statements, considering a variety of factors in its analysis, including the relevant expertise and fees of each of the firms. CAT LLC determined that Grant Thornton was well-qualified for the proposed role given the balance of these considerations. Grant Thornton's fixed fee rate compensation arrangement was reasonable and appropriate, and in line with the market rates charged for these types of accounting services. The fees for these services were paid by CAT LLC to Grant Thornton.

Market Data Provider: Exegy. The professional and administrative costs for the Pre-FAM Period included costs related to the receipt of certain market data for the CAT pursuant to an agreement with the CAT LLC, and then with FCAT. Exegy provided SIP Data required by the CAT NMS Plan.

After performing an analysis of the available market data vendors to confirm that the data provided met the SIP Data requirements of the CAT NMS Plan and comparing the costs of the vendors providing the required SIP Data, CAT LLC determined to purchase market data from Exegy from July 2018 through March 2019. CAT LLC determined that, unlike certain other vendors, Exegy provided market data that included all data elements required by the CAT NMS Plan.⁵³ In addition, the fees were reasonable and in line with market rates for the market data received. Accordingly, the professional and administrative costs for the Pre-FAM Period include the Exegy costs from November 2018 through March 2019. The cost of the market data was reasonable for the market data received. The fees for the market data were paid directly by CAT LLC to Exegy.

Upon the termination of the contract between CAT LLC and Exegy, FCAT entered into a contract with Exegy to purchase the required market data from Exegy in July 2019. All costs under the

⁵² Section 9.2 of the CAT NMS Plan.

⁵³ See Section 6.5(a)(ii) of the CAT NMS Plan.

contract were treated as a direct pass through cost to CAT LLC. Therefore, the fees for the market data were paid by CAT LLC to FCAT, who, in turn, paid Exegy for the market data.

Security Assessment: RSM US LLP (“RSM”). The operating costs for the Pre-FAM Period include costs related to a third party security assessment of the CAT performed by RSM. The assessment was designed to verify and validate the effective design, implementation, and operation of the controls specified by NIST Special Publication 800–53, Revision 4 and related standards and guidelines. Such a security assessment is in line with industry practice and important given the data included in the CAT. CAT LLC determined to engage RSM to perform the security assessment, after considering a variety of factors in its analysis, including the firm’s relevant expertise and fees. The fees were reasonable and in line with market rates for such an assessment. RSM performed the assessment from October 2018 through December 2018. Accordingly, the costs for the Pre-FAM Period include the costs incurred in November and December 2018. The cost for the security assessment were paid directly to RSM by CAT LLC.

(X) Public Relations Costs

The public relations costs of \$224,669 represent the fees paid to public relations firms during the Pre-FAM Period for professional communications services to CAT, including media relations consulting, strategy and execution. By engaging a public relations firm, CAT LLC was better positioned to understand and address CAT matters to the benefit of all market participants. Specifically, the public relations firms provided services related to communications with the public regarding the CAT, including

monitoring developments related to the CAT (e.g., congressional efforts, public comments and reaction to proposals, press coverage of the CAT), reporting such developments to CAT LLC, and drafting and disseminating communications to the public regarding such developments as well as reporting on developments related to the CAT (e.g., amendments to the CAT NMS Plan). Public relations services were important for various reasons, including monitoring comments made by market participants about CAT and understanding issues related to the CAT discussed on the public record.

The services performed by each of the public relations firms were comparable. The fees for such services were reasonable and in line with market rates. Only one public relations firm was engaged at a time; the three firms were engaged sequentially as the primary public relations contact moved among the three firms during this time period.

Public Relations Firm: Peppercomm, Inc. (“Peppercomm”). The national securities exchanges and FINRA, acting as a consortium, determined to hire the public relations firm Peppercomm in October 2014 and continued to engage this firm through September 2017. The exchanges and FINRA made this engagement decision after considering a variety of factors in its analysis, including the firm’s relevant expertise and fees. The fee rates for this public relations firm were negotiated on an arm’s length basis and were in line with market rates for these types of services. The public relations costs during the period from October 2014 until the formation of the CAT NMS, LLC were paid directly by the exchanges and FINRA to the public relations firm. After the formation of CAT NMS, LLC, the consulting fees were paid by CAT LLC.

Public Relations Firm: Sloane & Company (“Sloane”). CAT LLC determined to hire a new public relations firm, Sloane, in March 2018, based on, among other things, their expertise and the primary contact’s history with the project. The fee rates for this public relations firm were in line with market rates for these types of services. The fees during the Pre-FAM Period were paid by CAT LLC to Sloane. CAT LLC continued the engagement with Sloane until February 2020.

Public Relations Firm: Peak Strategies. CAT LLC determined to hire a new public relations firm, Peak Strategies, in March 2020, based on, among other things, their expertise and the primary contact’s history with the project. The fee rates for this public relations firm were in line with market rates for these types of services. The fees during the Pre-FAM Period were paid by CAT LLC to Peak Strategies.

(b) Historical CAT Costs Incurred in Financial Accountability Milestone Period 1

Historical CAT Costs 1 would include costs incurred by CAT and already funded by the Participants during Period 1 of the Financial Accountability Milestones (“FAM Period 1”),⁵⁴ which covers the period from June 22, 2020–July 31, 2020. Historical CAT Costs 1 would include costs for FAM Period 1 of \$6,377,343. The Participants would remain responsible for one-third of this cost (which they have previously paid) (\$2,125,781), and Industry Members would be responsible for the remaining two-thirds, with CEBBs paying one-third (\$2,125,781) and CEBBs paying one-third (\$2,125,781). The following table breaks down Historical CAT Costs 1 for FAM Period 1⁵⁵ into the categories set forth in Section 11.3(b)(iii)(B)(II) of the CAT NMS Plan.

Operating expense	Historical CAT costs for FAM Period 1
Capitalized Developed Technology Costs *	\$1,684,870
Technology Costs	3,996,800
Cloud Hosting Services	2,642,122
Operating Fees	1,099,680
CAIS Operating Fees	254,998
Change Request Fees .....	.....
Legal	481,687
Consulting	137,209
Insurance .....	.....
Professional and administration	69,077
Public relations	7,700

⁵⁴ Section 11.6(a)(i)(A) of the CAT NMS Plan.

⁵⁵ The costs described in this table of costs for FAM Period 1 were calculated based upon CAT LLC’s review of applicable bills and invoices and

related financial statements. CAT LLC financial statements are available on the CAT website.

Operating expense	Historical CAT costs for FAM Period 1
Total Operating Expenses	6,377,343

* The non-cash amortization of these capitalized developed technology costs of \$362,121 incurred during FAM Period 1 have been appropriately excluded from the above table.⁵⁶

By the completion of FAM Period 1, CAT LLC was required to implement the reporting by Industry Members (excluding Small Industry Members that are not OATS reporters) of equities transaction data and options transaction data, excluding Customer Account Information, Customer-ID and Customer Identifying Information.⁵⁷ CAT LLC completed the requirements of FAM Period 1 by July 31, 2020. The following describes the costs for each of the categories for FAM Period 1.

(I) Technology Costs—Cloud Hosting Services

CAT LLC continued to utilize AWS in FAM Period 1 to provide a broad array of cloud hosting services for the CAT, including data ingestion, data management, and analytic tools. AWS

continued to provide storage services, databases, compute services and other services (such as networking, management tools and DevOps tools), as well as various environments for CAT, such as development, performance testing, test, and production environments, during the FAM 1 Period. Accordingly, the \$2,642,122 in technology costs for cloud hosting services represent costs incurred for services provided by AWS, as the cloud services provider, during FAM Period 1. The fee arrangement for AWS described above with regard to the Pre-FAM Period continued in place during FAM Period 1 pursuant to the Plan Processor Agreement. Moreover, CAT LLC continued to believe that AWS's maturity in the cloud services space as well as the significant cost and time

necessary to move the CAT to a different cloud services provider supported the continued engagement of AWS.

The cost for AWS cloud services for the CAT continued to be a function of the volume of CAT Data. During the FAM 1 Period, the volume of CAT Data continued to far exceed the original predictions for the CAT as set forth in the CAT NMS Plan. During this period, data submitted to the CAT included options and equities Participant Data, Phase 2a and Phase 2b Industry Member Data (including certain linkages) as well as SIP Data, reference data and other types of Other Data. The following chart provides data regarding the average daily volume, cumulative total events, total compute hours and storage footprint of the CAT during FAM Period 1.⁵⁸

	Date range: 6/22/20–7/31/20
Average Daily Volume in Billions:	
Participant—Equities	6
Participant—Options	103
Industry Member—Equities	7
Industry Member—Options	0.31
SIP—Options & Equities	74
Average Total Daily Volume	185
Cumulative Total Events for the Period	5,190
Total Compute Hours for the Period	2,612,082
Storage Footprint at End of Period (Petabytes)	57.47

(II) Technology Costs—Operating Fees

Pursuant to the Plan Processor Agreement discussed above, FCAT continued in its role as the Plan Processor for the CAT during FAM Period 1. Accordingly, the \$1,099,680 in technology costs for operating fees represent costs incurred for the services provided by FCAT under the Plan Processor Agreement during FAM Period 1. The fee arrangement for FCAT described above with regard to the Pre-FAM Period continued in place during FAM Period 1 pursuant to the Plan Processor Agreement. During FAM Period 1, FCAT's activities with respect to the CAT included the following:

- Published iterative drafts of draft Technical Specifications for Phase 2d, after substantial engagement with SEC staff, Industry Members and Participants on the Technical Specifications;
- Published iterative drafts of CAIS Technical Specifications, after substantial engagement with SEC staff, Industry Members and Participants on the Technical Specifications;
- Facilitated Industry Member reporting of Quote Sent Time on Options Market Maker quotes;
- Addressed compliance items, including drafting CAT policies and procedures, and addressing Regulation SCI requirements;

- Provided support to the Operating Committee, the Compliance Subcommittee and CAT working groups;
- Assisted with interpretive efforts and exemptive requests regarding the CAT NMS Plan;
- Oversaw the security of the CAT;
- Monitored the operation of the CAT, including with regard to Participant and Industry Member reporting;
- Provided support to subcontractors under the Plan Processor Agreement;
- Provided support in discussions with Participants and the SEC and its staff;
- Operated the FINRA CAT Helpdesk;

⁵⁶ As discussed above, with respect to certain costs that were "appropriately excluded," such excluded costs relate to the amortization of capitalized technology costs, which are amortized over the life of the Plan Processor Agreement. As

such costs have already been otherwise reflected in the filing, their inclusion would double count the capitalized technology costs. In addition, amortization is a non-cash expense.

⁵⁷ See definition of "Initial Industry Member Core Equity and Options Reporting" in Section 1.1 of the CAT NMS Plan.

⁵⁸ Note that the volume data described in this table does not include CAIS data.

- Facilitated communications with the industry, including via FAQs, CAT Alerts, meetings, presentations and webinars;
- Administered the CAT website and all of its content; and
- Provided technical support and assistance with connectivity, data access, and user support, including the use of CAT Data and query tools, for Participants and the SEC staff.

(III) Technology Costs—CAIS Operating Fees

Pursuant to the Plan Processor Agreement discussed above, Kingland continued in its role as a subcontractor for the development and implementation of CAIS during FAM Period 1. Accordingly, the \$254,998 in technology costs for CAIS operating fees represent costs incurred for services provided by Kingland during FAM Period 1. The fee arrangement for Kingland described above with regard to the Pre-FAM Period continued in place during FAM Period 1 pursuant to the Plan Processor Agreement. During FAM Period 1, Kingland continued the development of the CAIS Technical Specifications and building of CAIS. In addition, Kingland continued to work on the CAIS Technical Specifications and build related to CCID Alternative, as well as the acceleration of the reporting of LTIDs.

(IV) Technology Costs—Change Request Fees

CAT LLC did not incur costs related to change requests during FAM Period 1.

(V) Technology Costs—Capitalized Developed Technology Costs

Capitalized developed technology costs for FAM Period 1 of \$1,684,870 include capitalizable application development costs incurred in the development of the CAT by FCAT. Such costs include: (1) costs related to certain modifications, upgrades, or other changes to the CAT that were not contemplated by the agreement between CAT LLC and the Plan Processor, including separate production and industry test entitlements, and reprocessing of exchange event timestamps; (2) implementation fees; and (3) license fees.

(VI) Legal Costs

The legal costs of \$481,687 represent the fees paid for legal services provided by two law firms, WilmerHale and Pillsbury during FAM Period 1.

Law Firm: WilmerHale. CAT LLC continued to employ WilmerHale during FAM Period 1 based on, among

other things, their expertise and long history with the project. The hourly fee rates for this law firm were in line with market rates for specialized legal expertise. The legal fees during FAM Period 1 were paid by CAT LLC to WilmerHale. During FAM Period 1, WilmerHale provided legal assistance to the CAT including with regard to the following:

- Assisted with the development of the CAT funding model and drafted related amendments and fee filings;
- Drafted exemptive requests from CAT NMS Plan requirements regarding, for example, verbal activity, options market maker quote sent time, TRF linkages, and allocations;
- Provided interpretations related to CAT NMS Plan requirements, including the Financial Accountability Milestone amendment;
- Assisted with compliance with Regulation SCI;
- Provided support for the Operating Committee, Compliance Subcommittee, working groups and Leadership Team, including with regard to meetings with the SEC staff;
- Assisted with the drafting of the Implementation Plan required pursuant to Section 6.6(c)(i) of the CAT NMS Plan;
- Assisted with communications and presentations for the industry regarding CAIS;
- Drafted SRO rule filings related to the CAT Compliance Rule;
- Provided support for Compliance Subcommittee, including with regard to responses to OCIE examinations and the annual assessment;
- Provided guidance regarding CAT technical specifications;
- Assisted with third-party vendor agreements; and
- Provided support with regard to discussions with the SEC and its staff, including with respect to addressing interpretive and implementation issues.

Law Firm: Pillsbury. CAT LLC continued to employ Pillsbury during FAM Period 1 based on, among other things, their expertise and history with the project. The hourly fee rates for this law firm were in line with market rates for specialized legal expertise. The legal fees during FAM Period 1 were paid by CAT LLC to Pillsbury. During FAM Period 1, Pillsbury provided legal assistance to the CAT regarding the CAT Reporter Agreement. During that period, Pillsbury advised CAT LLC regarding applicable legal matters and drafted a proposed amendment to the CAT NMS Plan regarding liability matters. Liability issues related to the CAT are important matters that needed to be resolved and clarified. CAT LLC's efforts to seek such

resolution and clarity work to the benefit of Participants, Industry Members and other market participants.

(VII) Consulting Costs

The consulting costs of \$137,209 represent the fees paid to Deloitte as project manager during FAM Period 1. CAT LLC continued to employ Deloitte during FAM Period 1 based on, among other things, their expertise and cumulative experience with the CAT. The fee rates for Deloitte during FAM Period 1 were negotiated and in line with market rates for this type of specialized consulting work. The consulting fees during FAM Period 1 were paid by CAT LLC to the consulting firm. CAT LLC reviewed the consulting fees each month and approved the invoices. During FAM Period 1, Deloitte's CAT-related activities included the following:

- Implemented program operations for the CAT project;
- Provided support to the Operating Committee, the Chair of the Operating Committee and the Leadership Team, including project management support, coordination and planning for meetings and communications, and interfacing with law firms and the SEC;
- Assisted with cost and funding matters for the CAT, including the development of the CAT funding model and assistance with loans and the CAT bank account for CAT funding;
- Provided support for updating the SEC on the progress of the development of the CAT;
- Assisted with the transition from the Initial Plan Processor to the successor Plan Processor; and
- Provided support for third-party vendors for the CAT, including FCAT, Anchin and the law firms engaged by CAT LLC.

(VIII) Insurance

Although insurance was in effect during FAM Period 1, CAT LLC did not incur costs related to insurance during FAM Period 1.

(IX) Professional and Administration Costs

Financial Advisory Firm: Anchin. The professional and administration costs of \$69,077 represent the fees paid to Anchin during FAM Period 1. CAT LLC continued to employ Anchin during FAM Period 1 based on, among other things, their expertise and history with the project. The hourly fee rates for this firm were in line with market rates for these type of financial advisory services. The fees for these services during FAM Period 1 were paid by CAT LLC to Anchin. During FAM Period 1, Anchin

provided a variety of services, including the following:

- Maintained internal controls;
- Provided cash management and treasury functions;
- Facilitated bill payments;
- Provided monthly bookkeeping;
- Reviewed vendor invoices and documentation in support of cash disbursements;
- Provided accounting research and consultations on various accounting, financial reporting and tax matters;
- Addressed various accounting, financial reporting and operating inquiries from Participants;
- Developed and maintained quarterly and annual operating and financial budgets, including budget to actual fluctuation analyses;
- Supported compliance with the CAT NMS Plan;
- Worked with and provided support to the Operating Committee and various CAT working groups; and
- Prepared monthly and quarterly financial statements.

(X) Public Relations Costs

The public relations costs of \$7,700 represent the fees paid to Peak Strategies during FAM Period 1. CAT

LLC continued to employ Peak Strategies during FAM Period 1 based on, among other things, their expertise and history with the project. The fee rates for this firm were reasonable and in line with market rates for these types of services. The fees for these services during FAM Period 1 were paid by CAT LLC to Peak Strategies. During FAM Period 1, Peak Strategies continued to provide professional communications services to CAT LLC, including media relations consulting, strategy and execution. Specifically, the public relations firm provided services related to communications with the public regarding the CAT, including monitoring developments related to the CAT (e.g., congressional efforts, public comments and reaction to proposals, press coverage of the CAT), reporting such developments to CAT LLC, and drafting and disseminating communications to the public regarding such developments as well as reporting on developments related to the CAT (e.g., amendments to the CAT NMS Plan). As discussed above, such public relations services were important for various reasons, including monitoring comments made by market participants about the CAT and understanding issues

related to the CAT discussed on the public record. By engaging a public relations firm, CAT LLC was better positioned to understand and address CAT matters to the benefit of all market participants.

(c) Historical CAT Costs Incurred in Financial Accountability Milestone Period 2

Historical CAT Costs 1 would include costs incurred by CAT LLC and already funded by Participants during Period 2 of the Financial Accountability Milestones ("FAM Period 2"),⁵⁹ which covers the period from August 1, 2020–December 31, 2020. Historical CAT Costs 1 would include costs for FAM Period 2 of \$42,976,478. The Participants would remain responsible for one-third of this cost (which they have previously paid) (\$14,325,493), and Industry Members would be responsible for the remaining two-thirds, with CEBBs paying one-third (\$14,325,493) and CEBBs paying one-third (\$14,325,493). The following table breaks down Historical CAT Costs 1 for FAM Period 2⁶⁰ into the categories set forth in Section 11.3(b)(iii)(B)(II) of the CAT NMS Plan.

Operating expense	Historical CAT costs for FAM Period 2
Capitalized Developed Technology Costs *	\$6,761,094
Technology Costs	31,460,033
Cloud Hosting Services	20,709,212
Operating Fees	9,108,700
CAIS Operating Fees	1,590,298
Change Request Fees	51,823
Legal	2,766,644
Consulting	532,146
Insurance	976,098
Professional and administration	438,523
Public relations	41,940
Total Operating Expenses	42,976,478

* The non-cash amortization of these capitalized developed technology costs of \$1,892,505 incurred during FAM Period 2 have been appropriately excluded from the above table.⁶¹

By the completion of FAM Period 2, CAT LLC was required to implement the following with regard to the CAT:

(a) Industry Member reporting (excluding reporting by Small Industry Members that are not OATS reporters) for equities transactions, excluding Customer Account Information, CustomerID, and Customer Identifying Information, is developed, tested, and implemented at a 5% Error Rate or less and with sufficient intra-firm linkage, inter-firm

linkage, national securities exchange linkage, and trade reporting facilities linkage to permit the Participants and the Commission to analyze the full lifecycle of an order across the national market system, excluding linkage of representative orders, from order origination through order execution or order cancellation; and (b) the query tool functionality required by Section 6.10(c)(i)(A) and Appendix D, Sections 8.1.1–8.1.3 and Section 8.2.1 incorporates the Industry Member equities transaction data

described in condition (a) and is available to the Participants and to the Commission.⁶²

CAT LLC completed the requirements of FAM Period 2 by December 31, 2020. The following describes the costs for each of the categories for FAM Period 2.

(I) Technology Costs—Cloud Hosting Services

CAT LLC continued to utilize AWS in FAM Period 2 to provide a broad array

the filing, their inclusion would double count the capitalized technology costs. In addition, amortization is a non-cash expense.

⁶² See definition of "Full Implementation of Core Equity Reporting Requirements" in Section 1.1 of the CAT NMS Plan.

⁵⁹ Section 11.6(a)(i)(B) of the CAT NMS Plan.

⁶⁰ The costs described in this table of costs for FAM Period 2 were calculated based upon CAT LLC's review of applicable bills and invoices and related financial statements. CAT LLC financial statements are available on the CAT website.

⁶¹ As discussed above, with respect to certain costs that were "appropriately excluded," such excluded costs relate to the amortization of capitalized technology costs, which are amortized over the life of the Plan Processor Agreement. As such costs have already been otherwise reflected in

of cloud hosting services for the CAT, including data ingestion, data management, and analytic tools. AWS continued to provide storage services, databases, compute services and other services (such as networking, management tools and DevOps tools), as well as various environments for CAT, such as development, performance testing, test, and production environments, during the FAM 2 Period. Accordingly, the \$20,709,212 in technology costs for cloud hosting services represent costs incurred for

services provided by AWS, as the cloud services provider, during FAM Period 2. The fee arrangement for AWS described above with regard to the Pre-FAM Period and FAM Period 1 continued in place during FAM Period 2 pursuant to the Plan Processor Agreement.

The cost for AWS cloud services for the CAT continued to be a function of the volume of CAT Data. During the FAM 2 Period, the volume of CAT Data continued to far exceed the original predictions for the CAT as set forth in the CAT NMS Plan. During this period,

data submitted to the CAT included options and equities Participant Data, Phase 2a and Phase 2b Industry Member Data (including certain linkages) as well as SIP Data, and Other Data, including reference data. In addition, Industry Members began reporting LTID account information. The following chart provides data regarding the average daily volume, cumulative total events, total compute hours and storage footprint of the CAT during FAM Period 2.⁶³

	Date range: 8/1/20—12/31/20
Average Daily Volume in Billions:	
Participant—Equities	6
Participant—Options	116
Industry Member—Equities	11
Industry Member—Options	0.98
SIP—Options & Equities	80
Average Total Daily Volume	282
Cumulative Total Events for the Period	2,170
Total Compute Hours for the Period	15,660,392
Storage Footprint at End of Period (Petabytes)	114.59

(II) Technology Costs—Operating Fees

Pursuant to the Plan Processor Agreement discussed above, FCAT continued in its role as the Plan Processor for the CAT during FAM Period 2. Accordingly, the \$9,108,700 in technology costs for operating fees represent costs incurred for the services provided by FCAT under the Plan Processor Agreement during FAM Period 2. The fee arrangement for FCAT described above with regard to the Pre-FAM Period and FAM Period 1 continued in place during FAM Period 2 pursuant to the Plan Processor Agreement. During FAM Period 2, FCAT's activities with respect to the CAT included publishing the Technical Specifications for Phase 2d and overseeing the reporting of firm to firm and intrafirm linkages by Industry Members. In addition, FCAT also continued to engage in the following activities during FAM Period 2:

- Addressed compliance items, including drafting CAT policies and procedures, and addressing Regulation SCI requirements;
- Provided support to the Operating Committee, Compliance Subcommittee and CAT working groups;
- Assisted with interpretive efforts and exemptive requests regarding the CAT NMS Plan;

- Oversaw the development and implementation of the security of the CAT;
- Monitored the operation of the CAT, including with regard to Participant and Industry Member reporting;
- Provided support to subcontractors under the Plan Processor Agreement;
- Provided support in discussions with the Participants and the SEC and its staff;
- Operated the FINRA CAT Helpdesk;
- Facilitated communications with the industry, including via FAQs, CAT Alerts, meetings, presentations and webinars;
- Administered the CAT website and all of its content; and
- Provided technical support and assistance with connectivity, data access, and user support, including the use of CAT Data and query tools, for Participants and the SEC staff.

(III) Technology Costs—CAIS Operating Fees

Pursuant to the Plan Processor Agreement discussed above, Kingland continued in its role as a subcontractor for the development and implementation of CAIS during FAM Period 2. Accordingly, the \$1,590,298 in technology costs for CAIS operating fees represent costs incurred for services provided by Kingland during FAM

Period 2. The fee arrangement for Kingland described above with regard to the Pre-FAM Period and FAM Period 1 continued in place during FAM Period 2 pursuant to the Plan Processor Agreement. During FAM Period 2, Kingland continued the development of the CAIS Technical Specifications and building of CAIS. In addition, Kingland continued to work on the CAIS Technical Specifications and build related to the CCID Alternative, as well as the acceleration of the reporting of LTIDs.

(IV) Technology Costs—Change Request Fees

During FAM Period 2, CAT LLC engaged FCAT to pursue certain change requests in accordance with the Plan Processor Agreement. The change request costs were paid by CAT LLC to FCAT. Specifically, during FAM Period 2, CAT incurred costs of \$51,823 related to a change request regarding the addition of functionality for exchange Participants to report rejected messages to the CAT.

(V) Technology Costs—Capitalized Developed Technology Costs

Capitalized developed technology costs for FAM Period 2 of \$6,761,094 include capitalizable application development costs incurred in the

⁶³ Note that the volume data described in this table does not include CAIS data.

development of the CAT by FCAT. Such costs include (1) development costs incurred during the application development stage to meet various agreed-upon milestones regarding the CAT, as defined in the agreement between CAT LLC and the Plan Processor; (2) costs related to certain modifications, upgrades, or other changes to the CAT that were not contemplated by the agreement between CAT LLC and the Plan Processor, including costs related to separate production and industry test entitlements, market maker reference data, and back-processing of exchange exception logic; (3) implementation fees; and (4) license fees.

(VI) Legal Costs

The legal costs of \$2,766,644 represent the fees paid for legal services provided by two law firms, WilmerHale and Pillsbury during FAM Period 2.

Law Firm: WilmerHale. CAT LLC continued to employ WilmerHale during FAM Period 2 based on, among other things, their expertise and long history with the project. The hourly fee rates for this law firm were in line with market rates for specialized legal expertise. The legal fees during FAM Period 2 were paid by CAT LLC to WilmerHale. During FAM Period 2, the legal assistance provided by WilmerHale included providing legal advice regarding the following:

- Assisted with the development of the CAT funding model and drafting related amendments and rule filings;
- Drafted exemptive requests from CAT NMS Plan requirements regarding, for example, allocations, exchange activity, OTQT, initial data validation, error corrections and recordkeeping;
- Provided interpretations related to CAT NMS Plan requirements, including with regard to the Financial Accountability Milestone amendment, FAQs and technical specifications;
- Provided support for the Operating Committee, Compliance Subcommittees, working groups and Leadership Team, including with regard to meetings with the SEC staff;
- Assisted with the Implementation Plan and Quarterly Progress Reports required pursuant to Section 6.6 of the CAT NMS Plan;
- Drafted SRO rule filings related to the CAT Compliance Rule;
- Provided support for the Compliance Subcommittee, including with regard to responses to OCIE examinations and the annual assessment;
- Provided guidance regarding the SEC's proposed security amendments to the CAT NMS Plan;

- Provided guidance regarding SRO rule filings for the retirement of systems;
- Provided legal support for Operating Committee meetings, including drafting resolutions and other materials and voting advice;
- Assisted with third-party vendor agreements (e.g., with regard to Anchin, Grant Thornton and insurance policies);
- Assisted with change requests; and
- Provided support with regard to discussions with the SEC and its staff, including with respect to addressing interpretive and implementation issues.

Law Firm: Pillsbury. CAT LLC continued to employ Pillsbury during FAM Period 2 based on, among other things, their expertise and history with the project. The hourly fee rates for this law firm were in line with market rates for specialized legal expertise. The legal fees during FAM Period 2 were paid by CAT LLC to Pillsbury. During FAM Period 2, Pillsbury provided legal assistance to the CAT regarding the CAT Reporter Agreement. During that period, Pillsbury advised CAT LLC regarding applicable legal matters and drafted and filed a proposed amendment to the CAT NMS Plan regarding liability matters. As discussed above, liability issues related to the CAT are important matters that needed to be resolved and clarified. CAT LLC's efforts to seek such resolution and clarity work to the benefit of Participants, Industry Members and other market participants.

(VII) Consulting Costs

The consulting costs of \$532,146 represent the fees paid to Deloitte as project manager during FAM Period 2. CAT LLC continued to employ Deloitte during FAM Period 2 based on, among other things, their expertise and long history with the project. The fee rates for Deloitte during FAM Period 2 were negotiated and in line with market rates for this type of specialized consulting work. The consulting fees during FAM Period 2 were paid to Deloitte by CAT LLC. CAT LLC reviewed the consulting fees each month and approved the invoices. During FAM Period 2, Deloitte's CAT-related activities included the following:

- Implemented program operations for the CAT project;
- Provided support to the Operating Committee, the Chair of the Operating Committee and the Leadership Team, including project management support, coordination and planning for meetings and communications, and interfacing with law firms and the SEC;
- Assisted with cost and funding matters for the CAT, including the development of the CAT funding model

and assistance with loans and the CAT bank account for CAT funding;

- Provided support for updating the SEC on the progress of the development of the CAT; and
- Provided support for third-party vendors for the CAT, including FCAT, Anchin and the law firms engaged by CAT LLC.

(VIII) Insurance

The insurance costs of \$976,098 represent the fees paid for insurance during FAM Period 2. CAT LLC continued to maintain cyber security liability insurance, directors' and officers' liability insurance, and errors and omissions liability insurance offered by USI. After engaging in a process for renewing the coverage, CAT LLC determined to purchase these insurance policies from USI. The annual premiums for these policies were competitive for the coverage provided. The annual premiums were paid by CAT LLC to USI.

(IX) Professional and Administration Costs

The professional and administration costs of \$438,523 represent the fees paid to Anchin and Grant Thornton for financial services provided during FAM Period 2.

Financial Advisory Firm: Anchin. CAT LLC continued to engage Anchin during FAM Period 2 based on, among other things, their expertise and history with the project. The hourly fee rates for this firm were in line with market rates for these types of financial advisory services. The fees for these services during FAM Period 2 were paid by CAT LLC to Anchin. During FAM Period 2, Anchin provided a variety of services, including the following:

- Updated and maintained internal controls;
- Provided cash management and treasury functions;
- Facilitated bill payments;
- Provided monthly bookkeeping;
- Reviewed vendor invoices and documentation in support of cash disbursements;
- Provided accounting research and consultations on various accounting, financial reporting and tax matters;
- Addressed not-for-profit tax and accounting considerations;
- Prepared tax returns;
- Addressed various accounting, financial reporting and operating inquiries from the Participants;
- Developed and maintained quarterly and annual operating and financial budgets, including budget to actual fluctuation analyses;
- Supported compliance with the CAT NMS Plan;

- Worked with and provided support to the Operating Committee and various CAT working groups;

- Prepared monthly, quarterly and annual financial statements;

- Supported the annual financial statement audit by an independent auditor; and

- Reviewed historical costs from inception.

Accounting Firm: Grant Thornton. CAT LLC continued to employ the accounting firm Grant Thornton during FAM Period 2 based on, among other things, its expertise and cumulative knowledge of CAT LLC. CAT LLC continued to believe that Grant Thornton was well qualified for its role and its fee rates were in line with market rates for these accounting services. The fees for these services during FAM Period 2 were paid by CAT LLC to Grant Thornton. During FAM Period 2, Grant Thornton performed a financial statement audit for CAT LLC as an independent accounting firm.

(X) Public Relations Costs

The public relations costs of \$41,940 represent the fees paid to Peak Strategies during FAM Period 2. CAT LLC continued to employ Peak

Strategies during FAM Period 2 based on, among other things, their expertise and history with the project. The fee rates for this firm were in line with market rates for these types of services. The fees for these services during FAM Period 2 were paid by CAT LLC to Peak Strategies. During FAM Period 2, Peak Strategies continued to provide professional communications services to CAT, including media relations consulting, strategy and execution. Specifically, the public relations firm provided services related to communications with the public regarding the CAT, including monitoring developments related to the CAT (e.g., congressional efforts, public comments and reaction to proposals, press coverage of the CAT), reporting such developments to CAT LLC, and drafting and disseminating communications to the public regarding such developments as well as reporting on developments related to the CAT (e.g., amendments to the CAT NMS Plan). As discussed above, such public relations services were important for various reasons, including monitoring comments made by market participants about the CAT and understanding issues

related to the CAT discussed on the public record. By engaging a public relations firm, CAT LLC was better positioned to understand and address CAT matters to the benefit of all market participants.

(d) Historical CAT Costs Incurred in Financial Accountability Milestone Period 3

Historical CAT Costs 1 would include costs incurred by CAT and already funded by the Participants during Period 3 of the Financial Accountability Milestones ("FAM Period 3"),⁶⁴ which covers the period from January 1, 2021—December 31, 2021. Historical CAT Costs 1 would include costs for FAM Period 3 of \$144,415,268. The Participants would remain responsible for one-third of this cost (which they have previously paid) (\$48,138,423), and Industry Members would be responsible for the remaining two-thirds, with CEBBs paying one-third (\$48,138,423) and CEBBs paying one-third (\$48,138,423). The following table breaks down Historical CAT Costs 1 for FAM Period 3⁶⁵ into the categories set forth in Section 11.3(b)(iii)(B)(II) of the CAT NMS Plan.

Operating expense	Historical CAT costs for FAM Period 3
Capitalized Developed Technology Costs *	\$10,763,372
<i>Technology Costs</i>	123,639,402
Cloud Hosting Services	94,574,759
Operating Fees	23,106,091
CAIS Operating Fees	5,562,383
Change Request Fees	396,169
Legal	6,333,248
Consulting	1,408,209
Insurance	1,582,714
Professional and administration	595,923
Public relations	92,400
Total Operating Expenses	144,415,268

* The non-cash amortization of these capitalized developed technology costs of \$5,108,044 incurred during FAM Period 3 have been appropriately excluded from the above table.⁶⁶

By the completion of FAM Period 3, CAT LLC was required to implement the following requirements with regard to the CAT:

(a) reporting to the Order Audit Trail System ("OATS") is no longer required for new orders; (b) Industry Member reporting for equities transactions and simple electronic options transactions, excluding Customer Account Information, Customer-ID, and Customer Identifying Information, with sufficient intra-firm linkage, inter-firm

linkage, national securities exchange linkage, trade reporting facilities linkage, and representative order linkages (including any equities allocation information provided in an Allocation Report) to permit the Participants and the Commission to analyze the full lifecycle of an order across the national market system, from order origination through order execution or order cancellation, is developed, tested, and implemented at a 5% Error Rate or less; (c) Industry Member reporting for manual options transactions and complex options

transactions, excluding Customer Account Information, Customer-ID, and Customer Identifying Information, with all required linkages to permit the Participants and the Commission to analyze the full lifecycle of an order across the national market system, from order origination through order execution or order cancellation, including any options allocation information provided in an Allocation Report, is developed, tested, and fully implemented; (d) the query tool functionality required by Section 6.10(c)(i)(A) and Appendix D, Sections 8.1.1–

⁶⁴ Section 11.6(a)(i)(C) of the CAT NMS Plan.

⁶⁵ The costs described in this table of costs for FAM Period 3 were calculated based upon CAT LLC's review of applicable bills and invoices and related financial statements. CAT LLC financial statements are available on the CAT website.

⁶⁶ As discussed above, with respect to certain costs that were "appropriately excluded," such excluded costs relate to the amortization of capitalized technology costs, which are amortized over the life of the Plan Processor Agreement. As such costs have already been otherwise reflected in

the filing, their inclusion would double count the capitalized technology costs. In addition, amortization is a non-cash expense.

8.1.3, Section 8.2.1, and Section 8.5 incorporates the data described in conditions (b)-(c) and is available to the Participants and to the Commission; and (e) the requirements of Section 6.10(a) are met.⁶⁷

CAT LLC completed the requirements of FAM Period 3 by December 31, 2021. The following describes the costs for each of the categories for FAM Period 3.

(I) Technology Costs—Cloud Hosting Services

CAT LLC continued to utilize AWS in FAM Period 3 to provide a broad array of cloud hosting services for the CAT, including data ingestion, data management, and analytic tools. AWS continued to provide storage services,

databases, compute services and other services (such as networking, management tools and DevOps tools), as well as various environments for CAT, such as development, performance testing, test, and production environments, during the FAM 3 Period. Accordingly, the \$94,574,759 in technology costs for cloud hosting services represents costs incurred for services provided by AWS, as the cloud services provider, during FAM Period 3. The fee arrangement for AWS described above for the earlier periods continued in place during FAM Period 3 pursuant to the Plan Processor Agreement.

The cost for AWS cloud services for the CAT continued to be a function of

the volume of CAT Data. During FAM Period 3, the volume of CAT Data continued to far exceed the original predictions for the CAT as set forth in the CAT NMS Plan. During this period, data submitted to the CAT included options and equities Participant Data, Phase 2a, Phase 2b, Phase 2c and Phase 2d Industry Member Data (including certain linkages), SIP Data, Other Data, including reference data, and LTID account information. The following chart provides data regarding the average daily volume, cumulative total events, total compute hours and storage footprint of the CAT during FAM Period 3.⁶⁸

	Date Range: 1/1/21 to 4/25/21	Date Range: 4/26/21/ to 12/31/21 *
Average Daily Volume in Billions:		
Participant—Equities	9	9
3Participant—Options	135	136
Industry Member—Equities	20	19
Industry Member—Options	2	2
SIP—Options & Equities	129	137
Average Total Daily Volume	297	304
Cumulative Total Events for the Period	7,480	5,310
Total Compute Hours for the Period	15,860,304	33,487,318
Storage Footprint at End of Period (Petabytes)	180.22	284.62

* Start of Participant Equities in CAT format and SIP Equities on 4/26/21.

(II) Technology Costs—Operating Fees

Pursuant to the Plan Processor Agreement discussed above, FCAT continued in its role as the Plan Processor for the CAT during FAM Period 3. Accordingly, the \$23,106,091 in technology costs for operating fees represent costs incurred for the services provided by FCAT under the Plan Processor Agreement during FAM Period 3. The fee arrangement for FCAT described above with regard to the prior Periods continued in place during FAM Period 3 pursuant to the Plan Processor Agreement. During FAM Period 3, FCAT's activities with respect to the CAT included the following:

- Facilitated Phase 2c and Phase 2d testing for Industry Members;
- Oversaw creation of linkages of the lifecycle of order events based on the received data through Phase 2d;
- Addressed compliance items, including drafting CAT policies and procedures, and addressing Regulation SCI requirements;
- Provided support to the Operating Committee, the Compliance Subcommittee and CAT working groups;

- Assisted with interpretive efforts and exemptive requests regarding the CAT NMS Plan;
- Oversaw the security of the CAT;
- Monitored the operation of the CAT, including with regard to Participant and Industry Member reporting;
- Provided support to subcontractors under the Plan Processor Agreement;
- Provided support in discussions with the Participants and the SEC and its staff;
- Operated the FINRA CAT Helpdesk;
- Facilitated communications with the industry, including via FAQs, CAT Alerts, meetings, presentations and webinars;
- Administered the CAT website and all of its content; and
- Provided technical support and assistance with connectivity, data access, and user support, including the use of CAT Data and query tools, for Participants and the SEC staff.

(III) Technology Costs—CAIS Operating Fees

Pursuant to the Plan Processor Agreement with FCAT discussed above, Kingland continued in its role as a

subcontractor for the development and implementation of CAIS during FAM Period 3. Accordingly, the \$5,562,383 in technology costs for CAIS operating fees represents costs incurred for services provided by Kingland during FAM Period 3. The fee arrangement for Kingland described above with regard to the prior Periods continued in place during FAM Period 3 pursuant to the Plan Processor Agreement. During FAM Period 3, Kingland continued the development of the CAIS Technical Specifications and building of CAIS. In addition, Kingland continued to work on the CAIS Technical Specifications and build related to the CCID Alternative, as well as the acceleration of the reporting of LTIDs. The full CAIS Technical Specifications were published during FAM Period 3.

(IV) Technology Costs—Change Request Fees

During FAM Period 3, CAT LLC engaged FCAT to pursue certain change requests in accordance with the Plan Processor Agreement. The change request costs were paid by CAT LLC to FCAT. Specifically, during FAM Period

⁶⁷ See definition of "Full Availability and Regulatory Utilization of Transactional Database Functionality" in Section 1.1 of the CAT NMS Plan.

⁶⁸ Note that the volume data described in this table does not include CAIS data.

3, CAT incurred costs of \$396,169 related to change requests, including the following: (1) the addition of functionality for exchange Participants to report rejected messages to the CAT; (2) the migration of MIRS query engine to AWS to reduce operational costs and increase resiliency; and (3) updating the Participant Technical Specifications to allow for two-sided Participant option quote reporting.

(V) Technology Costs—Capitalized Developed Technology Costs

Capitalized developed technology costs for FAM Period 3 of \$10,763,372 include capitalizable application development costs incurred in the development of the CAT by FCAT. Such costs include (1) development costs incurred during the application development stage to meet various agreed-upon milestones regarding the CAT, as defined in the agreement between CAT LLC and the Plan Processor, including the transition from equity data received by FINRA pursuant to various regulatory services agreements between FINRA and Participant exchanges to the equity CAT Data, and the completion of the Industry Member Phase 2d options manual and complex orders go-live requirements; (2) costs related to certain modifications, upgrades, or other changes to the CAT that were not contemplated by the agreement between CAT LLC and the Plan Processor, including costs related to off-exchange volume concentration, Participant 24-hour trading and an external metastore; (3) implementation fees; and (4) license fees.

(VI) Legal Costs

The legal costs of \$6,333,248 represent the fees paid for legal services provided by three law firms, WilmerHale, Pillsbury and Covington & Burling LLP (“Covington”) during FAM Period 3.

Law Firm: WilmerHale. CAT LLC continued to employ WilmerHale during FAM Period 3 based on, among other things, their expertise and long history with the project. The hourly fee rates for this law firm were in line with market rates for specialized legal expertise. The legal fees during FAM Period 3 were paid by CAT LLC to WilmerHale. During FAM Period 3, the legal assistance provided by WilmerHale included providing legal advice regarding the following:

- Assisted with the development of the CAT funding model and drafting related amendments and rule filings;
- Drafted exemptive requests from CAT NMS Plan requirements, including, for example, verbal activity regarding

Phase 2c cutover, error reports, error corrections, Phase 2d Reporting, unique Order-ID on internal route events, reporting addresses, recordkeeping, and unique CCID for foreign customers;

- Provided interpretations related to CAT NMS Plan requirements, including with regard to the Financial Accountability Milestone amendment, FAQs, CAIS requirements, ADF, and technical specifications;

- Provided support for the Operating Committee, Compliance Subcommittee, working groups and Leadership Team, including with regard to meetings with the SEC staff;

- Assisted with the Implementation Plan and Quarterly Progress Reports required pursuant to Section 6.6(c) of the CAT NMS Plan;

- Drafted SRO rule filings related to the CAT Compliance Rule;

- Provided support for the Compliance Subcommittee, including with regard to responses to OCIE examinations and the annual assessment;

- Provided guidance regarding the SEC’s proposed security amendments to the CAT NMS Plan;

- Provided guidance regarding SRO rule filings for the retirement of systems;

- Provided legal support for Operating Committee meetings, including drafting resolutions and other materials and voting advice;

- Provided assistance with change requests;

- Provided guidance and regulatory support for litigation regarding the response to the SEC’s exemptive orders;

- Assisted with communications with the industry, including CAT Alerts and presentations;

- Provided guidance regarding the confidentiality of CAT Data, including third-party information requests;

- Assisted with cost management analysis and proposals; and

- Provided support with regard to discussions with the SEC and its staff, including with respect to addressing interpretive and implementation issues.

Law Firm: Pillsbury. CAT LLC continued to employ Pillsbury during FAM Period 3 based on, among other things, their expertise and history with the project. The hourly fee rates for this law firm were in line with market rates for specialized legal expertise. The legal fees during FAM Period 3 were paid by CAT LLC to Pillsbury. During FAM Period 3, Pillsbury provided legal assistance to the CAT regarding the CAT Reporter Agreement. During this period, Pillsbury advised CAT LLC regarding applicable legal matters, reviewed and responded to comment letters regarding the proposed Plan amendment,

participated in meetings with senior SEC staff, responded to comments submitted following the SEC’s April 6, 2021 order instituting proceedings,⁶⁹ and assessed legal matters regarding the SEC’s October 29, 2021 order denying the proposed Plan amendment.⁷⁰

Law Firm: Covington. CAT LLC hired Covington for litigation with the SEC regarding certain exemptive orders related to the CAT, including orders issued in December 2020.⁷¹ CAT LLC interviewed this law firm as well as other potential law firms, considering a variety of factors in its analysis for choosing legal assistance, including the relevant expertise and fees of the potential lawyers. CAT LLC approved the engagement of Covington in January 2021. The fee rates for this law firm, which were calculated based on hourly rates, were in line with market rates for specialized services. The legal fees for FAM Period 3 for this firm were paid by CAT LLC to Covington.

After Covington was hired in 2021 through the end of 2021, the firm provided legal assistance regarding the litigation with the SEC regarding the 2020 Orders. These services included researching, drafting, and filing motions to stay the 2020 orders and related materials in proceedings before the SEC, as well as researching, drafting, and filing petitions for judicial review of the 2020 Orders in proceedings before the U.S. Court of Appeals for the D.C. Circuit. Covington oversaw ongoing litigation proceedings on these matters, and also supported WilmerHale with respect to settlement negotiations with the SEC staff regarding the 2020 Orders.

In addition to these services, CAT LLC engaged Covington in November 2021 to provide assistance with respect to the SEC’s disapproval of CAT NMS Plan amendments concerning a proposed limitation on liability in the event of a data breach or similar event. Covington provided advice concerning CAT’s response to the SEC’s disapproval order. This work accounted for a minority of Covington’s fees in 2021.⁷²

⁶⁹ Securities Exchange Act Rel. No. 91487 (Apr. 6, 2021), 86 FR 19054 (Apr. 12, 2021).

⁷⁰ Securities Exchange Act Rel. No. 93484 (Oct. 29, 2021), 86 FR 60933 (Nov. 4, 2021).

⁷¹ See Securities Exchange Act Rel. No. 90688 (Dec. 16, 2020), 85 FR 83634 (Dec. 22, 2020); and Securities Exchange Act Rel. No. 90689 (Dec. 16, 2020), 85 FR 83667 (Dec. 22, 2020) (collectively, the “2020 Orders”).

⁷² As discussed above with regard to Pillsbury’s work on liability matters, liability issues related to the CAT are important matters that needed to be resolved and clarified. CAT LLC’s efforts to seek such resolution and clarity work to the benefit of Participants, Industry Members and other market participants. Moreover, such activity is a necessary part of the operation of the CAT.

(VII) Consulting Costs

The consulting costs of \$1,408,209 represent the fees paid to Deloitte as project manager during FAM Period 3. CAT LLC continued to employ Deloitte during FAM Period 3 based on, among other things, their expertise and long history with the project. The fee rates for Deloitte during FAM Period 3 were negotiated and in line with market rates for this type of specialized consulting work. The consulting fees during FAM Period 3 were paid to Deloitte by CAT LLC. CAT LLC reviewed the consulting fees each month and approved the invoices. During FAM Period 3, Deloitte's CAT-related activities included the following:

- Implemented program operations for the CAT project;
- Provided support to the Operating Committee, the Chair of the Operating Committee and the Leadership Team, including project management support, coordination and planning for meetings and communications, and interfacing with law firms and the SEC;
- Assisted with cost and funding matters for the CAT, including the development of the CAT funding model and assistance with loans and the CAT bank account for CAT funding;
- Provided support for updating the SEC on the progress of the development of the CAT; and
- Provided support for third-party vendors for the CAT, including FCAT, Anchin and the law firms engaged by CAT LLC.

(VIII) Insurance

The insurance costs of \$1,582,714 represent the fees paid for insurance during FAM Period 3. CAT LLC continued to maintain cyber security liability insurance, directors' and officers' liability insurance, and errors and omissions liability insurance offered by USI. After engaging in a process for renewing the coverage, CAT LLC determined to purchase these insurance policies from USI. The annual premiums for these policies were competitive for the coverage provided. The annual premiums were paid by CAT LLC to USI.

(IX) Professional and Administration Costs

The professional and administration costs of \$595,923 represent the fees paid to Anchin and Grant Thornton for financial services during FAM Period 3.

Financial Advisory Firm: Anchin. CAT LLC continued to employ Anchin during FAM Period 3 based on, among other things, their expertise and history with the project. The hourly fee rates for

this firm were in line with market rates for these financial advisory services. The fees for these services during FAM Period 3 were paid by CAT LLC to Anchin. During FAM Period 3, Anchin provided a variety of services, including the following:

- Updated and maintained internal controls;
- Provided cash management and treasury functions;
- Facilitated bill payments;
- Provided monthly bookkeeping;
- Reviewed vendor invoices and documentation in support of cash disbursements;
- Provided accounting research and consultations on various accounting, financial reporting and tax matters;
- Addressed not-for-profit tax and accounting considerations;
- Prepared tax returns;
- Addressed various accounting, financial reporting and operating inquiries from Participants;
- Developed and maintained quarterly and annual operating and financial budgets, including budget to actual fluctuation analyses;
- Supported compliance with the CAT NMS Plan;
- Worked with and provided support to the Operating Committee and various CAT working groups;
- Prepared monthly, quarterly and annual financial statements;
- Supported the annual financial statement audits by an independent auditor;
- Reviewed historical costs from inception; and
- Provided accounting and financial information in support of SEC filings.

Accounting Firm: Grant Thornton. CAT LLC continued to employ the accounting firm Grant Thornton during FAM Period 3 based on, among other things, their expertise and cumulative knowledge of CAT LLC. CAT LLC determined that Grant Thornton was well qualified for its role and that its fixed fee rates were in line with market rates for these accountant services. The fees for these services during FAM Period 3 were paid by CAT LLC to Grant Thornton. During FAM Period 3, Grant Thornton provided audited financial statements for CAT LLC.

(X) Public Relations Costs

The public relations costs of \$92,400 represent the fees paid to Peak Strategies during FAM Period 3. CAT LLC continued to employ Peak Strategies during FAM Period 3 based on, among other things, their expertise and history with the project. The fee rates for this firm were in line with market rates for these types of services.

The fees for these services during FAM Period 3 were paid by CAT LLC to Peak Strategies. During FAM Period 3, Peak Strategies continued to provide professional communications services to CAT, including media relations consulting, strategy and execution. Specifically, the public relations firm provided services related to communications with the public regarding the CAT, including monitoring developments related to the CAT (e.g., congressional efforts, public comments and reaction to proposals, press coverage of the CAT), reporting such developments to CAT LLC, and drafting and disseminating communications to the public regarding such developments as well as reporting on developments related to the CAT (e.g., amendments to the CAT NMS Plan). As discussed above, such public relations services were important for various reasons, including monitoring comments made by market participants about the CAT and understanding issues related to the CAT discussed on the public record. By engaging a public relations firm, CAT LLC was better positioned to understand and address CAT matters to the benefit of all market participants.

(e) Excluded Costs

Historical CAT Costs 1 would not include three categories of CAT costs ("Excluded Costs"): (1) \$14,749,362 of costs related to the termination of the relationship with the Initial Plan Processor; (2) \$48,874,937, which are all CAT costs incurred from November 15, 2017 through November 15, 2018; and (3) \$19,628,791, which are costs paid to the Initial Plan Processor from November 16, 2018 through February 2019 when the relationship with the Initial Plan Processor was concluded. The Participants would remain responsible for 100% of these costs, which total \$83,253,090. CAT LLC determined to exclude these Excluded Costs from Historical CAT Costs 1 because these costs relate to the delay in the start of reporting to the CAT and the conclusion of the relationship with the Initial Plan Processor.⁷³

⁷³ In approving the CAT Funding Model, the Commission states that "the proposed exclusion of the excluded costs from Past CAT Costs is appropriate in the Commission's view because it would not require all costs incurred by the Participants to be recovered from Industry Members through the Historical CAT Assessment, specifically excluding those costs related to the delay in the start of reporting to the CAT and costs related to the conclusion of the relationship with the Initial Plan Processor." CAT Funding Model Approval Order at 13450.

(I) Costs Related to Conclusion of Relationship With Initial Plan Processor

First, Historical CAT Costs 1 would not include \$14,749,362 of costs related to the conclusion of the relationship with the Initial Plan Processor. Such costs include costs related to the American Arbitration Association, the legal assistance of Pillsbury with regard to the arbitration with the Initial Plan

Processor, and the settlement costs related to the arbitration with the Initial Plan Processor. The Participants would remain responsible for 100% of these \$14,749,362 in costs.

(II) Costs Incurred From November 15, 2017 Through November 15, 2018

Second, Historical CAT Costs 1 would not include all CAT costs incurred from November 15, 2017 through November

15, 2018. CAT LLC determined to exclude all costs during this one-year period of \$48,874,937 from fees charged to Industry Members due to the delay in the start of reporting to the CAT. The Participants would remain responsible for 100% of these \$48,874,937 in costs. The following table⁷⁴ breaks down these costs into the categories set forth in Section 11.3(b)(iii)(B)(II) of the CAT NMS Plan.

Operating expense	Excluded costs for November 15, 2017–November 15, 2018
Capitalized Developed Technology Costs	\$37,852,083
<i>Technology Costs:</i>	
Cloud Hosting Services	
Operating Fees	
CAIS Operating Fees	
Change Request Fees	
Legal	6,143,278
Consulting	4,452,106
Insurance	
Professional and administration	340,145
Public relations	87,325
Total Operating Expenses	48,874,937

The following provides additional detail regarding the Excluded Costs.

(a) Technology Costs—Cloud Hosting Services, Operating Fees, CAIS Operating Fees and Change Request Fees

CAT LLC did not incur technology costs related to the categories of cloud hosting services, operating fees, CAIS operating fees or change requests during the period from November 15, 2017 through November 15, 2018.

(b) Technology Costs—Capitalized Developed Technology Costs

Capitalized developed technology costs for the period from November 15, 2017 through November 15, 2018 include capitalizable application development costs of \$37,852,083 incurred in the development of the CAT by the Initial Plan Processor. Such costs include development costs incurred during the application development stage to meet various agreed-upon milestones regarding the CAT, as defined in the agreement between CAT LLC and the Initial Plan Processor. Such costs include costs related to Industry Member technical specifications for orders and transactions, the system security plan, testing and production for Participant CAT reporting, third-party security assessment and response, query portal, onboarding of the Chief Information Security Officer, and

ingestion of FINRA TRF data and FINRA data related to halts and corporate actions.

(c) Legal Costs

The legal costs of \$6,143,278 represent the fees paid to WilmerHale for legal services from November 15, 2017 through November 15, 2018. During this period, WilmerHale provided legal assistance to the CAT, including with regard to the following:

- Provided legal support for the governance of the CAT, including governance support for the Operating Committee, Advisory Committee, Compliance Subcommittee, and CAT working groups;
- Assisted with the development of the CAT funding model and drafted related amendments of the CAT NMS Plan;
- Provided assistance related to CAT security;
- Drafted exemptive requests, including requests related to PII;
- Assisted with the Implementation Plan required pursuant to Section 6.6(c)(i) of the CAT NMS Plan;
- Provided interpretations of and related to the CAT NMS Plan;
- Provided advice with regard to regulator access to the CAT;
- Assisted with the Plan Processor transition;
- Provided assistance regarding communications with the industry regarding the CAT;

- Provided advice regarding Customer Account Information and PII;
- Provided support for litigation related to SEC exemptive orders; and
- Provided support with regard to discussions with the SEC and its staff, including with respect to addressing interpretative and implementation issues.

(d) Consulting Costs

The consulting costs of \$4,452,106 represent the fees paid to Deloitte for their role as project manager for the CAT from November 15, 2017 through November 15, 2018. During this period, Deloitte engaged in the following activities with respect to the CAT:

- Implemented program operations for the CAT project;
- Provided governance support to the Operating Committee, including support for Subcommittees and working groups of the Operating Committee (e.g., Compliance Subcommittee, Cost and Funding Working Group, Technical Working Group, Industry Outreach Working Group, Security Working Group and Steering Committee);
- Assisted with cost and funding issues for the CAT, including the development of the CAT funding model and assistance with loans and the CAT bank account for CAT funding;
- Provided support for updating the SEC on the progress of the development of the CAT; and

⁷⁴ The costs described in this table of Excluded Costs were calculated based upon CAT LLC's

review of applicable bills and invoices and related

financial statements. CAT LLC financial statements are available on the CAT website.

- Provided active planning and coordination with and support for the Initial Plan Processor with regard to the development of the CAT, and reported to the Participants on the progress.

(e) Insurance

CAT LLC did not incur costs related to insurance during the period from November 15, 2017 through November 15, 2018.

(f) Professional and Administration Costs

The professional and administration costs of \$340,145 represent the fees paid to Anchin, Exegy and RSM from November 15, 2017 through November 15, 2018.

Financial Advisory Firm: Anchin. From the commencement of its engagement in April 2018 through November 15, 2018, Anchin engaged in the following activities with respect to the CAT:

- Developed, updated and maintained internal controls;
- Provided cash management and treasury functions;
- Facilitated bill payments;
- Provided monthly bookkeeping;
- Reviewed vendor invoices and documentation in support of cash disbursements;
- Provided accounting research and consultations on various accounting, financial reporting and tax matters;
- Addressed not-for-profit tax and accounting considerations;
- Prepared tax returns;
- Addressed various accounting, financial reporting and operating inquiries from Participants;
- Developed and maintained quarterly and annual operating and financial budgets, including budget to actual fluctuation analyses;
- Addressed accounting and financial matters relating to the transition from CAT NMS, LLC to Consolidated Audit Trail, LLC, including supporting the dissolution of CAT NMS, LLC;
- Supported compliance with the CAT NMS Plan;
- Worked with and provided support to the Operating Committee and various CAT working groups;
- Prepared monthly, quarterly and annual financial statements;
- Supported the annual financial statement audits by an independent auditor;
- Reviewed historical costs from inception; and
- Provided accounting and financial information in support of SEC filings.

Market Data Provider: Exegy. From July 2018 through November 15, 2018, CAT LLC purchased market data from

Exegy (as described in more detail above).

Security Assessment: RSM. From October 2018 through November 15, 2018, CAT LLC incurred costs for RSM's performance of a security assessment (as described in more detail above).

(g) Public Relations Costs

The public relations costs of \$87,325 represent the fees paid to Sloane from November 15, 2017 through November 15, 2018. From the commencement of its engagement in March 2018 through November 15, 2018, Sloane provided professional communications services to CAT, including media relations consulting, strategy and execution. Specifically, Sloane provided services related to communications with the public regarding the CAT, including monitoring developments related to the CAT (e.g., congressional efforts, public comments and reaction to proposals, press coverage of the CAT), reporting such developments to CAT LLC, and drafting and disseminating communications to the public regarding such developments as well as reporting on developments related to the CAT (e.g., amendments to the CAT NMS Plan).

(III) Costs Paid to Initial Plan Processor From November 16, 2018 Through February 2019

Third, Historical CAT Costs 1 would not include the \$19,628,791 in costs paid to the Initial Plan Processor from November 16, 2018 through February 2019 when CAT LLC's relationship with the Initial Plan Processor concluded. CAT LLC determined that Historical CAT Costs 1 would not include any fees paid to the Initial Plan Processor after November 15, 2017,⁷⁵ which was the date by which Participants were required to begin reporting to the CAT.⁷⁶ As discussed above, the Participants determined that Historical CAT Costs 1 would not include all CAT costs incurred from November 15, 2017 through November 15, 2018, which includes \$37,852,083 in Initial Plan Processor costs incurred from November 15, 2017 through November 15, 2018 (as well as other CAT costs during this period). The remaining Initial Plan Processor costs incurred after November

⁷⁵ As discussed below, CAT LLC believes that it is appropriate to recover costs related to the services performed by the Initial Plan Processor prior to November 15, 2017. See Section 3(a)(10)(E) below.

⁷⁶ The SEC approved the CAT NMS Plan on November 15, 2016, and Participant reporting was required to begin on the first anniversary of this date, November 15, 2017. See Section 6.3 of the CAT NMS Plan and CAT NMS Plan Approval Order.

15, 2018 are the \$19,628,791 in costs for the period from November 16, 2018 through February 2019 incurred in the development of the CAT by the Initial Plan Processor, as well as a transition fee for the transition from the Initial Plan Processor to the successor Plan Processor. The Participants would remain responsible for 100% of these \$19,628,791 in costs.

(ii) Previously Invoiced Costs for Historical CAT Costs 1

CEBBs and CEBBs collectively have been invoiced for \$173,075,024 of the \$212,039,879.34 of Historical CAT Costs 1 via Historical CAT Assessment 1, where \$86,537,512 was invoiced collectively to CEBBs and \$86,537,512 was invoiced collectively to CEBBs. Accordingly, Historical CAT Assessment 1A would seek to recover the remaining \$38,964,855.34 of Historical CAT Costs 1 collectively from CEBBs and CEBBs, where CEBBs collectively will be responsible for \$19,482,427.67, and CEBBs collectively will be responsible for \$19,482,427.67.

(C) Historical Recovery Period 1A

Under the CAT NMS Plan, the Operating Committee is required to reasonably establish the length of the Historical Recovery Period used in calculating each Historical Fee Rate based upon the amount of the Historical CAT Costs to be recovered by the Historical CAT Assessment, and to describe the reasons for its length.⁷⁷ The Historical Recovery Period used in calculating the Historical Fee Rate may not be less than 24 months or more than five years.⁷⁸ The Operating Committee has determined to establish a Historical Recovery Period 1A of 24 months for Historical CAT Assessment 1A.

The Operating Committee determined that the length of Historical Recovery Period 1A appropriately weighs the need for a reasonable Historical Fee Rate 1A that spreads the Historical CAT Costs over an appropriate amount of time and the need to repay the loans to the Participants in a timely fashion. The Operating Committee determined that 24 months for Historical Recovery Period 1A would establish a fee rate that is lower than other transaction-based fees, including fees assessed pursuant to

⁷⁷ Section 11.3(b)(i)(D)(I) and Section 11.3(b)(iii)(B)(II) of the CAT NMS Plan.

⁷⁸ Section 11.3(b)(i)(D)(I) of the CAT NMS Plan. In the CAT Funding Model Approval Order, the SEC stated that "[i]n the Commission's view, it is appropriate for the Operating Committee to establish the length of the Historical Recovery Period to be no less than 24 months and no more than five years." CAT Funding Model Approval Order at 13451.

Section 31.⁷⁹ In addition, in establishing a Historical Recovery Period of 24 months, the Operating Committee recognized that the total costs for Historical CAT Assessment 1A were less than the total costs for 2022 and 2023,⁸⁰ and therefore it would be reasonable and appropriate to recover costs subject to this filing over an approximate two-year period.⁸¹

The length of the Historical Recovery Period 1A and the reasons for its length are provided in this filing in accordance with the requirement in the CAT NMS Plan to provide such information in a fee filing for a Historical CAT Assessment.⁸²

(D) Projected Total Executed Equivalent Share Volume

The calculation of the fee rate for Historical CAT Assessment 1A also requires the determination of the projected total executed equivalent share volume of transactions in Eligible Securities for Historical Recovery Period 1A. Under the CAT NMS Plan, the Operating Committee is required to “reasonably determine the projected total executed equivalent share volume of all transactions in Eligible Securities for each Historical Recovery Period based on the executed equivalent share volume of all transactions in Eligible Securities for the prior twelve months.”⁸³ The Operating Committee is required to base its projection on the prior twelve months, but it may use its discretion to analyze the likely volume for the upcoming year. Such discretion would allow the Operating Committee to use its judgment when estimating projected total executed equivalent share volume if the volume over the prior twelve months was unusual or otherwise unfit to serve as the basis of a future volume estimate.⁸⁴

The total executed equivalent share volume of transactions in Eligible Securities for the 12-month period from March 2025 through February 2026 was 5,980,937,549,360.49 executed equivalent shares. The Operating Committee has determined to calculate

the projected total executed equivalent share volume for the 24 months of Historical Recovery Period 1A by doubling the executed equivalent share volume for the prior 12 months. The Operating Committee determined that such an approach was reasonable as the CAT’s annual executed equivalent share volume has increased from prior years (e.g., the executed equivalent share volume for 2024 was 4,295,884,600,069.4), and the Operating Committee believes that it is reasonable to conclude that the annual executed equivalent share volume will remain at the higher level. Accordingly, the projected total executed equivalent share volume for Historical Recovery Period 1A is projected to be 11,961,875,098,720.98 executed equivalent shares.⁸⁵

The projected total executed equivalent share volume of all transactions in Eligible Securities for Historical Recovery Period 1A and a description of the calculation of the projection is provided in this filing in accordance with the requirement in the CAT NMS Plan to provide such information in a fee filing for a Historical CAT Assessment.⁸⁶

(E) Fee Rate for Historical CAT Assessment 1A

The fee rate for Historical CAT Assessment 1A would be calculated by dividing the total amount of costs to be recovered by Historical CAT Assessment 1A by the reasonably projected total executed equivalent share volume of all transactions in Eligible Securities for Historical Recovery Period 1A, and dividing by 2. Specifically, the fee rate for Historical CAT Assessment 1A would be calculated by dividing \$38,964,855.34 by 11,961,875,098,720.98, and then dividing by 2, which equals \$0.00000162871017371542 per executed equivalent shares. Rounding this to six decimal places results in a fee rate of \$0.000002 per executed equivalent share.⁸⁷ This fee rate is provided in this filing in accordance with the requirement in the CAT NMS Plan to

provide the Historical Fee Rate in a fee filing for a Historical CAT Assessment.⁸⁸

(3) Past CAT Costs and Participants

Participants would not be required to pay any fees associated with Historical CAT Assessment 1A as the Participants previously have paid all Past CAT Costs. The CAT NMS Plan explains that:

Because Participants previously have paid Past CAT Costs via loans to the Company, Participants would not be required to pay any Historical CAT Assessment. In lieu of a Historical CAT Assessment, the Participants’ one-third share of Historical CAT Costs and such other additional Past CAT Costs as reasonably determined by the Operating Committee will be paid by the cancellation of loans made to the Company on a pro rata basis based on the outstanding loan amounts due under the loans.⁸⁹

The CAT NMS Plan further states that “Historical CAT Assessments are designed to recover two-thirds of the Historical CAT Costs.”⁹⁰

(4) Monthly Fees

CEBBs and CEBs would be required to pay fees for Historical CAT Assessment 1A on a monthly basis for the period in which Historical CAT Assessment 1A is in effect.⁹¹ A CEBB or CEBs’s fee for each month would be calculated based on the transactions in Eligible Securities executed by the CEBB or CEBs from the prior month.⁹² Proposed paragraph (a)(2)(A) of the fee schedule would state that each CAT Executing Broker would receive its first invoice in June 2026, and “would receive an invoice each month thereafter in which Historical CAT Assessment 1A is in effect.” Proposed paragraph (a)(2)(B) of the fee schedule would state that “Consolidated Audit Trail, LLC shall provide each CAT Executing Broker with an invoice for Historical CAT Assessment 1A on a monthly basis.” In addition, paragraph (b)(1) of the fee schedule states that each CEBB and CEBs is required to pay its CAT fees “each month.”

⁷⁹ For example, as the SEC noted in the CAT Funding Model Approval Order, recent Section 31 fees ranged from \$0.00007 per share to \$0.00072 per share. CAT Funding Model at 13469.

⁸⁰ The total CAT costs for 2022 were approximately \$186 million and the total CAT costs for 2023 were approximately \$233 million.

⁸¹ Note that the proposed 24-month recovery period also recognizes the prohibition on the collection of Historical CAT Assessments after March 31, 2028 as set forth in Section 11.3(f) of the CAT NMS Plan.

⁸² Section 11.3(b)(iii)(B)(II)(C) of the CAT NMS Plan.

⁸³ Section 11.3(b)(i)(E) of the CAT NMS Plan.

⁸⁴ CAT Funding Model Approval Order at 13452.

⁸⁵ This projection was calculated by multiplying 5,980,937,549,360.49 executed equivalent shares by two.

⁸⁶ Section 11.3(b)(iii)(B)(II)(D) of the CAT NMS Plan.

⁸⁷ As the SEC noted in approving the CAT Funding Model, the fee filing would provide the exact fee per executed equivalent share and describe the relevant number of decimal places for the fee rate. CAT Funding Model Approval Order at 13445, n.677. The Operating Committee determined to use six decimal places to balance the accuracy of the calculation with the potential systems and other impracticalities of using additional decimal places in the calculation.

⁸⁸ Section 11.3(b)(iii)(B)(II)(A) of the CAT NMS Plan.

⁸⁹ Section 11.3(b)(ii) of the CAT NMS Plan.

⁹⁰ *Id.* In approving the CAT Funding Model, the Commission stated that the proposed allocation of the Historical CAT Assessment solely to CEBBs and CEBs is appropriate. The Historical CAT Assessment will still be divided into thirds, as the Participants’ one-third share of Historical CAT Costs will be paid by the cancellation of loans made to the Company. CAT Funding Model Approval Order at 13453.

⁹¹ See Section 11.3(b)(iii)(A) of the CAT NMS Plan.

⁹² See proposed paragraph (a)(2)(B) of the fee schedule.

(5) Actual Recovery Period for Historical CAT Assessment 1A

The CAT NMS Plan states that, “[n]otwithstanding the length of the Historical Recovery Period used in calculating the Historical Fee Rate, each Historical CAT Assessment calculated using the Historical Fee Rate will remain in effect until all Historical CAT Costs for the Historical CAT Assessment are collected.”⁹³ Accordingly, Historical CAT Assessment 1A will remain in effect until the remaining \$38,964,855.34 of Historical CAT Costs 1 have been collected.⁹⁴ The actual recovery period for Historical CAT Assessment 1A may be shorter or longer than Historical Recovery Period 1A depending on the actual executed equivalent share volumes during the time that Historical CAT Assessment 1A is in effect and subject to any time limitation in the CAT NMS Plan.⁹⁵

(6) Consolidated Audit Trail Funding Fees

To implement Historical CAT Assessment 1A, a new section would be added to the Exchange’s fee schedule for “Consolidated Audit Trail Funding Fees”, and it would include the proposed paragraphs described below.

(A) Fee Schedule for Historical CAT Assessment 1A

The CAT NMS Plan states that:

Each month in which a Historical CAT Assessment is in effect, each CEBB and each CEBS shall pay a fee for each transaction in Eligible Securities executed by the CEBB or CEBS from the prior month as set forth in CAT Data, where the Historical CAT Assessment for each transaction will be calculated by multiplying the number of executed equivalent shares in the transaction by one-third and by the Historical Fee Rate reasonably determined pursuant to paragraph (b)(i) of this Section 11.3.⁹⁶

Accordingly, based on the factors discussed above, the Exchange proposes to add paragraph (a)(2) to the Consolidated Audit Trail Funding Fees section of its fee schedule. Proposed paragraph (a)(2) would state the following:

(A) Each CAT Executing Broker shall receive its first invoice for Historical CAT Assessment 1A in June 2026, which shall set

forth the Historical CAT Assessment 1A fees calculated based on transactions in May 2026, and shall receive an invoice for Historical CAT Assessment 1A for each month thereafter in which Historical CAT Assessment 1A is in effect.

(B) Consolidated Audit Trail, LLC shall provide each CAT Executing Broker with an invoice for Historical CAT Assessment 1A on a monthly basis. Each month, such invoices shall set forth a fee for each transaction in Eligible Securities executed by the CAT Executing Broker in its capacity as a CAT Executing Broker for the Buyer (“CEBB”) and/or the CAT Executing Broker for the Seller (“CEBS”) (as applicable) from the prior month as set forth in CAT Data. The fee for each such transaction will be calculated by multiplying the number of executed equivalent shares in the transaction by the fee rate of \$0.000002 per executed equivalent share.

(C) Historical CAT Assessment 1A will remain in effect until \$38,964,855.34 is collected from CAT Executing Brokers collectively, which is estimated to be approximately two years, but could be for a longer or shorter period of time. Consolidated Audit Trail, LLC will provide notice when Historical CAT Assessment 1A will no longer be in effect.

(D) Each CAT Executing Broker shall be required to pay each invoice for Historical CAT Assessment 1A in accordance with paragraph (b).

Proposed paragraph (a)(2)(B) of the fee schedule would set forth the fee rate of \$0.000002 per executed equivalent share for Historical CAT Assessment 1A, which is calculated as discussed above.

The proposed language in paragraph (a)(2)(B) of the fee schedule would describe when CAT Executing Brokers would receive their first monthly invoice for Historical CAT Assessment 1A. Specifically, CAT Executing Brokers would receive their first monthly invoice for Historical CAT Assessment 1A in June 2026 and the fees set forth in that invoice would be calculated based on transactions executed in the prior month, that is, transactions executed in May 2026. The payment for the first invoice would be required within 30 days after the receipt of the first invoice (unless a longer period is indicated), as described in paragraph (b)(2) of the fee schedule.

Proposed paragraph (a)(2)(A) of the fee schedule also would describe the monthly cadence of the invoices for Historical CAT Assessment 1A. Specifically, after the first invoices are provided to CAT Executing Brokers in June 2026, invoices will be sent to CAT Executing Brokers each month thereafter while Historical CAT Assessment 1A is in effect.

Proposed paragraph (a)(2)(B) of the fee schedule would describe the invoices for Historical CAT Assessment 1A.

Proposed paragraph (a)(2)(B) of the fee schedule would state that “Consolidated Audit Trail, LLC shall provide each CAT Executing Broker with an invoice for Historical CAT Assessment 1A on a monthly basis.” Proposed paragraph (a)(2)(B) of the fee schedule also would describe the fees to be set forth in the invoices for Historical CAT Assessment 1A. Specifically, it would state that “[e]ach month, such invoices shall set forth a fee for each transaction in Eligible Securities executed by the CAT Executing Broker in its capacity as a CAT Executing Broker for the Buyer (“CEBB”) and/or the CAT Executing Broker for the Seller (“CEBS”) (as applicable) from the prior month as set forth in CAT Data. The fee for each such transaction will be calculated by multiplying the number of executed equivalent shares in the transaction by the fee rate of \$0.000002 per executed equivalent share.”

Furthermore, proposed paragraph (a)(2)(C) of the fee schedule would describe how long Historical CAT Assessment 1A would remain in effect. It would state that “Historical CAT Assessment 1A will remain in effect until \$38,964,855.34 is collected from CAT Executing Brokers collectively, which is estimated to be approximately two years, but could be for a longer or shorter period of time.” This proposed paragraph would further state that “Consolidated Audit Trail, LLC will provide notice when Historical CAT Assessment 1A will no longer be in effect.”

Historical CAT Assessment 1A will be assessed for all transactions executed in each month through the end of the month in which \$38,964,855.34 is assessed, and then CAT LLC will provide notice that Historical CAT Assessment 1A is no longer in effect. Since Historical CAT Assessment 1A is a monthly fee based on transaction volume from the prior month, Historical CAT Assessment 1A may collect more than \$38,964,855.34. To the extent that occurs, any excess money collected during the final month in which Historical CAT Assessment 1A is in effect will be used to offset future fees and/or to fund the reserve for the CAT.

Finally, proposed paragraph (a)(2)(D) of the fee schedule sets forth the requirement for the CAT Executing Brokers to pay the invoices for Historical CAT Assessment 1A. It would state that “[e]ach CAT Executing Broker shall be required to pay each invoice for Historical CAT Assessment 1A in accordance with paragraph (b).”

⁹³ Section 11.3(b)(i)(D)(II) of the CAT NMS Plan.

⁹⁴ In approving the CAT Funding Model, the Commission stated that, “[i]n the Commission’s view, it is appropriate for Industry Members to be charged a Historical CAT Assessment until all Historical CAT Costs for the Historical CAT Assessment are collected.” CAT Funding Model Approval Order at 13452.

⁹⁵ Section 11.3(f) of the CAT NMS Plan would prohibit the billing of Historical CAT Assessments after March 31, 2028.

⁹⁶ Section 11.3(b)(iii)(A) of the CAT NMS Plan.

(B) Manner of Payment

Paragraph (b)(1) of the “Consolidated Audit Trail Funding Fees” section of its fee schedule describes the manner of payment of Industry Member CAT fees. Paragraph (b)(1) states that “[e]ach CAT Executing Broker shall pay its CAT fees as required pursuant to paragraph (a) each month to the Consolidated Audit Trail, LLC in the manner prescribed by the Consolidated Audit Trail, LLC.” The CAT NMS Plan requires the Operating Committee to establish a system for the collection of CAT fees.⁹⁷ The Plan Processor has established a billing system for CAT fees.⁹⁸ Therefore, the Exchange proposes to require CAT Executing Brokers to pay Historical CAT Assessment 1A in accordance with such system.

(C) Failure To Pay CAT Fees

The CAT NMS Plan further states that:

Participants shall require each Industry Member to pay all applicable fees authorized under this Article XI within thirty (30) days after receipt of an invoice or other notice indicating payment is due (unless a longer payment period is otherwise indicated). If an Industry Member fails to pay any such fee when due (as determined in accordance with the preceding sentence), such Industry Member shall pay interest on the outstanding balance from such due date until such fee is paid at a per annum rate equal to the lesser of: (a) the Prime Rate plus 300 basis points; or (b) the maximum rate permitted by applicable law.⁹⁹

Accordingly, the Exchange previously has added this requirement to the Exchange’s fee schedule. Specifically, paragraph (b)(2) of the fee schedule states:

Each CAT Executing Broker shall pay the CAT fees required pursuant to paragraph (a) within thirty days after receipt of an invoice or other notice indicating payment is due (unless a longer payment period is otherwise indicated). If a CAT Executing Broker fails to pay any such CAT fee when due, such CAT Executing Broker shall pay interest on the outstanding balance from such due date until such fee is paid at a per annum rate equal to the lesser of (i) the Prime Rate plus 300 basis points, or (ii) the maximum rate permitted by applicable law.

The requirements of paragraph (b)(2) would apply to Historical CAT Assessment 1A.

⁹⁷ Section 11.4 of the CAT NMS Plan.

⁹⁸ The billing process and system are described in CAT Alert 2023-02 as well as the CAT FAQs related to the billing of CAT fees, the Industry Member CAT Reporter Portal User Guide, the FCAT Industry Member Onboarding Guide, the FCAT Connectivity Supplement for Industry Members and the CAT Billing Webinars (dated Sept. 28, 2023, and Nov. 7, 2023), each available on the CAT website.

⁹⁹ Section 11.4 of the CAT NMS Plan.

(7) Historical CAT Assessment Details

The CAT NMS Plan states that:

Details regarding the calculation of a CAT Executing Broker’s Historical CAT Assessment will be provided upon request to such CAT Executing Broker. At a minimum, such details would include each CAT Executing Broker’s executed equivalent share volume and corresponding fee by (1) Listed Options, NMS Stocks and OTC Equity Securities, (2) by transactions executed on each exchange and transactions executed otherwise than on an exchange, and (3) by buy-side transactions and sell-side transactions.¹⁰⁰

Such information would provide CEBBs and CEBs with the ability to understand the details regarding the calculation of their Historical CAT Assessment.¹⁰¹ CAT LLC will provide CAT Executing Brokers with these details regarding the calculation of their Historical CAT Assessments on their monthly invoice for the Historical CAT Assessment.

In addition, CAT LLC will make certain aggregate statistics regarding Historical CAT Assessments publicly available. Specifically, the CAT NMS Plan states that, “[f]or each Historical CAT Assessment, at a minimum, CAT LLC will make publicly available the aggregate executed equivalent share volume and corresponding aggregate fee by (1) Listed Options, NMS Stocks and OTC Equity Securities, (2) by transactions executed on each exchange and transactions executed otherwise on an exchange, and (3) by buy-side transactions and sell-side transactions.”¹⁰² Such aggregate statistics will be available on the CAT website.

Furthermore, CAT LLC will make publicly available on the CAT website the total amount invoiced each month that Historical CAT Assessment 1A is in effect as well as the total amount invoiced for Historical CAT Assessment 1A for all months since its commencement. CAT LLC also will make publicly available on the CAT website the total costs to be collected from Industry Members for Historical

¹⁰⁰ Section 11.3(a)(iv)(A) of the CAT NMS Plan.

¹⁰¹ In approving the CAT Funding Model, the Commission stated that, “[i]n the Commission’s view, providing CAT Execut[ing] Brokers information regarding the calculation of their CAT Fees will aid in transparency and permit CAT Execut[ing] Brokers to confirm the accuracy of their invoices for CAT Fees.” CAT Funding Model Approval Order at 13454.

¹⁰² Section 11.3(a)(iv)(B) of the CAT NMS Plan. In approving the CAT Funding Model, the Commission stated that “[t]he publication of the aggregate executed equivalent share volume and aggregate fee is appropriate because it would allow Participants and CAT Executing Brokers a high-level validation of executed volume and fees.” CAT Funding Model Approval Order at 13454.

CAT Assessment 1A. By reviewing statistics regarding how much has been invoiced and how much remains to be invoiced for Historical CAT Assessment 1A, Industry Members would have sufficient information to reasonably track how much longer Historical CAT Assessment 1A is likely to be in place.

(8) Billing Implementation

To date, CAT LLC, via FCAT, has billed Industry Members for Historical CAT Assessment 1 and certain Prospective CAT Fees. Industry Members will be billed for Historical CAT Assessment 1A via the same processes established for Historical CAT Assessment 1 and the Prospective CAT Fees. Accordingly, Industry Members have substantial experience with the CAT billing processes.

(9) Financial Accountability Milestones

The CAT NMS Plan states that “[n]o Participant will make a filing with the SEC pursuant to Section 19(b) of the Exchange Act regarding any Historical CAT Assessment until any applicable Financial Accountability Milestone described in Section 11.6 has been satisfied.”¹⁰³ The CAT NMS Plan further states that “in all filings submitted by the Participants to the Commission under Section 19(b) of the Exchange Act, to establish or implement Post-Amendment Industry Member Fees pursuant to this Article, . . . the Participants shall clearly indicate whether such fees are related to Post-Amendment Expenses incurred during Period 1, Period 2, Period 3, or Period 4.”¹⁰⁴ As discussed in detail below, all applicable Financial Accountability Milestones for Historical CAT Assessment 1A—that is, Period 1, Period 2 and Period 3 of the Financial Accountability Milestones—have been satisfied. Furthermore, as discussed below, this filing clearly indicates that Historical CAT Assessment 1A relates to Post-Amendment Expenses incurred during Periods 1, 2 and 3 of the Financial Accountability Milestones.

(A) Period 1 of the Financial Accountability Milestones

In accordance with Section 11.6(b) of the CAT NMS Plan, Historical CAT Assessment 1A seeks to recover costs that are related to “all fees, costs, and expenses (including legal and consulting fees, costs, and expenses) incurred by or for the Company in connection with the development, implementation and operation of the

¹⁰³ Section 11.3(b)(iii)(B)(III) of the CAT NMS Plan.

¹⁰⁴ Section 11.6(b) of the CAT NMS Plan.

CAT from the effective date of [Section 11.6 of the CAT NMS Plan] until such time as Full Implementation of CAT NMS Plan Requirements has been achieved”¹⁰⁵ (“Post-Amendment Expenses”) incurred during FAM Period 1. FAM Period 1 began on June 22, 2020, the effective date of Section 11.6 of the CAT NMS Plan, and concluded on July 31, 2020, the date of Initial Industry Member Core Equity and Options Reporting. Section 1.1 of the CAT NMS Plan defines “Initial Industry Member Core Equity and Options Reporting” as:

The reporting by Industry Members (excluding Small Industry Members that are not OATS reporters) of both: (a) equities transaction data, excluding Customer Account Information, Customer-ID, and Customer Identifying Information; and (b) options transaction data, excluding Customer Account Information, Customer-ID and Customer Identifying Information.

Under Section 1.1 of the CAT NMS Plan, this Financial Accountability Milestone is considered complete as of the date identified in the Participants’ Quarterly Progress Reports.¹⁰⁶ As indicated by the Participants’ Quarterly Progress Report for the third quarter of 2020,¹⁰⁷ Initial Industry Member Core Equity and Option Reporting was completed on schedule on July 22, 2020, which is prior to the July 31, 2020 deadline.

Under the FAM Period 1 requirement of Initial Industry Member Core Equity and Options Reporting, Industry Members—excluding Small Industry Members that are not OATS reporters—were required to report two categories of data to the CAT: equities transaction data and options transaction data (both excluding Customer Account Information, Customer-ID, and Customer Identifying Information) by July 31, 2020. Pursuant to exemptive relief provided by the Commission, the Commission authorized the Participants’ Compliance Rules to allow core equity reporting for Industry Members (Phase 2a) to begin on June 22, 2020 and core options reporting for Industry Members (Phase 2b) to begin on July 20, 2020.¹⁰⁸

In adopting the FAMs, the Commission stated that the equities transaction reporting required for FAM Period 1 “is consistent with the functionality that the Participants describe on the CAT NMS Plan website as ‘Production Go-Live for Equities 2a file submission and data integrity validations.’”¹⁰⁹ The Phase 2a Industry Member Data is described in detail in the SEC’s Phased Reporting Exemptive Relief Order, and includes the following data related to Eligible Securities that are equities:

- All events and scenarios covered by OATS, which includes information related to the receipt or origination of orders, order transmittal, and order modifications, cancellations and executions;

- Reportable Events for: (1) proprietary orders, including market maker orders, for Eligible Securities that are equities; (2) electronic quotes in listed equity Eligible Securities (*i.e.*, NMS stocks) sent to a national securities exchange or FINRA’s Alternative Display Facility (“ADF”); (3) electronic quotes in unlisted Eligible Securities (*i.e.*, OTC Equity Securities) received by an Industry Member operating an interdealer quotation system (“IDQS”); and (4) electronic quotes in unlisted Eligible Securities sent to an IDQS or other quotation system not operated by a Participant or Industry Member;

- Firm Designated IDs (“FDIDs”), which Industry Members must report to the CAT as required by Sections 6.3(d)(i)(A) and 6.4(d)(ii)(C) of the CAT NMS Plan;

- Industry Members would be required to report all street side representative orders, including both agency and proprietary orders and mark such orders as representative orders, except in certain limited exceptions as described in the Industry Member Technical Specifications;

- The link between the street side representative order and the order being represented when: (1) the representative order was originated specifically to represent a single order received either from a customer or another broker-dealer; and (2) there is (a) an existing

direct electronic link in the Industry Member’s system between the order being represented and the representative order and (b) any resulting executions are immediately and automatically applied to the represented order in the Industry Member’s system;

- Manual and Electronic Capture Time for Manual Order Events;
- Special handling instructions for the original receipt or origination of an order during Phase 2a; and
- When routing an order, whether the order was routed as an intermarket sweep order (“ISO”).

In Phase 2a, Industry Members were not required to report modifications of a previously routed order in certain limited instances, nor were they required to report a cancellation of an order received from a Customer after the order has been executed.¹¹⁰

The Quarterly Progress Report for the third quarter of 2020 states that “Interim Step: Production Go-Live for Equities 2a file submission and data integrity validation (Large Industry Members and Small OATS Reporters)” was completed on June 22, 2020. Accordingly, the FAM Period 1 requirement of reporting by Industry Members (excluding Small Industry Members that are not OATS reporters) of “equities transaction data, excluding Customer Account Information, Customer-ID, and Customer Identifying Information” was completed on June 22, 2020.

In adopting the FAMs, the Commission stated that the options transaction reporting required for FAM Period 1 is “consistent with the functionality that the Participants describe on the CAT NMS Plan website as ‘Production Go-Live for Options 2b file submission and data integrity validations.’”¹¹¹ The Phase 2b Industry Member Data is described in detail in the SEC’s Phased Reporting Exemptive Relief Order, and includes the Industry Member Data related to Eligible Securities that are options and related to simple electronic option orders, excluding electronic paired option orders. A simple electronic option order is an order to buy or sell a single option that is not related to or dependent on any other transaction for pricing and timing of execution that is either received or routed electronically by an Industry Member. Electronic receipt of an order is defined as the initial receipt of an order by an Industry Member in electronic form in standard format directly into an order handling or execution system. Electronic routing of

¹⁰⁵ Section 11.6 of the CAT NMS Plan.

¹⁰⁶ The Quarterly Progress Reports are available at <https://www.catnmsplan.com/implementation-plan>.

¹⁰⁷ See Q3 2020 Quarterly Progress Report (Oct. 30, 2020) and Updated Q3 2020 Quarterly Progress Report (Jan. 29, 2021).

¹⁰⁸ See Phased Reporting Exemptive Relief Order. Under the CAT NMS Plan as adopted, the Participants were required, through their Compliance Rules, to require their Large Industry Members to commence reporting Industry Member Data to the Central Repository by November 15, 2018, and to require their Small Industry Members

to commence reporting Industry Member Data to the Central Repository by November 15, 2019. Sections 6.7(a)(v) and (vi) of the CAT NMS Plan. The SEC granted exemptive relief from these provisions of the CAT NMS Plan to allow for the phased implementation of Industry Member reporting via five phases addressing the reporting requirements for Phase 2a Industry Member Data, Phase 2b Industry Member Data, Phase 2c Industry Member Data, Phase 2d Industry Member Data and Phase 2e Industry Member Data.

¹⁰⁹ Securities Exchange Act Rel. No. 88890 (May 15, 2020), 85 FR 31322, 31330 n.97 (May 22, 2020) (“FAM Adopting Release”).

¹¹⁰ Phased Reporting Exemptive Relief Order at 23076–78.

¹¹¹ FAM Adopting Release at 31330, n.98.

an order is the routing of an order via electronic medium in standard format from one Industry Member's order handling or execution system to an exchange or another Industry Member. An electronic paired option order is an electronic option order that contains both the buy and sell side that is routed to another Industry Member or exchange for crossing and/or price improvement as a single transaction on an exchange. Responses to auctions of simple orders and paired simple orders would be reportable in Phase 2b. Furthermore, combined orders in options would be treated in Phase 2b in the same way as equity representative orders are treated in Phase 2a. A combined order would mean, as permitted by SRO rules, a single, simple order in Listed Options created by combining individual, simple orders in Listed Options from a customer with the same exchange origin code before routing to an exchange. During Phase 2b, the single combined order sent to an exchange must be reported and marked as a combined order, but the linkage to the underlying orders is not required to be reported until Phase 2a.¹¹²

The Quarterly Progress Report for the third quarter of 2020 states that "Interim Step: Production Go-Live for Options 2b file submission and data integrity validations" was completed on July 20, 2020. Accordingly, the FAM Period 1 requirement of reporting by Industry Members (excluding Small Industry Members that are not OATS reporters) of "options transaction data, excluding Customer Account Information, Customer-ID and Customer Identifying Information" was completed on July 20, 2020.

As discussed above, the remaining Historical CAT Costs 1 to be recovered via Historical CAT Assessment 1A would include fees, costs and expenses incurred by or for the Company in connection with the development, implementation and operation of the CAT during the period from June 22, 2020 through July 31, 2020. The total costs for this period, as discussed above, are \$6,377,343. Participants would remain responsible for one-third of this cost (which they have previously paid), and Industry Members would be responsible for the remaining two-thirds, with CEBBs paying one-third (\$2,125,781) and CEBBs paying one-third (\$2,125,781) through Historical CAT Assessment 1 and Historical CAT Assessment 1A.

(B) Period 2 of the Financial Accountability Milestones

Historical CAT Assessment 1A seeks to recover costs that are related to Post-Amendment Expenses incurred during FAM Period 2. FAM Period 2 began on August 1, 2020, and concluded on December 31, 2020, the date of the Full Implementation of Core Equity Reporting. Section 1.1 of the CAT NMS Plan defines "Full Implementation of Core Equity Reporting" as:

the point at which: (a) Industry Member reporting (excluding reporting by Small Industry Members that are not OATS reporters) for equities transactions, excluding Customer Account Information, Customer-ID, and Customer Identifying Information, is developed, tested, and implemented at a 5% Error Rate or less and with sufficient intra-firm linkage, inter-firm linkage, national securities exchange linkage, and trade reporting facilities linkage to permit the Participants and the Commission to analyze the full lifecycle of an order across the national market system, excluding linkage of representative orders, from order origination through order execution or order cancellation; and (b) the query tool functionality required by Section 6.10(c)(i)(A) and Appendix D, Sections 8.1.1–8.1.3 and Section 8.2.1 incorporates the Industry Member equities transaction data described in condition (a) and is available to the Participants and to the Commission. This Financial Accountability Milestone shall be considered complete as of the date identified in a Quarterly Progress Report meeting the requirements of Section 6.6(c).

Under Section 1.1 of the CAT NMS Plan, this Financial Accountability Milestone is considered complete as of the date identified in the Participants' Quarterly Progress Reports. As indicated by the Participants' Quarterly Progress Report for the fourth quarter of 2020,¹¹³ Full Implementation of Core Equity Reporting was completed on schedule by December 31, 2020.

Specifically, the Full Implementation of Core Equity Reporting requires the satisfaction of two prongs. The first prong requires Participants to have fully implemented the first phase of equities transaction reporting for Industry Members (excluding Small Industry Members that are not OATS reporters) at an Error Rate of less than 5%. In addition, equities transaction data produced by the CAT at this stage must also be sufficiently interlinked so as to permit full analysis of an order's lifecycle across the national market, excluding full linkage of representative orders. As CAT LLC reported on its Quarterly Progress Reports, Phase 2a was fully implemented as of October 26,

2020, including intra-firm, inter-firm, national securities exchange, and trade reporting facilities linkages.¹¹⁴ In addition to the reporting of Phase 2a Industry Member Data as described above with regard to FAM Period 1, the following linkage data was added to the CAT as described in the Quarterly Progress Reports for the third and fourth quarter of 2020:

- "Production Go-Live for Equities 2a Intrafirm Linkage validations" was completed on 7/27/2020;¹¹⁵
- "Production Go-Live for Firm to Firm Linkage validations for Equities 2a (Large Industry Members and Small OATS Reporters)" was completed on October 26, 2020; and
- "Production Go-Live for Equities 2a Exchange and TRF Linkage validations (Large Industry Members and Small OATS Reporters)" was completed on October 26, 2020.

Furthermore, as CAT LLC reported on its Quarterly Progress Report for the fourth quarter of 2020, the average overall error rate for Phase 2a Industry Member Data was less than 5% as of December 31, 2020. The average overall error rate was calculated by dividing the compliance errors by processed records.

The second prong of this FAM requires that the equities transaction data collected by the CAT at this stage be made available to regulators through two basic query tools required by the CAT NMS Plan—a targeted query tool that will enable regulators to retrieve data via an online query screen with a variety of predefined selection criteria, and a user-defined direct query tool that will provide regulators with the ability to query data using all available attributes and data sources.¹¹⁶ As CAT LLC reported on its Quarterly Progress Reports, the query tool functionality incorporating the data from Phase 2a was available to the Participants and the Commission as of December 31, 2020.¹¹⁷

The Commission has determined that the Participants have sufficiently

¹¹⁴ For a description of the requirements of Phases 2a, see Phased Reporting Exemptive Relief Order.

¹¹⁵ Q3 2020 Quarterly Progress Report (Oct. 20, 2021).

¹¹⁶ At the time of this FAM, Section 6.10(c)(i)(A) of the CAT NMS Plan required the Plan Processor to "provide Participants and the SEC with access to all CAT Data stored in the Central Repository" via an "online targeted query tool," and Appendix D, Sections 8.1.1–8.1.3 of the CAT NMS Plan described the required functionality associated with this regulatory tool. Appendix D, Section 8.2.1 describes the required functionality associated with a user-defined direct query tool that will "deliver large sets of data that can then be used in internal surveillance or market analysis applications."

¹¹⁷ See Q3 2020 Quarterly Progress Report (Oct. 30, 2020); Updated Q3 2020 Quarterly Progress Report (Jan. 29, 2021); and Q4 2020 Quarterly Progress Report (Jan. 29, 2021).

¹¹² Phased Reporting Exemptive Relief Order at 23078.

¹¹³ Q4 2020 Quarterly Progress Report (Jan. 29, 2021).

complied with the conditions set forth in the 2020 Orders and with the technical requirements for Quarterly Progress Reports set forth in Section 6.6(c) of the CAT NMS Plan for purposes of determining compliance with this FAM.¹¹⁸

As discussed above, the remaining Historical CAT Costs 1 to be recovered via Historical CAT Assessment 1A would include fees, costs and expenses incurred by or for the Company in connection with the development, implementation and operation of the CAT during the period from August 1, 2020 through December 31, 2020. The total costs for this period, as discussed above, are \$42,976,478. Participants would remain responsible for one-third of this cost (which they have previously paid), and Industry Members would be responsible for the remaining two-thirds, with CEBBs paying one-third (\$14,325,492.70) and CEBBs paying one-third (\$14,325,492.70) through Historical CAT Assessment 1 and Historical CAT Assessment 1A.

(C) Period 3 of the Financial Accountability Milestones

Historical CAT Assessment 1A seeks to recover costs that are related to Post-Amendment Expenses incurred during FAM Period 3. FAM Period 3 began on January 1, 2021, and concluded on December 31, 2021, the date of the Full Availability and Regulatory Utilization of Transactional Database Functionality. Section 1.1 of the CAT NMS Plan defines “Full Availability and Regulatory Utilization of Transactional Database Functionality” as:

the point at which: (a) reporting to the Order Audit Trail System (“OATS”) is no longer required for new orders; (b) Industry Member reporting for equities transactions and simple electronic options transactions, excluding Customer Account Information, Customer-ID, and Customer Identifying Information, with sufficient intra-firm linkage, inter-firm linkage, national securities exchange linkage, trade reporting facilities linkage, and representative order linkages (including any equities allocation information provided in an Allocation Report) to permit the Participants and the Commission to analyze the full lifecycle of an order across the national market system, from order origination through order execution or order cancellation, is developed, tested, and implemented at a 5% Error Rate or less; (c) Industry Member reporting for manual options transactions and complex options transactions, excluding Customer Account Information, Customer-ID, and Customer Identifying Information, with all required linkages to permit the Participants and the

Commission to analyze the full lifecycle of an order across the national market system, from order origination through order execution or order cancellation, including any options allocation information provided in an Allocation Report, is developed, tested, and fully implemented; (d) the query tool functionality required by Section 6.10(c)(i)(A) and Appendix D, Sections 8.1.1–8.1.3, Section 8.2.1, and Section 8.5 incorporates the data described in conditions (b)-(c) and is available to the Participants and to the Commission; and (e) the requirements of Section 6.10(a) are met. This Financial Accountability Milestone shall be considered complete as of the date identified in a Quarterly Progress Report meeting the requirements of Section 6.6(c).

Under Section 1.1 of the CAT NMS Plan, this Financial Accountability Milestone is considered complete as of the date identified in the Participants’ Quarterly Progress Reports. As indicated by the Participants’ Quarterly Progress Report for the fourth quarter of 2021,¹¹⁹ Full Availability and Regulatory Utilization of Transactional Database Functionality was completed on schedule by December 31, 2021.

Specifically, the “Full Availability and Regulatory Utilization of Transactional Database Functionality” requires the satisfaction of five prongs. The first prong requires that reporting to the Order Audit Trail System (“OATS”) is no longer required for new orders. As CAT LLC reported on its Quarterly Progress Report for the fourth quarter of 2021,¹²⁰ FINRA retired OATS effective September 1, 2021.¹²¹ Accordingly, after the retirement of OATS, reporting to OATS was no longer required.

In addition to Phase 2a and Phase 2b Industry Member Data, the second and third prongs of “Full Availability and Regulatory Utilization of Transactional Database Functionality” require Industry Member reporting of Phase 2c Industry Member Data and Phase 2d Industry Member Data. The Phase 2c Industry Member Data is described in detail in the SEC’s Phased Reporting Exemptive Relief Order. That Order states that “Phase 2c Industry Member Data” is Industry Member Data related to Eligible Securities that are equities other than Phase 2a Industry Member Data, Phase 2d Industry Member Data, or Phase 2e Industry Member Data. Specifically, the Phase 2c Industry Member Data includes Industry Member Data that is related to Eligible Securities that are equities and that is related to: (1) Allocation Reports as required to be recorded and reported to the Central

Repository pursuant to Section 6.4(d)(ii)(A)(1) of the CAT NMS Plan; (2) quotes in unlisted Eligible Securities sent to an IDQS operated by a CAT Reporter (reportable by the Industry Member sending the quotes) (except for quotes reportable in Phase 2d, as discussed below); (3) electronic quotes in listed equity Eligible Securities (*i.e.*, NMS stocks) that are not sent to a national securities exchange or FINRA’s Alternative Display Facility; (4) reporting changes to client instructions regarding modifications to algorithms; (5) marking as a representative order any order originated to work a customer order in price guarantee scenarios, such as a guaranteed VWAP; (6) flagging rejected external routes to indicate a route was not accepted by the receiving destination; (7) linkage of duplicate electronic messages related to a Manual Order Event between the electronic event and the original manual route; (8) special handling instructions on order route reports (other than the ISO, which is required to be reported in Phase 2a); (9) quote identifier on trade events; (10) reporting of LTIDs (if applicable) for accounts with Reportable Events that are reportable to CAT as of and including Phase 2c; (11) reporting of date account opened or Account Effective Date (as applicable) for accounts and reporting of a flag indicating the Firm Designated ID type as account or relationship; (12) order effective time for orders that are received by an Industry Member and do not become effective until a later time; (13) the modification or cancellation of an internal route of an order; and (14) linkages to the customer orders(s) being represented for representative order scenarios, including agency average price trades, net trades, aggregated orders, and disconnected Order Management System (“OMS”)—Execution Management System (“EMS”) scenarios, as required in the Industry Member Technical Specifications.¹²²

Phase 2c Industry Member Data also includes electronic quotes that are provided by or received in a CAT Reporter’s order/quote handling or execution systems in Eligible Securities that are equities and are provided by an Industry Member to other market participants off a national securities exchange under the following conditions: (1) an equity bid or offer is displayed publicly or has been communicated (a) for listed securities to the ADF operated by FINRA; or (b) for unlisted equity securities to an “interdealer quotation system,” as

¹¹⁸ Securities Exchange Act Rel. No. 98848 (Nov. 2, 2023), 88 FR 77128, 77129 n.13 (Nov. 8, 2023) (“Settlement Exemptive Order”).

¹¹⁹ Q4 2021 Quarterly Progress Report (Jan. 17, 2022).

¹²⁰ *Id.*

¹²¹ Securities Exchange Act Rel. No. 92239 (June 23, 2021), 86 FR 34293 (June 29, 2021).

¹²² Phase Reporting Exemptive Relief Order at 23078–79.

defined in FINRA Rule 6420(c); or (2) an equity bid or offer which is accessible electronically by customers or other market participants and is immediately actionable for execution or routing; *i.e.*, no further manual or electronic action is required by the responder providing the quote in order to execute or cause a trade to be executed). With respect to OTC Equity Securities, OTC Equity Securities quotes sent by an Industry Member to an IDQS operated by an Industry Member CAT Reporter (other than such an IDQS that does not match and execute orders) are reportable by the Industry Member sending them in Phase 2c. Accordingly, any response to a request for quote or other form of solicitation response provided in a standard electronic format (*e.g.*, FIX) that meets this quote definition (*i.e.*, an equity bid or offer which is accessible electronically by customers or other market participants and is immediately actionable for execution or routing) would be reportable in Phase 2c.¹²³

The Phase 2d Industry Member Data is described in detail in the SEC's Phased Reporting Exemptive Relief Order. "Phase 2d Industry Member Data" is Industry Member Data that is related to Eligible Securities that are options other than Phase 2b Industry Member Data, Industry Member Data that is related to Eligible Securities that are equities other than Phase 2a Industry Member Data or Phase 2c Industry Member Data, and Industry Member Data other than Phase 2e Industry Member Data. Phase 2d Industry Member Data includes with respect to the Eligible Securities that are options: (1) simple manual orders; (2) electronic and manual paired orders; (3) all complex orders with linkages to all CAT-reportable legs; (4) LTIDs (if applicable) for accounts with Reportable Events for Phase 2d; (5) date account opened or Account Effective Date (as applicable) for accounts with an LTID and flag indicating the Firm Designated ID type as account or relationship for such accounts; (6) Allocation Reports as required to be recorded and reported to the Central Repository pursuant to Section 6.4(d)(ii)(A)(1) of the CAT NMS Plan; (7) the modification or cancellation of an internal route of an order; and (8) linkage between a combined order and the original customer orders. Phase 2d Industry Member Data also would include electronic quotes that are provided by or received in a CAT Reporter's order/quote handling or execution systems in Eligible Securities that are options and are provided by an Industry Member to

other market participants off a national securities exchange under the following conditions: a listed option bid or offer which is accessible electronically by customers or other market participants and is immediately actionable (*i.e.*, no further action is required by the responder providing the quote in order to execute or cause a trade to be executed). Accordingly, any response to a request for quote or other form of solicitation response provided in standard electronic format (*e.g.*, FIX) that meets this definition is reportable in Phase 2d for options.¹²⁴

Phase 2d Industry Member Data also includes with respect to Eligible Securities that are options or equities (1) receipt time of cancellation and modification instructions through Order Cancel Request and Order Modification Request events; (2) modifications of previously routed orders in certain instances; and (3) OTC Equity Securities quotes sent by an Industry Member to an IDQS operated by an Industry Member CAT Reporter that does not match and execute orders. In addition, subject to any exemptive or other relief, Phase 2d Industry Member Data will include verbal or manual quotes on an exchange floor or in the over-the-counter market, where verbal quotes and manual quotes are defined as bids or offers in Eligible Securities provided verbally or that are provided or received other than via a CAT Reporter's order handling and execution system (*e.g.*, quotations provided via email or instant messaging).¹²⁵

The Quarterly Progress Report for the fourth quarter of 2021 states that "Phase 2a was fully implemented as of October 26, 2020;" "Phase 2b was fully implemented as of January 4, 2021;" "Phase 2c was implemented as of April 26, 2021;" and "Phase 2d was fully implemented as of December 13, 2021."¹²⁶ The Quarterly Progress Reports for 2021 provide additional detail regarding the implementation of these steps including the following:

- "Production Go-Live for Equities 2c reporting requirements (Large Industry Members)" was completed on April 26, 2021;
- "LTID Account Information Reporting Go-Live for Phases 2a, 2b and 2c (Large Industry Members)" was completed on April 26, 2021;
- "FCAT Plan Processor creates linkages of the lifecycle of order events based on the received data through Phase 2d Production Go-Live for

Options 2d reporting requirements (Large Industry Members)" was completed on December 13, 2021;

- "Production Go-Live for Options 2d reporting requirements (Large Industry Members)" was completed on December 13, 2021;

- "Production Go-Live for Options 2b reporting requirements (Small OATS Reporters and Small Non-OATS Reporters)" was completed on December 13, 2021;

- "Production Go-Live for Equities 2c reporting requirements (Small OATS Reporters and Small Non-OATS Reporters)" was completed on December 13, 2021;

- "Production Go-Live for Options 2d reporting requirements (Small OATS Reporters and Small Non-OATS Reporters)" was completed on December 13, 2021;

- "LTID Account Information Reporting Go-Live for Phases 2d (Large Industry Members)" was completed on December 13, 2021; and

- "LTID Account Information Reporting Go-Live for Phases 2a, 2b, 2c and 2d (Small Industry Members)" was completed on December 13, 2021.¹²⁷

The third prong of "Full Availability and Regulatory Utilization of Transactional Database Functionality" also imposes an Error Rate requirement of 5% or less. The Quarterly Progress Report for the fourth quarter of 2021 states the average overall error rate was less than 5% as of December 31, 2021. The average overall error rate was calculated by dividing the compliance errors by processed records.

The fourth prong of "Full Availability and Regulatory Utilization of Transactional Database Functionality" requires that the data collected by the CAT at this stage be made available to regulators through an online targeted query tool and a user-defined direct query tool. As CAT LLC reported on its Quarterly Progress Report for the fourth quarter of 2021, the query tool functionality incorporating the data from Phases 2a, 2b, 2c and 2d was available to the Participants and to the Commission as of December 31, 2021.¹²⁸

The fifth prong requires the requirements of Section 6.10(a) of the CAT NMS Plan to have been met. Section 6.10(a) of the CAT NMS Plan requires the Participants to use the tools described in Appendix D to "develop and implement a surveillance system, or enhance existing surveillance systems,

¹²⁴ *Id.*

¹²⁵ *Id.* at 23079–80.

¹²⁶ See Q4 2021 Quarterly Progress Report (Jan. 17, 2022).

¹²⁷ See Q2 2021 Quarterly Progress Report (July 27, 2021); and Q4 2021 Quarterly Progress Report (Jan. 17, 2022).

¹²⁸ See Q4 2021 Quarterly Progress Report (Jan. 17, 2022).

¹²³ *Id.* at 23079.

reasonably designed to make use of the consolidated information contained in the Central Repository.” The Exchange implemented a surveillance system, or enhanced existing surveillance systems, reasonably designed to make use of the consolidated information contained in the Central Repository as of December 31, 2021 in accordance with Section 6.10(a) of the CAT NMS Plan.¹²⁹

The Commission has determined that the Participants have sufficiently complied with the conditions set forth in the 2020 Orders and with the technical requirements for Quarterly Progress Reports set forth in Section 6.6(c) of the CAT NMS Plan for purposes of determining compliance with this FAM.¹³⁰

As discussed above, the remaining Historical CAT Costs 1 to be recovered via Historical CAT Assessment 1A would include fees, costs and expenses incurred by or for the Company in connection with the development, implementation and operation of the CAT during the period from January 1, 2021 through December 31, 2021. The total costs for this period, as discussed above, are \$144,415,268. Participants would remain responsible for one-third of this cost (which they have previously paid), and Industry Members would be responsible for the remain two-thirds, with CEBBs paying one-third (\$48,138,422.70) and CEBBs paying one-third (\$48,138,422.70) through Historical CAT Assessment 1 and Historical CAT Assessment 1A.

(D) Additional Considerations Related to the Financial Accountability Milestones

As discussed above, CAT LLC has satisfied the Financial Accountability Milestones (“FAMs”) for Periods 1 through 3.¹³¹ As discussed below, none of the circumstances related to NIA Electronic RFQ Responses, the 2023 Verbal Quotes Exemption, the November 2023 Order, or Executing Broker reporting, affect the conclusion that the FAMs for Periods 1 through 3 were satisfied in a timely fashion.

¹²⁹ See Q1 2021 Quarterly Progress Report (Apr. 30, 2021); Q2 2021 Quarterly Progress Report (July 27, 2021); Q3 2021 Quarterly Progress Report (Nov. 1, 2021); and Q4 2021 Quarterly Progress Report (Jan. 17, 2022).

¹³⁰ Settlement Exemptive Order at 77129 n.13.

¹³¹ In May 2020, the Commission adopted amendments to the CAT NMS Plan that establish four Financial Accountability Milestones and set target deadlines by which these milestones must be achieved. These amendments also reduce the amount of any fees, costs, and expenses that may be recovered from Industry Members if the Participants fail to meet the target deadlines. FAM Adopting Release.

(i) NIA Electronic RFQ Responses

CAT LLC does not believe that the exemptive relief relating to the reporting of electronic responses for quotes (“RFQs”) that are not immediately actionable (“NIA Electronic RFQ Responses”) affect the conclusion that FAMs 1 through 3 have been satisfied. The only reason CAT LLC pursued this relief is because certain Industry Members introduced concerns that NIA Electronic RFQ Responses could be considered “orders” reportable pursuant to Rule 613(j)(8) and some Industry Members were not prepared to report such orders to CAT. Thus, the relief was requested on behalf of Industry Members. CAT LLC itself has not taken any position on whether NIA Electronic RFQ Responses are “orders,” as the definition of “order” is an SEC rule and the trading processes for NIA Electronic RFQ Responses are the Industry Members’, not those of the Participants or CAT LLC. Accordingly, CAT LLC stated in its letter that “Industry Members must determine whether trading interest falls within the definition of an ‘order’ for CAT purposes. To the extent an NIA Electronic RFQ Response is not considered an ‘order’ as defined in Rule 613(j)(8) and the CAT NMS Plan, it would not be reportable to CAT.”¹³²

Only “orders” as defined in SEC Rule 613(j)(8) are reportable to CAT. There is no agreement across the industry or among regulators as to whether NIA Electronic RFQ Responses are “orders” reportable to CAT. Certain Industry Members have raised the question as to whether NIA Electronic RFQ Responses are orders, but others have argued that they are not orders under Rule 613(j)(8).¹³³ Indeed, members of the Advisory Committee, which CAT LLC relies upon for guidance with regard to Industry Member issues, have not had a definitive view on whether NIA Electronic RFQ Responses are orders. As Rule 613(j)(8) is an SEC rule, CAT LLC believes that only the SEC can provide a definitive determination as to if, and under what circumstances, an NIA Electronic RFQ Response is considered an “order” reportable to CAT. The issue has persisted for some time. As a result, CAT LLC filed an exemptive request regarding NIA Electronic RFQ Responses for clarity on the interpretive issue. As recently as April 2024,

¹³² See Letter from Brandon Becker, Chair, CAT NMS Plan Operating Committee to Vanessa Countryman, Secretary, Commission (Feb. 13, 2024) at 2.

¹³³ See, e.g., Letter from Howard Meyerson, Managing Director, FIF, to Sai Rao, Counsel for Trading and Markets, Office of the Chair (Apr. 25, 2024).

Industry Members have re-raised this issue stating that the SEC agrees that it must provide additional guidance on this interpretive issue to resolve the CAT reporting issue for NIA Electronic RFQ Responses:

As further discussed in the prior FIF letters, even if the Commission had the legal authority to require the reporting of NIA RFQ responses to CAT without an amendment to Rule 613, the Commission has not provided guidance to industry members as to the conditions under which NIA RFQ responses would be reportable to CAT. In subsequent discussions with industry members, Commission representatives have agreed that, prior to NIA RFQ responses being reportable to CAT, it would be necessary for the Commission to provide further guidance to industry members as to the conditions under which NIA RFQ responses would be reportable to CAT.¹³⁴

On May 20, 2024, the Commission granted CAT LLC’s request for exemptive relief from certain CAT reporting requirements pertaining to NIA Electronic RFQ Responses to the extent such responses are considered “orders” reportable pursuant to Rule 613(j)(8).¹³⁵ The Commission, however, did not provide additional guidance regarding the conditions under which NIA Electronic RFQ Responses would be reportable to CAT. The Commission stated in its exemptive order that “[t]o the extent that the Participants are availing themselves of exemptive relief from a CAT NMS Plan requirement, such requirement shall not be included in the requirements for the Financial Accountability Milestones, provided that any conditions of the exemption are satisfied.”¹³⁶

When the Commission proposed the FAMs, the Participants expressed concern that, “by conditioning the ability of CAT LLC and the Participants to collect Post-Amendment Industry Member Fees on factors dependent on the efforts of Industry Members, the Commission’s proposals inadvertently establish a perverse incentive for Industry Members to devote less than maximum efforts to comply with their obligations related to the CAT as they will pay less fees in such instances.”¹³⁷ The Participants further warned that “Industry Members may request or require unanticipated reporting delays to address Industry Member implementation issues or concerns,” but that, “[f]aced with financial penalties

¹³⁴ *Id.*

¹³⁵ Securities Exchange Act Rel. No. 100181 (May 20, 2024), 89 FR 45715 (May 23, 2024).

¹³⁶ *Id.* at n.11.

¹³⁷ See Letter from Michael Simon, CAT NMS Plan Operating Committee Chair, to Vanessa Countryman, Secretary, Commission at 9 (Oct. 28, 2019).

for missed deadlines, the Participants may not be able to fully address legitimate industry concerns or accommodate requests for delays with respect to future deadlines.”¹³⁸ CAT LLC has engaged in good faith to help address NIA Electronic RFQ Responses and other concerns relevant to the ability of Industry Members to meet their CAT reporting obligations. CAT LLC should not be penalized financially for seeking in good faith to resolve a difficult interpretive issue for the benefit of Industry Members.

(ii) 2023 Verbal Quotes Exemption

CAT LLC does not believe that the Commission’s May 19, 2023 order granting temporary exemptive relief relating to certain verbal floor activity and unstructured verbal and electronic upstairs activity (the “2023 Verbal Quotes Exemption”) affects the conclusion that FAMs 1 through 3 have been satisfied. The 2023 Verbal Quotes Exemption, which was issued on May 19, 2023, is not relevant for purposes of FAM Periods 1 through 3, which only cover the period through December 31, 2021. The relevant exemption for this time period is the Commission’s November 12, 2020 order, which granted relief for the same activity through July 31, 2023 (the “2020 Verbal Quotes Order”).¹³⁹ The Commission has stated that, “to the extent that the Participants are availing themselves of exemptive relief from a CAT NMS Plan requirement, such requirement shall not be included in the requirements for a Financial Accountability Milestone, provided that the conditions of the exemption are satisfied.”¹⁴⁰ Here, the 2020 Verbal Quotes Order was in effect and the conditions of the exemption were satisfied as of December 31, 2021, and therefore may be relied upon for purposes of determining compliance with FAM Periods 1 through 3.¹⁴¹

¹³⁸ *Id.* at 10.

¹³⁹ Securities Exchange Act Rel. No. 90405, 85 FR 73544 (Nov. 18, 2020) (the “2020 Verbal Quotes Exemption”).

¹⁴⁰ *See, e.g.*, Securities Exchange Act Rel. No. 89051 (June 11, 2020), 85 FR 36631, 36633 (June 17, 2020). The straightforward reading of the Commission’s statement is that compliance with the conditions of an exemption will be measured as of the deadline for a particular FAM Period.

¹⁴¹ As a condition to the 2020 Verbal Quotes Exemption, the Commission required that the Participants provide a written status update on the reporting of these quotes and orders by July 31, 2022, including the estimated costs of reporting these quotes and orders and an implementation plan for the reporting of these quotes and orders. As noted, the 2020 Verbal Quotes Order was in effect and the conditions of the exemption were satisfied as of December 31, 2021, and therefore may be relied upon for purposes of determining compliance with FAM Periods 1 through 3. In any event, on June 3, 2022, the Participants provided

(iii) November 2023 Order

CAT LLC does not believe that the Commission’s November 2, 2023 order granting relief from certain CAT NMS Plan requirements (the “November 2023 Order”) affects the conclusion that FAMs 1 through 3 have been satisfied. The November 2023 Order is not relevant for purposes of FAM Periods 1 through 3, which only cover the period through December 31, 2021. As described in the November 2023 Order, the relevant exemptive orders for this time period were issued on December 16, 2020, which also states that “the Commission has determined that the Participants have sufficiently complied with the conditions set forth in the prior Orders and with the technical requirements for Quarterly Progress Reports set forth in section 6.6(c) of the CAT NMS Plan, including for purposes of determining compliance with any applicable Financial Accountability Milestones.”¹⁴² The November 2023 Exemption Order is consistent with the Commission’s repeated statements in the FAM adopting release that it would have “authority to grant exemptive relief from any requirement associated with a particular Financial Accountability Milestone,” citing Section 36 of the Exchange Act and Rule 608.¹⁴³ Similarly, the CAT NMS Plan expressly contemplates the Commission’s ability to grant exemptive relief from any CAT NMS Plan requirement.¹⁴⁴

the required written status update. *See* Letter from Michael Simon, CAT NMS Plan Operating Committee Chair, to Vanessa Countryman, Secretary, Commission (June 3, 2022).

¹⁴² *Id.* at 77129 n.12.

¹⁴³ FAM Adopting Release at 31335 (May 22, 2020). Section 36 of the Exchange Act grants the Commission the authority to “conditionally or unconditionally exempt any person, security, or transaction . . . from any provision or provisions of [the Exchange Act] or of any rule or regulation thereunder, to the extent that such exemption is necessary or appropriate in the public interest, and is consistent with the protection of investors.” 15 U.S.C. 78mm(a)(1). Under Rule 608(e) of Regulation NMS, the Commission may “exempt from [Rule 608], either unconditionally or on specified terms and conditions, any self-regulatory organization, member thereof, or specified security, if the Commission determines that such exemption is consistent with the public interest, the protection of investors, the maintenance of fair and orderly markets and the removal of impediments to, and perfection of the mechanism of, a national market system.” 17 CFR 242.608(e).

¹⁴⁴ Section 12.3 of the CAT NMS Plan (“[T]o the extent the SEC grants exemptive relief applicable to any provision of this Agreement, Participants and Industry Members shall be entitled to comply with such provision pursuant to the terms of the exemptive relief so granted at the time such relief is granted irrespective of whether this Agreement has been amended.”)

(iv) Executing Broker Reporting

CAT LLC also completed the requirements of FAM Period 2, including the required linkages, by December 31, 2020. Although Participant exchanges may report the Executing Broker to CAT differently in certain situations, these reporting differences are irrelevant for linkage purposes as the fields used for CAT Executing Broker are not used for linkage.

(10) Additional Support for Reasonableness of Historical CAT Costs

The CAT Funding Model approved by the Commission permits the recovery of reasonable costs in each of the categories of CAT costs sought to be recovered via Historical CAT Assessment 1A.¹⁴⁵ As described in detail above and in further detail below, the CAT costs to be recovered for each category are reasonable. The following discusses in further detail how each of the following costs are reasonable: (1) costs incurred prior to the effective date of the CAT NMS Plan; (2) cloud hosting services costs; (3) costs related to funding model filings; (4) costs related to litigation with the SEC regarding the CAT NMS Plan; (5) costs related to the Initial Plan Processor; (6) CAIS implementation costs; (7) public relations costs; (8) legal costs related to the limitation of liability provision in the CAT Reporter agreements; and (9) costs for the Chair of CAT Operating Committee. As discussed in detail below, each of these costs is reasonable and should be recoverable in accordance with the CAT Funding Model.

(A) Costs Incurred Prior to the Effective Date of CAT NMS Plan

CAT LLC believes that it is reasonable to seek recovery of costs incurred prior to when the CAT NMS Plan became effective in November 2016, such as legal and consulting fees incurred to create the CAT NMS Plan. Rule 613 specifically mandates that the CAT be created, implemented and maintained, and further provides that the CAT NMS Plan include a proposed allocation of estimated costs to fund the creation, implementation and maintenance of the CAT among the Participants (referred to as “plan sponsors”), and between the Participants and Industry Members (referred to as “members of the plan sponsors”).¹⁴⁶ Consistent with Rule 613,

¹⁴⁵ *See* Sections 11.1(a)(i) and 11.3(b)(iii)(B)(II) of the CAT NMS Plan.

¹⁴⁶ *See, e.g.*, Rule 613(a)(1)(vii)(D) of the CAT NMS Plan.

the CAT NMS Plan, as approved by the Commission, specifically authorizes charging Industry Members fees for costs reasonably incurred prior to the date of the approval of the CAT NMS Plan by the Commission in November 2016, including legal and consulting costs. Section 11.1(c) of the CAT NMS Plan states that:

[i]n determining fees on Participants and Industry Members the Operating Committee shall take into account fees, costs and expenses (including legal and consulting fees and expenses) reasonably incurred by Participants on behalf of the Company prior to the Effective Date in connection with the creation and implementation of the CAT.

Accordingly, the CAT NMS Plan specifically permits the recovery of costs, including legal and consulting costs, reasonably incurred prior to November 2016 in connection with the creation and implementation of the CAT.

Furthermore, the costs incurred to create and implement the CAT prior to the effective date of the CAT NMS Plan ("Pre-Formation Costs") were reasonable both in scope and amount, in accordance with the requirements of Section 11.1(c) of the CAT NMS Plan. During the four-year period from 2012 to 2016, a total of \$13,842,881 in Pre-Formation Costs were incurred. This is an average of approximately \$3.5 million per year over this period. The Pre-Formation Costs fell into three categories: legal costs, consulting costs and public relations costs. This includes legal costs of \$3,196,434; consulting costs of \$10,589,273; and public relations costs of \$57,174. The legal, consulting and public relations services were performed by WilmerHale, Deloitte and Peppercomm, respectively. The selection considerations and fees for these three firms are described in detail above and are described further below. The Pre-Formation Costs are direct costs of CAT, which have been funded entirely by the Participants through non-interest-bearing notes. The Pre-Formation Costs do not include the significant costs incurred by each of the individual Participants in responding to the adoption of Rule 613.

The Pre-Formation Costs are reasonable and appropriate as they reflect the extensive efforts that were necessary to create the CAT NMS Plan as mandated after the SEC's adoption of Rule 613. As described in more detail below, these efforts included, among other things, developing a plan for selecting the Plan Processor, soliciting and evaluating bids, engaging a diverse set of market participants and the SEC in the development of the Plan, interacting with the SEC in their

oversight of the development of the Plan, and seeking appropriate exemptive relief to address areas of concern in Rule 613.¹⁴⁷

(i) Request for Proposal ("RFP")

The Participants determined to utilize an RFP to ensure that potential alternative solutions for creating the Plan could be presented and considered, and that a detailed and meaningful cost-benefit analysis could be performed. The SEC supported the use of an RFP, and approved its use as it is described in extensive detail in the CAT NMS Plan.¹⁴⁸

In the context of the SEC's adoption of Rule 613, commenters urged the Commission to utilize an RFP process to assist in the planning and design of the NMS plan.¹⁴⁹ Specifically, the Commission explained:

In this regard, several commenters suggested that the Commission undergo a RFP or request for information ("RFI") process to create and implement a consolidated audit trail. Specifically, FIF urged the Commission to perform a RFP process "to determine the best technical solution for developing a consolidated audit trail." FIF suggested that the Commission "should outline a set of goals and guiding principles they are striving to achieve as part of the adopted CAT filing and leave the determination of data elements and other technical requirements to [an] industry working group." Similarly, Direct Edge suggested that Commission staff should form and engage in a working group to develop an RFP for publication by the Commission. DirectEdge explained that an RFP process would facilitate the identification of the costs and benefits of the audit trail, as well as the consideration of a wider range of technological solutions. Further, commenters, including Broadridge Financial Solutions, Inc., a technology provider, also requested more specific information about the audit trail system to better assess the Commission's initial cost estimates and to determine the best approach to the consolidated audit trail.¹⁵⁰

In response to these comments, the Commission modified Rule 613 to

¹⁴⁷ The Participants described in detail the process for drafting the CAT NMS Plan in its original filing of the CAT NMS Plan. See Letter from Mike Simon, on behalf of the Participants of the CAT NMS Plan, to Brent J. Fields, Secretary, Commission (Sept. 30, 2014). A non-exclusive list of filings and activities associated with CAT, including certain pre-2016 filings, are available on the SEC's website: <https://www.sec.gov/divisions/marketreg/rule613-info>.

¹⁴⁸ See detailed discussion of RFP questions in Appendix C of the CAT NMS Plan, and incorporation of RFP requirements in Appendix D at D-2.

¹⁴⁹ For example, in its comments on proposed Rule 613, FIF suggested "that the SROs should select the processor through a 'request for proposal.'" Rule 613 Adopting Release at 45785.

¹⁵⁰ Rule 613 Adopting Release at 45738-39.

require the Participants to address certain important considerations regarding the features and details of the NMS plan and to extend the timeframe for submission of the CAT NMS Plan by the Participants from the 90 days as originally proposed to 270 days, in part, to accommodate a process that would address these considerations.¹⁵¹ As the SEC noted, "[i]n light of the numerous specific requirements of Rule 613, the Participants concluded that publication of a request for proposal ('RFP') was necessary to ensure that potential alternative solutions to creating the consolidated audit trail can be presented and considered by the Participants and that a detailed and meaningful cost/benefit analysis can be performed, both of which are required considerations to be addressed in the CAT NMS Plan."¹⁵²

The SEC specifically recognized that the Participants planned to use an RFP when it approved the Selection Plan, and stated that the RFP was a reasonable approach.¹⁵³ As the SEC described in its approval order for the Selection Plan, "[t]he Participants filed the [Selection] Plan to govern how the SROs will proceed with formulating and submitting the CAT NMS Plan—and, as part of that process, how to review, evaluate, and narrow down the bids submitted in response to the RFP ('Bids')—and ultimately choosing the plan processor that will build, operate, and maintain the consolidated audit trail ('Plan Processor')." ¹⁵⁴ After evaluating the Selection Plan, including the use of an RFP process, the Commission stated that it "believes the [Selection] Plan is reasonably designed to govern the process by which the SROs will formulate and submit the CAT NMS Plan, including the review, evaluation, and narrowing down of Bids in response to the RFP, and ultimately choosing the Plan Processor that will build, operate, and maintain the consolidated audit trail."¹⁵⁵

On February 26, 2013, the Participants published an RFP soliciting bids from parties interested in serving as the plan processor for the CAT. Initially, 31 firms submitted intentions to bid. In the following months, the Participants engaged with potential bidders with respect to, among other things, the selection process, selection criteria, and potential bidders' questions and concerns. On March 21, 2014, the

¹⁵¹ Rule 613 Adopting Release at 45739.

¹⁵² Securities Exchange Act Rel. No. 71596 (Feb. 21, 2014), 79 FR 11152, 11152 (Feb. 27, 2014) ("Selection Plan Approval Order").

¹⁵³ *Id.*

¹⁵⁴ *Id.* at 11153.

¹⁵⁵ *Id.* at 11159.

Participants received ten bids in response to the RFP.

(ii) Selection Plan

On September 4, 2013, the Participants filed with the Commission a national market system plan to govern the process for Participant review of the bids submitted in response to the RFP, the procedures for evaluating the bids, and, ultimately, selection of the plan processor (the "Selection Plan").¹⁵⁶ The Commission approved the Selection Plan as filed on February 21, 2014.¹⁵⁷ In approving the Selection Plan, the Commission concluded that "it is reasonably designed to achieve its objective of facilitating the development of the CAT NMS Plan and the selection of the Plan Processor."¹⁵⁸

The Selection Plan divided the review and evaluation of bids, and the selection of the plan processor, into various stages. Specifically, pursuant to the Selection Plan, a selection committee reviewed all bids and determined which bids contained sufficient information to allow the Participants to meaningfully assess and evaluate the bids. The ten submitted bids were deemed "Qualified Bids," and so passed to the next stage, in which each bidder presented its bids to the Participants on a confidential basis. On July 1, 2014, after conducting careful analysis and comparison of the bids, the Selection Committee voted and selected a shortlist of six eligible bidders. The Selection Committee determined which shortlisted bidders would be provided the opportunity to revise their bids. After the Selection Committee assessed and evaluated the revised bids, the Selection Committee selected the plan processor via two rounds of voting by the Participants, as described in the Selection Plan.

The Selection Plan established an Operating Committee responsible for formulating, drafting, and filing with the Commission the CAT NMS Plan and for ensuring that the Participants' joint obligations under Rule 613 were met in a timely and efficient manner. In formulating the CAT NMS Plan, the Participants also engaged multiple persons across a wide range of roles and expertise, engaged the consulting firm Deloitte as project manager, and engaged the law firm WilmerHale to serve as legal counsel in drafting the Plan. Within this structure, the Participants focused on, among other things, comparative analyses of the proposed technologies and operating

models, development of funding models to support the building and operation of the CAT, and detailed review of governance considerations. Given the complexity and scope of developing the CAT NMS Plan, these efforts were extensive.

When it approved the CAT NMS Plan in 2016, the Commission reiterated its belief that the Selection Plan remains a "reasonable approach," that "the competitive bidding process to select the Plan Processor is a reasonable and effective way to choose a Plan Processor," and that "the process set forth in the Selection Plan should be permitted to continue":

In approving the Selection Plan, the Commission stated that the Selection Plan is reasonably designed to achieve its objective of facilitating the development of the CAT NMS Plan and the selection of the Plan Processor. The Commission also found that the Selection Plan is reasonably designed to govern the process by which the SROs will formulate and submit the CAT NMS Plan, including the review, evaluation, and narrowing down of Bids in response to the RFP, and ultimately choosing the Plan Processor that will build, operate, and maintain the consolidated audit trail. The Commission believes that the process set out in the Selection Plan for selecting a Plan Processor remains a reasonable approach, which will facilitate the selection of Plan Processor through a fair, transparent and competitive process and that no modifications to the Selection Plan are required to meet the approval standard. . . . In response to the comment that offered support for a specific Bidder, the Commission agrees with the Participants that the competitive bidding process to select the Plan Processor is a reasonable and effective way to choose a Plan Processor and thus believes that the process set forth in the Selection Plan should be permitted to continue.¹⁵⁹

(iii) Engagement With Market Participants and SEC

During the process of developing the CAT NMS Plan, the Participants engaged in extensive and meaningful dialogue with market participants and the SEC. To this end, the Participants created a website to update the public on the progress of the CAT NMS Plan, published a request for comment on multiple issues related to the Plan, held multiple public events to inform the industry of the progress of the CAT and to address inquiries, and formed, and later expanded, a DAG to solicit more input from a representative industry group.¹⁶⁰

The DAG included representatives of Participants and Industry Members and

conducted meetings to discuss, among other things, technical and operational aspects the Participants were considering for the Plan. The Participants issued press releases soliciting participants for the DAG, and a wide spectrum of firms was deliberately chosen to provide insight from various industry segments affected by CAT. The DAG meetings included discussions of topics such as option market maker quote reporting, requirements for capturing Customer IDs, timestamps and clock synchronization, reporting requirements for order handling scenarios, costs and funding, error handling and corrections, and potential elimination of systems made redundant by the CAT. From the inception of the DAG through September 2014, the DAG participated in 36 meetings, as well as a variety of DAG subcommittee meetings.

(iv) Request for Exemption From Certain Requirements Under Rule 613

Following multiple discussions between the Participants and both the DAG and the bidders, as well as among the Participants themselves, the Participants recognized that some provisions of Rule 613 would not permit certain solutions to be included in the Plan that the Participants, in coordination with the DAG, determined advisable to effectuate the most efficient and cost-effective CAT. Specifically, "the SROs reached the conclusion that additional flexibility in certain of the minimum requirements specified in Rule 613 would allow them to propose a more efficient and cost-effective approach without adversely affecting the reliability or accuracy of CAT Data, or its security and confidentiality."¹⁶¹ Consequently, the Participants submitted a request for exemptive relief from certain provisions of Rule 613 regarding: (1) options market maker quotes; (2) Customer-IDs; (3) CAT-Reporter-IDs; (4) CAT-Order-IDs on allocation reports; and (5) timestamp granularity.¹⁶² The Participants filed two supplements to the request for exemptive relief.¹⁶³

After reviewing the exemptive request, the Commission determined that it was appropriate in the public interest and consistent with the

¹⁶¹ Securities Exchange Rel. No. 77265 (Mar. 1, 2016), 81 FR 11856 (Mar. 7, 2016) ("2016 Exemptive Order").

¹⁶² Letter from Robert Colby, FINRA, on behalf of the SROs, to Brent J. Fields, Secretary, Commission (Jan. 30, 2015).

¹⁶³ See Letter from Robert Colby, FINRA, on behalf of the SROs, to Brent J. Fields, Secretary, Commission (Apr. 3, 2015); Letter from the SROs to Brent J. Fields, Secretary, Commission (Sept. 2, 2015).

¹⁵⁶ See Securities Exchange Act Rel. No. 70892 (Nov. 15, 2013), 78 FR 69910 (Nov. 21, 2013).

¹⁵⁷ See Selection Plan Approval Order.

¹⁵⁸ Selection Plan Approval Order at 11160.

¹⁵⁹ See CAT NMS Plan Approval Order at 84737.

¹⁶⁰ See Section D(11) of Appendix C of the CAT NMS Plan.

protection of investors to grant the requested exemptive relief.¹⁶⁴ In granting the exemptive relief, the Commission stated:

[T]he Commission is persuaded to provide flexibility in the discrete areas discussed in the Exemption Request so that the alternative approaches can be included in the CAT NMS Plan and subject to notice and comment. Doing so could allow for more efficient and cost-effective approaches than otherwise would be permitted. The Commission at this stage is not deciding whether the proposed approaches detailed below are more efficient or effective than those in Rule 613. However, the Commission believes the proposed approaches should be within the permissible range of alternatives available to the SROs.¹⁶⁵

The Commission further stated that the requested exemptive relief is consistent with the protection of investors. The Commission noted that:

Doing so will provide the public an opportunity to consider and comment on whether these proposed alternative approaches would indeed be more efficient and cost-effective than those otherwise required by Rule 613, and whether such approaches would adversely affect the reliability or accuracy of CAT Data or otherwise undermine the goals of Rule 613. Moreover, if—as the SROs represent—efficiency gains and cost savings would result from including the proposed approaches in the CAT NMS Plan without adverse effects, then the resultant benefits could potentially flow to investors (e.g., lower broker-dealer reporting costs resulting in fewer costs passed on to Customers).¹⁶⁶

The Participants incorporated the exemptive relief into the proposed CAT NMS Plan, which was noticed for comment, and the Commission ultimately approved the CAT NMS Plan with the more efficient and cost-effective alternative approaches described in the exemptive relief. Accordingly, the Participants believe that the costs incurred in developing the exemptive request were critical to the creation of a better CAT than was originally contemplated by Rule 613, and therefore should be recoverable as part of Historical CAT Assessment 1A.

(v) Request for Extensions for Filing the CAT NMS Plan

Rule 613(a)(1) under Regulation NMS required the Participants to jointly file the CAT NMS Plan on or before April 28, 2013, less than a year after the adoption of Rule 613. In recognition of the complexity of the project to create the CAT NMS Plan as well as industry interest in limiting or eliminating certain requirements of Rule 613 (e.g., addressing the reporting of options

market maker quotes), the Participants requested two extensions of the deadline to file the CAT NMS Plan. The Participants described the need for additional time as follows:

The SROs stated in their Request Letter that they do not believe that the 270-day time period provided for in Rule 613(a)(1) provides sufficient time for the development of the RFP, formulation and submission of bids, and review and evaluation of such bids. The SROs also stated that they believe additional time beyond the 270 days provided for in Rule 613(a)(1) is necessary in order to provide sufficient time for effective consultation with and input from the industry and the public on the proposed solution chosen by the SROs for the creation of the consolidated audit trail at the conclusion of the RFP process and the NMS plan itself.¹⁶⁷

In recognition of the need for additional time to refine the technical description of and requirements for the CAT and to allow for additional evaluation of the proposed cost and funding considerations, the SEC granted two extensions of this deadline.¹⁶⁸ The SEC determined that both extensions were appropriate, in the public interest, and consistent with the protection of investors.¹⁶⁹ In reaching this conclusion, the Commission stated that “it understands that the creation of a consolidated audit trail is a significant undertaking and that a proposed NMS plan must include detailed information and discussion about many things.”¹⁷⁰ The SEC also noted the following:

This additional time to complete the RFP process should allow the SROs to engage in a more thoughtful and comprehensive process for the development of an NMS plan. In this regard, the Commission notes that the additional time to solicit comment from the industry and the public at certain key points in the development of the NMS plan could identify issues that can be resolved earlier in the development of the consolidated audit trail and prior to filing the NMS plan with the Commission.¹⁷¹

Given the Commission’s recognition of the reasonableness and value of the extension of the deadline to file the CAT NMS Plan, the Participants believe that the costs incurred in developing the extension request were important to the process of developing the CAT NMS Plan, and therefore should be

recoverable as part of Historical CAT Assessment 1A.

(vi) Submission and Approval of the CAT NMS Plan

After extensive analyses and discussions with the DAG, bidders, market participants and the SEC staff, the Participants finalized the draft of the CAT NMS Plan and filed the CAT NMS Plan with the SEC on September 30, 2014. Following additional discussions, the Participants filed several amendments to the CAT NMS Plan during 2015 and 2016. With these additional changes, the SEC published the CAT NMS Plan for notice and comment in May 2016.¹⁷² Following the comment period, the SEC approved the Plan in November 2016.¹⁷³

(vii) Legal Costs Incurred Prior to the Effective Date of the CAT NMS Plan

The Pre-Formation Costs include legal costs of \$3,196,434. The legal services were performed by WilmerHale. The selection considerations and fees for WilmerHale were described in detail above. Prior to the creation of CAT LLC, WilmerHale was engaged to represent the consortium of SROs, not the individual Participants. For administrative purposes, FINRA agreed to receive such legal bills, although such costs were shared among the Participants. Therefore, the legal costs incurred with respect to WilmerHale do not include legal costs incurred by the individual Participants. These pre-formation legal costs are described in detail above and are further described below:

- Analyzed various legal matters associated with the Selection Plan and drafted an amendment to Selection Plan;
- Assisted with the RFP and bidding process for the CAT Plan Processor;
- Analyzed legal matters related to the DAG;
- Drafted the CAT NMS Plan, analyzed various items related to the CAT NMS Plan, and responded to comment letters on the CAT NMS Plan;
- Provided legal support for the formation of the legal entity, the governance of the CAT, including governance support prior to the adoption of the CAT NMS Plan, which involved support for the full committee of exchanges and FINRA as well as subcommittees of this group (e.g., Joint Subcommittee Group, Technical, Industry Outreach, Cost and Funding, and Other Products) and the DAG, and

¹⁶⁷ Securities Exchange Act Rel. No. 69060 (Mar. 7, 2013), 78 FR 15771, 15772 (Mar. 12, 2013) (“March 2013 Exemptive Order”).

¹⁶⁸ See March 2013 Exemptive Order; Securities Exchange Act Rel. No. 71018 (Dec. 6, 2013), 78 FR 75669 (Dec. 12, 2013) (“December 2013 Exemptive Order”).

¹⁶⁹ March 2013 Exemptive Order at 15772;

December 2013 Exemptive Order at 75670.

¹⁷⁰ March 2013 Exemptive Order at 15772.

¹⁷¹ *Id.* at 15773.

¹⁷² See Securities Exchange Act Rel. No. 77724 (Apr. 27, 2016), 81 FR 30614 (May 17, 2016).

¹⁷³ See CAT NMS Plan Approval Order.

¹⁶⁴ See 2016 Exemptive Order.

¹⁶⁵ *Id.* at 11857.

¹⁶⁶ *Id.*

governance support during the transition to the new governance structure under the CAT NMS Plan;

- Drafted exemptive requests;
- Provided interpretations related to the CAT NMS Plan;
- Provided support with regard to discussions among the exchanges, FINRA and other third parties, such as Deloitte;
- Provided tax advice with regard to CAT's status as a tax-exempt organization; and
- Provided support with regard to discussions with the SEC and its staff, including with respect to addressing interpretive and implementation issues.

(viii) Consulting Costs Incurred Prior to the Effective Date of the CAT NMS Plan

The Pre-Formation Costs include consulting costs of \$10,589,273. The consulting services were performed by Deloitte. The selection considerations and fees for Deloitte were described in detail above. Prior to the creation of CAT LLC, for administrative purposes, Deloitte was engaged by FINRA to provide consulting services related to CAT, but the costs were shared by the consortium of SROs per agreement. Therefore, the consulting costs incurred with respect to Deloitte do not include consulting costs incurred by the individual Participants. The pre-formation consulting costs include the following:

- Established and implemented program operations for the CAT project, including the program management office and workstream design;
- Assisted with the Plan Processor selection process, including but not limited to, the development of the RFP and the bidder evaluation process, and facilitation and consolidation of the Participants' independent reviews;
- Assisted with the development and drafting of the CAT NMS Plan, including conducting cost-benefit studies, reviewing technical requirements of other NMS plans, analyzing OATS and CAT requirements, and drafting appendices to the Plan;
- Provided governance support to the CAT, including governance support prior to the adoption of the CAT NMS Plan, which involved support for the full committee of exchanges and FINRA as well as subcommittees of this group (e.g., Joint Subcommittee Group, Technical, Industry Outreach, Cost and Funding, and Other Products) and the DAG;
- Provided support for updating the SEC on the progress of the development of the CAT;
- Provided support for industry outreach sessions, including with regard

to program design and agenda development, program support and logistics and coordination; and

- Provided support in fact finding, drafting content and meeting coordination for WilmerHale with regard to the CAT and the development of the CAT NMS Plan.

Such Pre-Formation Costs did not include costs related to the Chair of the CAT NMS Plan Operating Committee, as the CAT NMS Plan had not yet been adopted.

(ix) Public Relations Costs Incurred Prior to the Effective Date of the CAT NMS Plan

The Pre-Formation Costs include public relations costs of \$57,174. The public relations services were performed by Peppercomm. The selection considerations and fees for Peppercomm are described in detail above. The costs related to Peppercomm were shared among the SROs. Therefore, the public relations costs do not include public relations costs incurred by the individual Participants. The pre-formation public relations costs include services related to communications with the public regarding the CAT, including monitoring developments related to the CAT (e.g., congressional efforts, public comments and reaction to proposals, press coverage of the CAT), reporting such developments to CAT LLC, and drafting and disseminating communications to the public regarding such developments as well as reporting on developments related to the CAT.

(B) Cloud Hosting Services

In approving the CAT Funding Model, the Commission recognized that it is appropriate to recover reasonable costs related to cloud hosting services as a part of Historical CAT Assessments. CAT LLC believes that the costs related to cloud hosting services described in detail above are reasonable and appropriate given the strict data processing timelines and storage requirements imposed by the Commission-approved CAT NMS Plan and should be recoverable as a part of Historical CAT Assessment 1A.

(i) Reasonableness of AWS Costs Given the Requirements of the CAT NMS Plan

CAT LLC believes that the costs for the cloud hosting services are reasonable, both in terms of the level of the fees paid by CAT LLC for cloud hosting services provided by AWS and the scope of the services performed by AWS for CAT LLC. CAT LLC believes that both the scope and amount of the costs for cloud hosting services are reasonable given the current

requirements of the CAT NMS Plan adopted pursuant to Rule 613, including the strict data processing timeline, storage and other technical requirements under the Commission-approved CAT NMS Plan.

CAT LLC believes that the level of fees for the cloud hosting services is reasonable, taking into consideration a variety of factors, including the expected volume of data and the breadth of services provided and market rates for similar services.

CAT LLC also believes that the scope of services provided by AWS for the CAT are appropriate given the current requirements of the Commission-approved CAT NMS Plan. As described above, the cloud hosting services costs reflect a variety of factors including, among other things:

- *Breadth of Cloud Activities.* AWS was engaged by FCAT, the Plan Processor, to provide a broad range of services to the CAT, including data ingestion, data management, and analytic tools. Services provided by AWS necessary to the CAT include storage services, databases, compute services, and other services (such as networking, management tools and development operations ("DevOps") tools). AWS also was engaged to provide the various environments for CAT, such as the development, performance testing, test and production environments, which are required by the CAT NMS Plan.

- *High Data Volume.* The cost for AWS services for the CAT is a function of the volume of CAT Data. While it is not linear, the greater the amount of CAT Data, the greater the cost of AWS services to the CAT. The data volume handled by AWS now far exceeds the original volume estimates for the CAT.

- *Plan Requirements.* The cost for AWS services also reflects the technical requirements necessary to meet the stringent performance and other requirements for processing CAT Data. These Plan-dictated processing timelines, storage, testing, security and other technical requirements are significant drivers of AWS costs.

- *Cost Avoidance Efforts.* CAT LLC and FCAT have engaged in ongoing efforts to seek to avoid and minimize AWS costs where permissible under the Plan. Accordingly, these cost avoidance efforts have limited the extent of AWS costs.

In addition, various requirements of the CAT NMS Plan adopted pursuant to Rule 613 contribute to the significant cloud hosting services costs, and that various Plan requirements could be amended or removed without affecting the regulatory purpose of the CAT.

Indeed, CAT LLC has repeatedly sought exemptive relief and filed amendments to the CAT NMS Plan, and has even filed suit against the Commission, to seek to revise or eliminate certain costly requirements related to the CAT. However, despite these efforts, absent the Commission granting exemptive relief or approving cost savings amendments to the CAT NMS Plan, CAT LLC, the Participants and Industry Members are all required to comply with such requirements.

(ii) Effect of CAT Design on CAT Costs

(a) Efficient CAT Design

CAT is reasonably designed to efficiently and effectively utilize cloud computing and storage services, given the requirements of the Commission-approved CAT NMS Plan, including requirements related to security, operational reliance and quality assurance, and maintainability.

The Plan Processor uses state-of-the-art software that meets the strict security standards of the CAT NMS Plan. CAT utilizes a big data processing framework that is extensively used by large data processing companies, such as Apple, Meta, Netflix, IBM and Google. As such, it has substantial commercial support and support in the open-source community. It is also well suited for use with regard to iterative types of algorithms and query functions and analytics that the CAT requires, and it provides the heightened security necessary for the CAT.

The development and implementation of the design of CAT is not and has not been static. CAT LLC and the Plan Processor are always evaluating new innovations and service offerings from AWS and other providers to seek to maximize efficiency and cost avoidance while still satisfying the requirements of the CAT NMS Plan. These efforts have led to substantial savings to date. The cloud hosting costs for 2023 were less than the cloud hosting costs for 2022 by \$8 million despite processing seven trillion more events in 2023 due to the efficiency and cost avoidance efforts for cloud hosting services. For example, when AWS introduced new storage options, FCAT adopted the cost-efficient new storage option after establishing that the new offering would satisfy the security and other standards of the CAT NMS Plan. This change led to millions of dollars of savings in storage costs. Similarly, when AWS introduced a new compute processor, FCAT adopted this new compute processor, which led to millions of dollars in savings in compute costs. However, in other cases, new cloud technology developments

could not be implemented in CAT because they would not satisfy the security or other requirements of the CAT NMS Plan.

When evaluating the design of the CAT, it must be kept in mind that the CAT is not a typical commercial technology project. The ability to make use of technology approaches that may lead to cost avoidance is also subject to the restrictive requirements of the CAT NMS Plan, such as processing timeframes, requirements for retention of data versions, query requirements, and security standards. Because such requirements are set forth in the CAT NMS Plan, any modification of such requirements are subject to the time-consuming process of amending the CAT NMS Plan or seeking an exemption from the relevant requirement. For example, CAT LLC recently has filed an amendment to address several of these expensive Plan requirements.¹⁷⁴

(b) CAT Was Designed To Minimize Industry Member Effort

The CAT System also was designed to minimize the extent to which Industry Members would need to alter their systems to report to CAT. During the design process, Industry Member groups argued that it would make more sense financially for the CAT to accommodate differences in industry systems, than for all Industry Members to change their systems. Moreover, such design choices would facilitate consistency, uniformity and accuracy in reporting. Requiring the CAT to make such accommodations may increase CAT costs while accommodating CAT Reporters.

Based on the requirements in the CAT NMS Plan and/or in response to industry requests for functionality to be embedded with the Plan Processor to streamline or limit Industry Member system changes, the CAT has been designed to limit the effect on Industry Members. The following provides examples of such accommodations:

- *Industry Member Reporting.* In light of the complexity of Industry Member market activity, the CAT's order reporting and linkage scenarios document for Industry Members is over 800 pages in length, addressing nearly 200 scenarios.¹⁷⁵ The Industry Member Technical Specifications allow for dozens of specific event types, which

drive complexity for the Plan Processor, but streamline reporting for Industry Members. Furthermore, the Plan Processor greatly expanded Industry Member linkage requirements to support, among other things, child events and supplemental events, allowing for "stateless as-you-go" and "batch end-of-day" reporting when all data is available. Accordingly, CAT takes on the significant cost and effort of providing the required linkages between CAT events; correspondingly, Industry Members are not required to perform this costly task.

- *File Submission Process.* The CAT was designed to accommodate the varying needs of CAT Reporters with regard to the file submission process. For example, in a 2018 letter, FIF stated that "[t]he SFTP-based submission process is cumbersome, exposes industry members to unnecessary complexity, and puts the burden of support on the CAT Reporter rather than imbedding more functionality into the Plan Processor."¹⁷⁶ Currently, FCAT provides two mechanisms for submitting files: SFTP via a private network, and the Web via Reporter Web Portal.

- *Error Corrections.* The industry also emphasized the need for the CAT to provide error correction tools and functionalities to identify, rectify and re-submit corrections within the required timeframe. For example, FIF stated in a 2018 letter the following:

To be clear, if OATS-like error correction tools are not made available on Day 1, hundreds of firms will be required to create and test their own tools or obtain vendor alternatives prior to the CAT Go-Live Date. Proprietary tools will require additional system builds, access to and ingestion of CAT data to perform system validation, and testing which will further stress the limited number of subject matter experts ("SMEs") dedicated to the implementation of CAT reporting. Should this occur, inevitably firms (especially small firms who lack the necessary IT staff to write code and develop proprietary systems), may be put in the position of passing onto investors the cost required to build hundreds of redundant systems.¹⁷⁷

CAT provides various tools to help Industry Members identify and rectify errors.

- *Data Ingestion Format.* The industry also recommended that CAT adopt a flexible input format that

¹⁷⁴ See, e.g., Securities Exchange Act Rel. No. 99938 (Apr. 10, 2024), 89 FR 26983 (Apr. 16, 2024); Letter from Brandon Becker, CAT NMS Plan Operating Committee Chair, to Vanessa Countryman, Secretary, Commission (Mar. 27, 2024) (proposing amendments to the CAT NMS Plan for \$23 million in annual savings).

¹⁷⁵ See CAT Industry Member Reporting Scenarios v.4.10 (Oct. 21, 2022).

¹⁷⁶ Letter from Janet Early, FIF, to Thesys CAT (Mar. 29, 2018).

¹⁷⁷ Letter from Christopher Bok, FIF, to Jay Clayton, Chair, Commission at 4 (Dec. 11, 2018).

provides an option for Industry Members to submit data in formats that are already in use to reduce costs and potential reporting errors. For example, FIF argued the following:

FIF CAT WG is not proposing a specific format; rather, we are proposing flexibility of input formats which includes support of existing formats (e.g., OATS, FIX) as well as a baseline specification where all fields are defined, and normalized. The input formats must be clearly and thoroughly defined in Technical Specifications, including FAQs.

Mandating a uniform format for reporting data to the CAT simplifies the task for the Central Repository of consolidating/storing data, but it puts the burden on each CAT Reporter to accurately translate their current (e.g., OATS) reporting information into a uniform CAT interface. However, that is likely to yield more errors because it is very dependent on accurate, complete and timely information (Technical Specifications, FAQs, meta-data, competent CAT help desk) available to CAT Reporters, availability of sophisticated CAT test tools to validate interface protocols, and the skill levels of the estimated 300+ unique CAT Reporters/Submitters during Phase 1 of CAT. Concentrating the responsibility of data conversions with the Central Repository is a reasonable trade-off that should yield fewer errors, and greater accuracy.¹⁷⁸

CAT provides such a flexible input format.

(c) Effect of Initial Plan Processor Design

The costs for cloud hosting services are appropriate and have not been adversely affected by the original design and approaches of the Initial Plan Processor. FCAT's design costs are the result of the requirements of the Commission-approved CAT NMS Plan.

When FCAT took over as the Plan Processor from Thesys, it utilized certain aspects of the technical specifications created by Thesys in its design. However, FCAT has not maintained aspects of the original design that would not be appropriate for the CAT. FCAT revised and enhanced the original technical specifications of the CAT System to increase its efficiency and efficacy, and to ensure its compliance with the CAT NMS Plan. For example, the Initial Plan Processor's approach utilized many more fields than FCAT's approach, which relies on additional linkages. With the additional linkages, the CAT System takes on more of the CAT-related burdens than the Industry Members. Such an approach serves to facilitate consistency, uniformity and accuracy in reporting.

Moreover, FCAT did not utilize the system built by the Initial Plan

Processor; it rebuilt the CAT System based on revised technical specifications. For example, the Initial Plan Processor used an on-premises processing approach which was not geared toward the huge amounts of data stored in the CAT, while FCAT adopted a cloud-based solution in response to such data demands.

Furthermore, given the very short timeframe to develop the CAT System and the prior optimization of certain query tools (e.g., Diver) for regulatory use with significant amounts of data, FCAT determined to rely upon certain existing FINRA tools and adapt them for use with the CAT.

(iii) Consideration of AWS Alternatives

CAT LLC continues to support the selection of AWS as the cloud hosting services provider for CAT given the compliance, operational, and security requirements of the CAT. Independent analyses confirm these conclusions, noting that "AWS is an excellent choice for either strategic or tactical use and recommends considering AWS for almost all cloud IaaS or IaaS+PaaS scenarios."¹⁷⁹ AWS provides the following benefits to CAT, among others:

- *Broad Suitability.* AWS has a long track record of successfully serving cloud customers with mission-critical projects.
- *Proven Scalability.* AWS has demonstrated that it is capable of building and delivering services on a large scale.
- *Track Record of Innovation.* AWS continues to rapidly innovate, both in terms of new domains of capability and at a fundamental level, thereby facilitating innovation for its customers.
- *Resiliency/Dependability.* Another benefit of AWS is its resiliency; it has a strong track record of stable services. As noted in a review of cloud service providers, "[c]ustomers like to have a broad set of options for resilience and for their cloud providers to have a strong track record of stable services (continuously available, without operational quirks). Only AWS fulfills both desires."¹⁸⁰
- *Technical and Customer Support.* AWS consistently provides high-quality technical and customer support and engagement. Given the size, scope and regulatory importance of CAT, customer support and engagement that CAT has with the highest levels of AWS are very important to the success of the CAT.

- *Scale.* AWS is capable of supporting large-scale solutions, which is critical given the size and magnitude of the CAT.

- *Security.* AWS provides the security features necessary for the CAT.

In addition, the nature of the CAT, including the amount of data it must process and the size of its data footprint, does not allow for a multi-cloud solution as this would be cost prohibitive and greatly increase the security boundary and associated risk profile of the CAT. For example, a multi-cloud hosting option would increase costs, complexity, and risk for operations with regard to, for example, DevOps, production support, and networking. Similarly, with regard to security, a multi-cloud solution would increase risk, including with regard to the need for data transfers between cloud providers and the expansion of the security boundary. With regard to labor, a multi-cloud solution would lose economies of scale due to the need to support unique cloud requirements. Accordingly, the use of a single-cloud solution continues to provide advantages with regard to cost, complexity, and risk. Indeed, "[t]he best practice is to focus on a single primary strategic provider."¹⁸¹

Furthermore, if another cloud service provider were determined to be a better match for the CAT at some future date, switching cloud service providers would be a very significant, expensive and time-consuming effort. Such an effort would likely be a 10-to-15-year commitment at a substantial expense. Such a move would require the replication or redesign of the underlying cloud environments (e.g., organizational setup, identify management, accounts, environments, DevOps tooling likes release management/config management/network management), as the new provider likely would not have the same infrastructure and software. Once that process has been completed, an exabyte of CAT data would need to be securely migrated to the new platform.

(C) Funding Model Filings

CAT LLC believes that the recovery of costs related to the development of the funding model is appropriate, and that the amount and scope of such costs, as described above, are reasonable.

Funding the CAT is a critical aspect of Rule 613 and the CAT NMS Plan. Article XI of the CAT NMS Plan describes in detail the requirements for funding the CAT, and the Participants are required to comply with and enforce

¹⁷⁸ Letter from Mary Lou Von Kaenel, Managing Director, FIF, to Brent Fields, Secretary, Commission at 92 (July 18, 2016), <https://www.sec.gov/comments/4-698/4698-13.pdf>.

¹⁷⁹ See, e.g., Lydia Leong and Adrian Wong, Solution Comparison for Strategic Cloud Integrated IaaS and PaaS Providers (July 28, 2023) ("Strategic Cloud Assessment Article").

¹⁸⁰ Strategic Cloud Assessment Article.

¹⁸¹ *Id.*

compliance with the funding requirements of the CAT NMS Plan, just as with other aspects of the Plan. Accordingly, the development and implementation of a funding model for the CAT is as much a part of the requirements of the CAT NMS Plan as the development and operation of the CAT System. CAT LLC sees no reason to distinguish the efforts to develop a funding model from, for example, efforts to develop the CAT System, in seeking to recover reasonable CAT costs.

Moreover, in approving the CAT Funding Model, the Commission recognized that it is appropriate to recover reasonable costs for legal services as a part of Historical CAT Assessments. As approved by the SEC, the CAT NMS Plan states that “the reasonably budgeted CAT costs shall include . . . legal costs.”¹⁸² In addition, the CAT NMS Plan also requires Participants to include in their fee filings “a brief description of the amount and type of the Historical CAT Costs, including . . . legal . . . costs.”¹⁸³ In keeping with these provisions, this filing provides a brief description of reasonably budgeted legal costs above. These legal costs include costs related to the development of the CAT Funding Model.

In addition, the legal costs incurred for the assistance in developing the CAT Funding Model are reasonable in both amount and scope and should be recoverable as a part of Historical CAT Assessment 1A. As described above, the specialized services were performed by experienced counsel at negotiated rates for such services that reflect both the extent of the services and market rates. Moreover, the scope of the legal costs associated with the development of the funding model reflect the complexity of the task in satisfying the detailed requirements of the CAT NMS Plan, the standards of the Exchange Act, and the many perspectives of the different market constituents potentially affected by or interested in the funding model, including Industry Members, Participants and investors. The many and varied comments by market participants on CAT funding over the years demonstrate the complexity of the task.

(D) Costs Related to Litigation With the SEC

CAT LLC believes that the recovery of legal costs related to the litigation with the SEC regarding the CAT NMS Plan is appropriate, and that the amount and

scope of such costs, as described above, are reasonable.

As a preliminary matter, as discussed above, the Commission recognized that it is appropriate to recover reasonable costs for legal services as a part of Historical CAT Assessments.¹⁸⁴ Moreover, CAT LLC initiated such litigation, and incurred the related legal costs, because it was critical to address the Commission’s interpretations of the CAT NMS Plan. Among other things, such interpretations threatened to impose unnecessary costs on the CAT, which would be borne by the Participants and Industry Members. Indeed, in response to the litigation, the Commission provided exemptive relief that allowed alternative, more cost-effective approaches to the implementation of the CAT. Specifically, in the 2023 exemptive order, the Commission stated:

The conditional exemptive relief in this Order allows for the implementation of alternative regulatory solutions that continue to advance the regulatory goals that Rule 613 and the CAT NMS Plan were intended to promote, while reducing the implementation and operational costs, burdens, and/or difficulties that would otherwise be incurred by the Participants and Industry Members that must fund the CAT.¹⁸⁵

CAT LLC believes it is reasonable and appropriate to incur costs to limit the need to incur even greater costs due to certain interpretations of the Plan.

In addition, the legal costs incurred during the litigation are reasonable in both amount and scope and should be recoverable as a part of Historical CAT Assessment 1A. As described above, the specialized services were performed by experienced counsel at market rates for such services. As such, the legal costs related to this litigation incurred during the period covered by Historical CAT Assessment 1A were reasonable.

Finally, Industry Members will directly benefit from the result of the litigation because it has addressed CAT NMS Plan requirements that would have imposed significantly greater costs on the CAT. Accordingly, it is reasonable and appropriate that the costs of such litigation be included in Historical CAT Costs 1.

(E) Costs Related to the Initial Plan Processor

CAT LLC believes that it is appropriate to recover costs related to the services performed by the Initial Plan Processor prior to November 15, 2017, which was the date by which

Participants were required to begin reporting to the CAT, due to the delay in the commencement of reporting to the CAT. As discussed above, the Participants determined to exclude all CAT costs incurred from November 15, 2017 through November 15, 2018, which includes \$37,852,083 in Thesys costs incurred from November 15, 2017 through November 15, 2018 (as well as other CAT costs during this period). The remaining Thesys costs incurred after November 15, 2018 are the \$19,628,791 in capitalized developed technology costs for the period from November 16, 2018 through February 2019 incurred in the development of the CAT by the Initial Plan Processor, as well as a transition fee for the transition from the Initial Plan Processor to the successor Plan Processor. The Participants would remain responsible for 100% of these \$19,628,791 in costs.

CAT LLC believes that it is appropriate to recover costs related to the services performed by the Initial Plan Processor prior to November 15, 2017. CAT LLC notes that the development and implementation of the CAT System, while unprecedented in scope and design, is like any other large and innovative technology project in that, inevitably, there were adjustments and refinements in the technical approach as the project developed, even with substantial planning efforts and oversight prior to the build. This is even more likely when the project faces a very tight implementation schedule, such as the one imposed by the Commission in Rule 613 and the CAT NMS Plan. However, an adjusted approach does not mean that the funds were not valid expenditures and should not be recovered.

The reasonableness of Thesys costs should be evaluated by the Commission as of the time they were incurred, not in hindsight. As detailed above, the Commission concluded in 2016 that “the competitive bidding process to select the Plan Processor is a reasonable and effective way to choose a Plan Processor,” and that “the process set forth in the Selection Plan should be permitted to continue.”¹⁸⁶ Following this process, the Participants notified the Commission of the selection of Thesys as the Initial Plan Processor on January 17, 2017.¹⁸⁷ At the time, neither the Commission nor the industry argued that the selection of the Initial Plan Processor was unreasonable or

¹⁸⁶ CAT NMS Plan Approval Order at 84737.

¹⁸⁷ Letter from the Participants to Brent J. Fields, Secretary, SEC (Jan. 18, 2017), <https://www.sec.gov/divisions/marketreg/rule613-info-notice-of-plan-processor-selection.pdf>.

¹⁸² Section 11.1(a)(i) of the CAT NMS Plan.

¹⁸³ Section 11.3(b)(iii)(B)(II) of the CAT NMS Plan.

¹⁸⁴ See Sections 11.1(a)(i) and 11.3(b)(iii)(B)(II) of the CAT NMS Plan.

¹⁸⁵ Settlement Exemptive Order at 77129–30.

otherwise inconsistent with the CAT NMS Plan, nor did they predict the selection would result in unanticipated delays in the implementation of the CAT System. On the contrary, on April 4, 2017, the President of SIFMA wrote that “SIFMA looks forward to commencing work with the SROs and Thesys.”¹⁸⁸

As noted in the CAT Funding Model Approval Order, the Commission recognized that “[t]he CAT NMS Plan contemplates that the costs of the CAT are to be allocated between the Participants and Industry Members.”¹⁸⁹ If the CAT Funding Model had existed on Day 1, the risk of any unanticipated costs or challenges associated with the Initial Plan Processor would have been fairly and reasonably shared among the Participants and Industry Members on an ongoing basis. Given that the Commission concluded in 2012 that the costs of the CAT would be shared by the Participants and Industry Members, it is not fair or reasonable to determine in hindsight that all of the risk involved in developing the CAT should be allocated entirely to the Participants.

(F) CAIS Implementation Costs

CAT LLC believes that the recovery of CAIS-related costs is appropriate, and that the amount and scope of such costs, as described above, are reasonable, and that the reasonableness of historical costs should be evaluated by the Commission as of the time they were incurred, not in hindsight.

In approving the CAT Funding Model, the Commission recognized that it is appropriate to recover reasonable CAIS operating costs as a part of Historical CAT Assessments. As approved by the SEC, the CAT NMS Plan states that “the reasonably budgeted CAT costs shall include . . . CAIS operating fees.”¹⁹⁰ In addition, the CAT NMS Plan also requires Participants to include in their fee filings “a brief description of the amount and type of the Historical CAT Costs, including . . . CAIS operating fees.”¹⁹¹ In keeping with these provisions, this filing provides a brief description of reasonably budgeted CAIS operating fees.

In addition, CAT LLC determined that the CAIS operating fees described above are reasonable in both amount and

scope and should be recoverable as a part of Historical CAT Assessment 1A. The “CAIS Operating Costs” for Historical CAT Costs 1 total \$9,480,587, with Pre-FAM costs of \$2,072,908, FAM 1 costs of \$254,998, FAM 2 costs of \$1,590,298, and FAM 3 costs of \$5,562,383. As described above, the CAIS operating fees were incurred with regard to two categories of CAIS-related efforts: (1) the acceleration of the reporting of LTIDs; and (2) the development of the CAIS Technical Specifications and the building of CAIS. These two categories of costs are discussed in more detail below.

(i) LTID Reporting

During the period covered by Historical CAT Assessment 1A, the CAIS operating costs included costs related to the acceleration of the reporting of LTIDs earlier than originally contemplated during this period at the request of the SEC and in accordance with exemptive relief granted by the SEC.¹⁹² As the SEC approved in this exemptive relief, the Participants proposed “to require the reporting of LTIDs to the CAT in Phases 2c and 2d, instead of with the rest of Customer Account Information in Phase 2e, which potentially could result in an earlier elimination of broker-dealer recordkeeping, reporting and monitoring requirements of the Large Trader Rule.”¹⁹³ To implement the reporting of LTIDs to the CAT, the following steps were taken during the period covered by Historical CAT Assessment 1A:

- After FCAT developed the LTID Technical Specifications, the LTID Technical Specifications were published on January 31, 2020, with additional updates provided to the LTID Technical Specifications through April 2021.¹⁹⁴
- The LTID account information testing environment opened on August 24, 2020.
- The LTID account information reporting production environment opened on December 14, 2020. CAT Reporters were required to request their production readiness certification for account information related to LTIDs by the deadline of April 9, 2021.
- The LTID account information reporting for Phases 2a, 2b and 2c for

Large Industry Members went live on April 26, 2021.

- The LTID account information reporting for Phases 2d for Large Industry Members went live on December 13, 2021.
- The LTID account information reporting for Phases 2a, 2b, 2c and 2d for Small Industry Members went live on April 26, 2021.

Throughout this project, FCAT and CAT LLC worked closely with the industry on LTID and CAIS reporting. Between December 2019 and December 2021, at least 57 checkpoint calls, webinars, and technical working group meetings with industry representatives were hosted to address issues and to educate CAT Reporters regarding LTID and CAIS reporting.¹⁹⁵

The LTID reporting project was successfully completed in a timely fashion, and the fees related to the project were reasonable. Accordingly, CAT LLC appropriately seeks to recover such costs via Historical CAT Assessment 1A.

(ii) CAIS Reporting

During the period covered by Historical CAT Assessment 1A, FCAT began the development of the full CAIS Technical Specifications and the building of CAIS. The CAIS Technical Specifications were developed during this period as follows:

- Iterative drafts of the CAIS Technical Specifications were published on June 30, 2020, December 1, 2020, and January 1, 2021.¹⁹⁶
 - The full, final CAIS Technical Specifications were published on January 29, 2021.
 - Updated versions of the CAIS Technical Specifications were published throughout 2021.¹⁹⁷
- As discussed above, FCAT and CAT LLC frequently engaged with the industry regarding the development of CAIS, hosting regular checkpoint calls, webinars, and technical working group meetings with industry representatives to address any issues, including addressing the interplay between Industry Members’ existing customer systems and CAIS, and to educate CAT Reporters regarding LTID and CAIS reporting. Such engagement was critical to the CAIS development process as the

¹⁸⁸ Letter from Kenneth E. Bentsen, Jr., SIFMA, to Participants re: Selection of Thesys as CAT Processor (Apr. 4, 2017), <https://www.sifma.org/wp-content/uploads/2017/05/SIFMA-Submits-Comment-Letter-to-SRO-on-the-selection-of-Thesys-as-the-CAT-Processor.pdf>.

¹⁸⁹ CAT Funding Model Approval Order at 13421.

¹⁹⁰ Section 11.1(a)(i) of the CAT NMS Plan.

¹⁹¹ Section 11.3(b)(iii)(B)(II) of the CAT NMS Plan.

¹⁹² See Phased Reporting Exemptive Relief Order at 23079–80.

¹⁹³ *Id.* at 23078–79, n.70.

¹⁹⁴ The LTID Technical Specifications, including original drafts and updated versions, are available on the Industry Member Specifications page of the CAT website (<https://www.catnmsplan.com/specifications/im>).

¹⁹⁵ Such contact points with the industry are described in detail on the Events web page of the CAT website (<https://www.catnmsplan.com/events>).

¹⁹⁶ The CAIS Technical Specifications, including original drafts and updated versions, are available on the Industry Member Specifications page of the CAT website (<https://www.catnmsplan.com/specifications/im>).

¹⁹⁷ Six updated versions of the CAIS Technical Specifications were published during 2021, in March, May, June, August, October and December.

CAIS project was unprecedented in terms of its content, scope and complexity.

During this period, FCAT also commenced the building of the CAIS system in accordance with the CAIS Technical Specifications during the period covered by Historical CAT Assessment 1A. The CAIS system was ready for industry testing shortly after the end of this period in January 2022.

The CAIS Technical Specifications and the CAIS system, as developed during this period, continue to be used. Industry Members have been required to report, and have continuously reported, required data to CAIS on a daily basis since November 7, 2022, consistent with interim reporting obligations. The CAIS system accepts and validates the CAIS data submitted by Industry Members and provides Industry Members with initial feedback on data errors. In light of the unprecedented nature of the CAIS system, certain changes to the system, such as changes related to error corrections and the CAIS regulatory portal, were necessary to finalize CAIS reporting. FCAT worked to address these remaining issues,¹⁹⁸ and, as of May 31, 2024, FCAT indicated that it had achieved the final CAIS reporting milestone. Accordingly, CAT LLC appropriately seeks to recover CAIS operating costs via Historical CAT Assessment 1A.

(G) Public Relations Costs

CAT LLC believes that the recovery of public relations costs is appropriate and that the amount and scope of such costs, as described above, are reasonable.

The Commission has long recognized that external public relations costs are reasonably associated with creating, implementing and maintaining the CAT. In the CAT NMS Plan Approval Order, the Commission estimated that the Participants had collectively spent approximately \$2,400,000 in preparation of the CAT NMS Plan on external public relations, legal, and consulting costs, and estimated that the Participants would continue to incur external public relations costs associated with maintaining the CAT upon approval of the CAT NMS Plan.¹⁹⁹

In approving the CAT Funding Model, the Commission recognized that it is appropriate to recover reasonable costs for public relations services as a part of Historical CAT Assessments. As approved by the SEC, the CAT NMS Plan states that “the reasonably

budgeted CAT costs shall include . . . public relations costs.”²⁰⁰ In addition, the CAT NMS Plan also requires Participants to include in their fee filings “a brief description of the amount and type of the Historical CAT Costs, including . . . public relations costs.”²⁰¹ In keeping with these provisions, a brief description of reasonable public relations costs are described above.

In addition, CAT LLC determined that the public relations costs described above are reasonable in both amount and scope and should be recoverable as a part of Historical CAT Assessment 1A. The services performed by the public relations firms through 2021 were limited in scope to assist CAT LLC, which has no employees of its own, to be better positioned to understand and address CAT matters to the benefit of all market participants and to communicate on important CAT topics with the public. In addition, the costs for these services were appropriately limited. During the 10-year period covered by Historical CAT Assessment 1A, the average cost per year for these services was approximately \$36,000.

(H) Legal Costs Related to the Limitation of Liability Provision in CAT Reporter Agreements

CAT LLC believes that the recovery of legal costs related to the limitation of liability provision, including costs related to the proceedings before the SEC and costs related to the proposed amendment to the Consolidated Audit Trail Reporter Agreement and the Consolidated Audit Trail Reporting Agent Agreement (the “Reporting Agreements”) is appropriate and that the amount and scope of such costs as described above are reasonable.

As a preliminary matter, as discussed above, the Commission recognized that it is appropriate to recover reasonable costs for legal services as a part of Historical CAT Assessments.²⁰² In addition, CAT LLC determined that the legal costs incurred for the assistance with regard to the limitation of liability provisions are reasonable in both amount and scope and should be recoverable as a part of Historical CAT Assessment 1A.

Moreover, it is critical that CAT LLC, which has no employees of its own, have the ability to fund a legal defense in litigation and other legal proceedings against it. In response to CAT LLC

requiring Industry Members to agree to the limitation of liability provision to submit data to the CAT, SIFMA filed an application for review of actions taken by CAT LLC and the Participants pursuant to Sections 19(d) and 19(f) of the Exchange Act. Contemporaneously with the filing of this proceeding, SIFMA moved for a stay of the requirement that Industry Members sign a Reporter Agreement, or in the alternative, asked the Commission to further delay the launch of CAT reporting on June 22, 2020. CAT LLC must have the resources to defend itself from litigious actions by others, like these.

Although a limitation of liability provision ultimately was not adopted as proposed, it was a reasonable provision to propose for the CAT Reporter Agreements, given that such provisions are in accordance with industry norms. Limitations of liability are ubiquitous within the securities industry and have long governed the economic relationships between self-regulatory organizations and the entities that they regulate. For example, U.S. securities exchanges have adopted rules to limit their liability for losses that Industry Members incur through their use of exchange facilities.²⁰³ Similarly, FINRA’s former order audit trail, OATS, which has functioned as an integrated audit trail of order, quote, and trade data for equity securities, required FINRA members to acknowledge an agreement that includes a limitation of liability provision.²⁰⁴ In addition, such a provision was intended to ensure the financial stability of the CAT. Accordingly, it was reasonable for CAT LLC to propose the use of such a provision.²⁰⁵

Furthermore, as described above, the specialized services were performed by experienced counsel at market rates for such services. Accordingly, the legal costs for the efforts related to the limitation of liability provision were reasonable.

²⁰³ See, e.g., NASDAQ Equities Rule 4626.

²⁰⁴ FINRA Rule 1013(a)(1)(R) requires all applicants for FINRA Membership to acknowledge the FINRA Entitlement Program Agreement and Terms of Use, which applies to OATS. Industry Members click to indicate that they agree to its terms—including its limitation of liability provision—every time they access FINRA’s OATS system to report trade information (i.e., repeatedly over the course of a trading day for many Industry Members).

²⁰⁵ See Letter from Michael Simon, Chair, CAT Operating Committee, to Vanessa Countryman, Secretary, Commission (Dec. 18, 2020).

¹⁹⁸ See, e.g., CAT Q4 2023 Quarterly Progress Report (Jan. 30, 2024) (<https://www.catnmsplan.com/sites/default/files/2024-01/CAT-Q4-2023-QPR.pdf>).

¹⁹⁹ CAT NMS Plan Approval Order at 84917–18.

²⁰⁰ Section 11.1(a)(i) of the CAT NMS Plan.

²⁰¹ Section 11.3(b)(iii)(B)(II) of the CAT NMS Plan.

²⁰² See Sections 11.1(a)(i) and 11.3(b)(iii)(B)(II) of the CAT NMS Plan.

(I) Costs for the Chair of the CAT Operating Committee

CAT LLC believes that the recovery of consulting costs related to the Chair of the CAT Operating Committee is appropriate and that the amount and scope of such costs are reasonable.

As a preliminary matter, the selection of the Chair of the Operating Committee complies with the requirements of Section 4.2 of the CAT NMS Plan. The initial Chair that served during the period covered by Historical CAT Assessment 1A was designated by a Participant as the Participant's alternate voting member. Accordingly, the Chair is a representative of the Participants, as required by the CAT NMS Plan.

In addition, in approving the CAT Funding Model, the Commission recognized that it is appropriate to recover reasonable costs for consulting as a part of Historical CAT Assessments. As approved by the SEC, the CAT NMS Plan states that "the reasonably budgeted CAT costs shall include . . . consulting . . ." costs.²⁰⁶ In addition, the CAT NMS Plan also requires Participants to include in their fee filings "a brief description of the amount and type of the Historical CAT Costs, including . . . consulting"²⁰⁷ costs. In keeping with these provisions, a brief description of reasonable consulting costs is included in this filing, and such reasonable consulting costs include the costs related to the Chair position.

The Participants determined that the position of the Chair was a critical role for the implementation of the CAT, and an independent Chair would appropriately consider and address the views of each of the Participants. The Participants also determined that it was important to have a Chair with a strong background regarding issues related to the regulatory obligations of self-regulatory organizations, including their obligations under national market system plans. The compensation paid to the Chair is appropriate for a person with such background and skills. The average annual amount paid to the Chair from 2017 through the end of FAM 3 was \$292,733.30. Separate from the Chair, CAT LLC relies upon a Leadership Team of representatives of the SROs to oversee the day-to-day implementation of the CAT NMS Plan. CAT LLC does not compensate any member of the Leadership Team.

(11) Fee Implementation Assistance for Industry Members

(A) Reconciliation of CAT Invoices

(i) Reconciliation of CAT Invoices to Underlying Trades Provided by CAT

CAT LLC understands that there are three types of reconciliation processes related to the invoices:

- *Reconciliation of CAT Invoices to Underlying Trades*: Reconciling the CAT invoice amount to the underlying trades provided by CAT;
- *Matching Trades to Books and Records*: Providing the means to match the underlying trades provided by CAT with CAT invoices to other books and records independently maintained by individual CAT Reporters (e.g., exchange trade journals/ acknowledgements) and data sources of self-regulatory organizations independent of CAT; and
- *Order Originator Identification*: Providing the ability to identify the order originator for the underlying trades provided by CAT with CAT invoices, which would facilitate firms' ability to pass through CAT Fees to their customers.

As discussed further below, CAT LLC only considers the first type of process to be a "reconciliation" and the only type of process that is required under the CAT NMS Plan. CAT LLC provides the means to reconcile the CAT invoice amount to the underlying trades provided by CAT.

The CAT NMS Plan does not require CAT LLC to facilitate the second type of process: matching underlying trades for a CAT invoice with a firm's internal books and records. CAT LLC has access only to the underlying trades provided by CAT; it does not have access to a firm's internal books and records. Although beyond the requirements of the CAT NMS Plan and involving firm specific considerations, CAT LLC voluntarily has provided guidance and processes to assist CAT Reporters in their efforts to match the underlying trades with their own books and records.

The CAT NMS Plan also does not require CAT LLC to provide the ability to identify the order originator for the underlying trades for the CAT invoices. Accordingly, the billing guidance and processes do not provide CAT Reporters with the ability to identify the order originator for the underlying trades provided by CAT with CAT invoices. CAT LLC has been working closely with CAT Reporters to explain its billing approach and to address any outstanding billing questions. But, it should not be lost that CAT LLC

provides information sufficient to allow CAT Reporters to reconcile CAT invoice amounts with the underlying trades provided by CAT LLC.

(ii) Match the Underlying Trades Provided by CAT With CAT Invoices to Firms' Internal Books and Records Independent of CAT

The CAT NMS Plan does not require CAT LLC to facilitate the matching of underlying trades for a CAT invoice with a firm's internal books and records, which may consist of trading data from various sources external to CAT. Although beyond the requirements of the CAT NMS Plan and involving firm specific considerations, CAT LLC voluntarily has provided guidance and processes to assist CAT Reporters in their efforts to match the underlying trades with their own books and records.

In this regard, it is important to recognize that CAT LLC has developed a billing approach that greatly improves upon existing billing practices for similar regulatory fees (e.g., fees related to Section 31). Accordingly, with the additional information voluntarily provided by CAT LLC, CAT Reporters generally will have sufficient information to match their underlying trades provided by CAT with their own internal books and records that are independent of CAT or to SRO data that is independent of CAT data. However, CAT LLC emphasizes that providing such additional information is not required by the CAT NMS Plan.

To facilitate the introduction of CAT fees, CAT LLC has worked with FCAT to develop an approach to CAT billing that is consistent with existing billing constructs used with regard to Section 31-related sales values fees, subject to certain enhancements. Under this billing approach, FCAT is providing additional linkage elements, not necessarily provided in the Section 31-sales value fee context, to facilitate CAT Reporters' ability to match the underlying trades provided by CAT with their internal books and records and to reduce the complexity of that process. Specifically, FCAT is providing various key elements of the trade itself, such as the tradeID and branch sequence,²⁰⁸ to CAT Reporters in the trade billing details provided with their CAT invoices ("Additional Trade

²⁰⁸ See CAT Technical Specifications for Billing Trade Details; Trade Details Schema (<https://catnmsplan.com/sites/default/files/2024-02/02.05.24-Billing-Trade-Details-Schema.json>); CAT Billing Scenarios, Version 1.0 (Nov. 30, 2023) (<https://www.catnmsplan.com/sites/default/files/2024-01/01.12.2024-CAT-Billing-Scenarios-v1.0.pdf>).

²⁰⁶ Section 11.1(a)(i) of the CAT NMS Plan.

²⁰⁷ Section 11.3(b)(iii)(B)(II) of the CAT NMS Plan.

Details”). As a result, CAT Reporters now have numerous alternative methods for matching a trade with their internal books and records where they previously did not have such matching methods in other fee contexts.

With the Additional Trade Details, CAT LLC and FCAT believe that the overwhelming majority of underlying trades provided by CAT bills can be matched with a CAT Reporter’s internal books and records. CAT LLC recognizes that there may be certain cases in which such matching is more difficult given various firm-specific considerations, but believes that such instances are significantly more limited than with regard to the SRO fees charged in relation to Section 31.²⁰⁹ By providing Additional Trade Details that are not available in other fee contexts, FCAT enhances the Industry Members’ ability to match the underlying trades provided with CAT invoices with books and records and SRO data, both of which are independent of CAT data.

(iii) CAT LLC Is Not Required To Facilitate CAT Reporters’ Ability To Pass Through Fees to Their Customers

Similar to other regulatory fees, the CAT NMS Plan does not address the manner or extent to which CAT Executing Brokers may seek to pass any CAT fees on to their customers, nor does it impose any obligation on CAT LLC or the Plan Processor to facilitate firms’ ability to do so. Accordingly, Historical CAT Assessment 1A does not address the process by which any CAT Reporters may pass through the fee to their customers. Likewise, the CAT billing approach provided by the Plan Processor is designed to address the needs of CAT Reporters with regard to the reconciliation of CAT invoices with the underlying trades provided by CAT LLC with the invoices; they are not designed to address issues related to any pass-through fees. Accordingly, facilitating CAT Reporters’ ability to pass through fees to their clients is outside the scope of this fee filing. Nevertheless, as described below, CAT LLC and the Plan Processor have expended significant efforts to provide

technical assistance to Industry Members regarding the implementation of Historical CAT Assessment 1A, including providing Additional Trade Details that provide significant details about each underlying trade.

(a) Originating Brokers Versus Executing Brokers

In its approval of the CAT Funding Model, the Commission approved charging CAT fees to the CAT Executing Broker, rather than the originating broker. This fee filing must comply with the requirements of the CAT Funding Model, and, therefore, charges the Historical CAT Assessment 1A to CAT Executing Brokers.

Moreover, charging originating brokers would introduce significant complexity to the billing process from the CAT’s perspective, and would increase the costs of implementing CAT fees. Charging the CAT Executing Broker is simple and straightforward, and leverages a one-to-one relationship between billable events (trades) and billable parties, similar to other transaction-based fees. In contrast, for a single trade event, there may be many originating brokers, and each trade must be broken down on a pro-rata basis, to account for one or more layers of aggregation, disaggregation, and representation of the underlying orders. While CAT is indeed designed to capture and unwind complex aggregation scenarios, the data and linkages are structured to facilitate regulatory use, and not a billing mechanism that assesses fees on a distinct set of executed trades; it is not simply a matter of using existing CAT linkages. Furthermore, charging originating brokers would implicate issues related to lifecycle linkage rates, and issues related to corrections, cancellations and allocations, while charging CAT Executing Brokers would avoid such issues.

(b) Identification of Order Originator for Underlying Trades

As noted, the CAT NMS Plan does not address the manner or extent to which CAT Executing Brokers may seek to pass any CAT Fees on to their customers, nor does it impose any obligation on CAT LLC or the Plan Processor to facilitate firms’ ability to do so. Nevertheless, the Additional Trade Details provided with regard to the underlying trades on CAT invoices may assist with this process. Like with Section 31-related sales value fees, however, it is not always possible to trace every fee on a transaction back to the originating party. Industry Members have faced these issues under Section 31-related sales values fees for

many years.²¹⁰ However, with the Additional Trade Details provided under the CAT billing approach, in many cases, CAT Reporters will be able to identify the order originator for the underlying trades provided by CAT with CAT invoices. In some cases, CAT LLC believes that certain issues related to certain types of market activity may implicate CAT Reporters’ ability to identify the order originator for a limited set of underlying trades for the CAT invoices. Although CAT LLC does not believe that it is required to address these issues, CAT LLC and FCAT have been carefully researching and analyzing these types of issues as they are identified, and have been working voluntarily to assist CAT Reporters with these issues as necessary and when possible. In addition, CAT LLC intends to continue to provide CAT Reporters with billing guidance through FAQs, CAT Alerts and Helpdesk responses to address outstanding billing questions.

(B) Significant Technical Assistance

CAT LLC has worked with FCAT to provide significant technical assistance to Industry Members to allow the Industry Members to understand how Historical CAT Assessments will be implemented and billed, including webinars, CAT alerts, mock invoices, and responses to questions posed to the FCAT Help Desk.

- *Technical Specifications and Scenarios.* CAT LLC has provided detailed technical documentation for CAT billing, including (1) technical specifications, which describe the CAT Billing Trade Details Files associated with monthly CAT invoices, including detailed information about data elements and file formats as well as access instructions, network and transport options;²¹¹ (2) trade details

²⁰⁹ For years, broker-dealers have faced similar reconciliation issues with regard to SRO fees related to Section 31. Broker-dealers have responded to this issue in the Section 31 context by exercising their discretion as to whether and the manner and extent to which they pass on those fees (e.g., by rounding up its fees to the nearest cent, or decide to charge for, or not charge for, certain transactions, or assess a specific fee or incorporate the costs into other fee programs). See, e.g., Securities Exchange Act Rel. No. 49928 (June 28, 2004), 69 FR 41060, 41072 (July 7, 2004) (noting that broker-dealers may “over-collect” Section 31-related fees charged to their clients due to rounding practices, and double-counting with regard to certain transactions).

²¹⁰ “FINRA charges a Regulatory Transaction Fee (‘RTF’) to industry members to reimburse FINRA for the Section 31 fees that FINRA pays to the Commission. FINRA does not currently provide industry members with the data that industry members require for proper reconciliation of RTF fees. This has been a major problem for the industry for many years.” Letter from Howard Meyerson, Managing Director, FIF, to Robert Cook, Chief Executive Officer, FINRA at 2 (Dec. 15, 2023) (<https://fif.com/index.php/working-groups/category/271-comment-letters?download=2820:fif-letter-to-finra-on-pass-through-of-finra-cat-fees&view=category>).

²¹¹ CAT Technical Specifications for Billing Trade Details, Version 1.0 r1 (Dec. 8, 2023) (https://catnmsplan.com/sites/default/files/2023-12/12.07.2023-CAT-Technical-Specifications-for-Billing-Trade-Details-v1.0r1_CLEAN.pdf).

schemas;²¹² and (3) CAT billing scenarios.²¹³

- *Industry Webinars.* CAT LLC has hosted two industry webinars specifically dedicated to CAT billing. The first webinar, hosted on September 28, 2023, discussed the operational implementation of the CAT Reporter billing process.²¹⁴ The second webinar, hosted on November 7, 2023, provided (1) a demonstration of the CAT Reporter Portal and how to access CAT billing documents, including CAT invoices; and (2) additional information on underlying trade details in relation to the CAT Reporter billing process and an overview of the CAT Contact Management System.²¹⁵ 485 participants and 394 participants attended the two webinars, respectively.

- *CAT Alert.* CAT LLC has published a detailed CAT Alert that describes how FCAT, as the Plan Processor acting on behalf of CAT LLC, will calculate applicable fees, issue invoices to and collect payment from CAT Executing Brokers.²¹⁶

- *Frequently Asked Questions (FAQs).* CAT LLC also has continued to engage with the industry on billing issues by making responses to billing FAQs available on the CAT website. The FAQs address a broad range of frequently asked questions, including, for example, which Industry Members will receive invoices, how fees are calculated, when and how fees are required to be paid, how to access invoices, and how to update the billing contact. To date, responses to 31 FAQs are available on the CAT website, and CAT LLC will provide additional responses to FAQs as warranted.²¹⁷

- *Substantial Past Experience with CAT Billing Processes.* To date, CAT LLC, via FCAT, has billed Industry Members for Historical CAT Assessment 1 and certain Prospective CAT Fees. Industry Members will be billed for Historical CAT Assessment 1A via the same processes established for

Historical CAT Assessment 1 and the Prospective CAT Fees. Accordingly, Industry Members have substantial experience with the CAT billing processes.

- *Help Desk Assistance.* CAT LLC also provides detailed, individualized assistance to Industry Members regarding CAT fees and the billing process through the FCAT Help Desk.²¹⁸ For example, the Help Desk assisted with 406 cases related to the billing of CAT fees from July 2023 through March 2024.

By providing such detailed and sustained assistance to Industry Members regarding CAT fees and billing, CAT LLC has successfully addressed questions raised by Industry Members regarding the CAT fees and billing processes.

(C) Notice to Industry Members

In keeping with past practice, CAT LLC provided notice of the proposed Historical CAT Assessment 1A via CAT Fee Alert on April 1, 2026,²¹⁹ one month prior to the effective date of Historical CAT Assessment 1A on May 1, 2026. Such notice provides Industry Members with sufficient time to address any technological or other requirements necessary for implementing Historical CAT Assessment 1A.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the requirements of the Exchange Act. The Exchange believes that the proposed rule change is consistent with Section 6(b)(5) of the Act,²²⁰ which requires, among other things, that the Exchange's rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest, and not designed to permit unfair discrimination between customers, issuers, brokers and dealers. The Exchange also believes that the proposed rule change is consistent with the provisions of Section 6(b)(4) of the Act,²²¹ because it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using its

facilities and does not unfairly discriminate between customers, issuers, brokers or dealers. The Exchange further believes that the proposed rule change is consistent with Section 6(b)(8) of the Act,²²² which requires that the Exchange's rules not impose any burden on competition that is not necessary or appropriate in furtherance of the purpose of the Exchange Act. These provisions also require that the Exchange be "so organized and [have] the capacity to be able to carry out the purposes" of the Act and "to comply, and . . . to enforce compliance by its members and persons associated with its members," with the provisions of the Exchange Act.²²³ Accordingly, a reasonable reading of the Act indicates that it intended that regulatory funding be sufficient to permit an exchange to fulfill its statutory responsibility under the Act, and contemplated that such funding would be achieved through equitable assessments on the members, issuers, and other users of an exchange's facilities.

(1) Implementation of CAT Funding Model in CAT NMS Plan

Section 11.1(b) of the CAT NMS Plan states that "[t]he Participants shall file with the SEC under Section 19(b) of the Exchange Act any such fees on Industry Members that the Operating Committee approves." Per Section 11.1(b) of the CAT NMS Plan, the Exchange has filed this fee filing to implement the Industry Member CAT fees included in the CAT Funding Model. The Exchange believes that this proposal is consistent with the Exchange Act because it is consistent with, and implements, the CAT Funding Model in the CAT NMS Plan, and is designed to assist the Exchange and its Industry Members in meeting regulatory obligations pursuant to the CAT NMS Plan. In approving the CAT NMS Plan, the SEC noted that the Plan "is necessary and appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanism of a national market system, or is otherwise in furtherance of the purposes of the Act." ²²⁴ Similarly, in approving the CAT Funding Model, the SEC concluded that the CAT Funding Model met this standard.²²⁵ As this proposal implements the Plan and the CAT Funding Model described therein, and applies specific requirements to

²¹² Trade Details Schema (<https://catnmsplan.com/sites/default/files/2024-02/02.05.24-Billing-Trade-Details-Schema.json>).

²¹³ CAT Billing Scenarios, Version 1.0 (Nov. 30, 2023) (<https://www.catnmsplan.com/sites/default/files/2024-01/01.12.2024-CAT-Billing-Scenarios-v1.0.pdf>).

²¹⁴ CAT Billing Webinar, Part 1 (Sept. 28, 2023) (<https://www.catnmsplan.com/events/part-1-cat-billing-webinar>).

²¹⁵ CAT Billing Webinar, Part 2 (Nov. 7, 2023) (<https://www.catnmsplan.com/events/part-2-cat-billing-webinar>).

²¹⁶ See CAT Alert 2023-02 (Oct. 12, 2023) (<https://www.catnmsplan.com/sites/default/files/2023-10/10.12.23-CAT-Alert-2023-02.pdf>).

²¹⁷ See CAT Billing FAQs, Section V of CAT FAQs (https://www.catnmsplan.com/faq?search_api_fulltext=&field_topics=271&sort_by=field_faq_number).

²¹⁸ The CAT NMS Plan requires that the Plan Processor "staff a CAT help desk, as described in Appendix D, CAT Help Desk, to provide technical expertise." Section 6.10(c)(vi) of the CAT NMS Plan. See also Section 10.3 of Appendix D of the CAT NMS Plan for a description of the Plan requirements for the CAT Help Desk.

²¹⁹ CAT Fee Alert 2026-1 (Apr. 1, 2026) (<https://www.catnmsplan.com/sites/default/files/2026-04/04.01.26-CAT-Fee-Alert-2026-1.pdf>).

²²⁰ 15 U.S.C. 78f(b)(6).

²²¹ 15 U.S.C. 78f(b)(4).

²²² 15 U.S.C. 78f(b)(8).

²²³ See Section 6(b)(1) of the Exchange Act.

²²⁴ CAT NMS Plan Approval Order at 84696.

²²⁵ CAT Funding Model Approval Order at 13481.

Industry Members in compliance with the Plan, the Exchange believes that this proposal furthers the objectives of the Plan, as identified by the SEC, and is therefore consistent with the Exchange Act.

(2) Calculation of Fee Rate for Historical CAT Assessment 1A is Reasonable

The SEC has determined that the CAT Funding Model is reasonable and satisfies the requirements of the Exchange Act. Specifically, the SEC has concluded that the method for determining Historical CAT Assessments as set forth in Section 11.3 of the CAT NMS Plan, including the formula for calculating the Historical Fee Rate, the identification of the parties responsible for payment and the transactions subject to the fee rate for the Historical CAT Assessment, is reasonable and satisfies the Exchange Act.²²⁶ In each respect, as discussed above, Historical CAT Assessment 1A is calculated, and would be applied, in accordance with the requirements applicable to Historical CAT Assessments as set forth in the CAT NMS Plan. Furthermore, as discussed below, the Exchange believes that each of the figures for the variables in the SEC-approved formula for calculating the fee rate for Historical CAT Assessment 1A is reasonable and consistent with the Exchange Act. Calculation of the fee rate for Historical CAT Assessment 1A requires the figures for the Historical CAT Costs 1, the executed equivalent share volume for the prior twelve months, the determination of Historical Recovery Period 1A, and the projection of the executed equivalent share volume for Historical Recovery Period 1A. Each of these variables is reasonable and satisfies the Exchange Act, as discussed throughout this filing.

(A) Historical CAT Costs 1

The formula for calculating a Historical Fee Rate requires the amount of Historical CAT Costs to be recovered. Specifically, Section 11.3(b)(iii)(B)(II) of the CAT NMS Plan requires a fee filing to provide:

a brief description of the amount and type of the Historical CAT Costs, including (1) the technology line items of cloud hosting services, operating fees, CAIS operating fees, change request fees, and capitalized developed technology costs, (2) legal, (3) consulting, (4) insurance, (5) professional and administration and (6) public relations costs.

In accordance with this requirement, the Exchange has set forth the amount

and type of Historical CAT Costs 1 for each of these categories of costs above.

Section 11.3(b)(iii)(B)(II) of the CAT NMS Plan also requires that the fee filing provide “sufficient detail to demonstrate that the Historical CAT Costs are reasonable and appropriate.” As discussed below, the Exchange believes that the amounts set forth in this filing for each of these cost categories is “reasonable and appropriate.” Each of the costs included in Historical CAT Costs 1 are reasonable and appropriate because the costs are consistent with standard industry practice, based on the need to comply with the requirements of the CAT NMS Plan, incurred subject to negotiations performed on an arm’s length basis, and/or are consistent with the needs of any legal entity, particularly one with no employees.

(i) Technology: Cloud Hosting Services

In approving the CAT Funding Model, the Commission recognized that it is appropriate to recover costs related to cloud hosting services as a part of Historical CAT Assessments.²²⁷ CAT LLC determined that the costs related to cloud hosting services described in this filing are reasonable and should be included as a part of Historical CAT Costs 1. As described above, the cloud hosting services costs reflect, among other things, the breadth of the CAT cloud activities, data volume far in excess of the original volume estimates, the need for specialized cloud services given the volume and unique nature of the CAT, the processing time requirements of the Plan, and regular efforts to seek to minimize costs where permissible under the Plan. CAT LLC determined that use of cloud hosting services is necessary for implementation of the CAT, particularly given the substantial data volumes associated with the CAT, and that the fees for cloud hosting services negotiated by FCAT were reasonable, taking into consideration a variety of factors, including the expected volume of data and the breadth of services provided and market rates for similar services.²²⁸ Indeed, the actual costs of the CAT are far in excess of the original estimated costs of the CAT due to various factors, including the higher volumes and greater complexity of the CAT than anticipated when Rule 613 was originally adopted.

²²⁷ Section 11.3(b)(iii)(B)(II)(B)(1) of the CAT NMS Plan.

²²⁸ For a discussion of the amount and type of cloud hosting services fees, see Sections 3(a)(2)(B)(i)(a)(I), 3(a)(2)(B)(i)(b)(I), 3(a)(2)(B)(i)(c)(I) and 3(a)(2)(B)(i)(d)(I) above.

To comply with the requirements of the Plan, the breadth of the cloud activities related to the CAT is substantial. The cloud services not only include the production environment for the CAT, but they also include two industry testing environments, support environments for quality assurance and stress testing and disaster recovery capabilities. Moreover, the cloud storage costs are driven by the requirements of the Plan, which requires the storage of multiple versions of the data, from the original submitted version of the data through various processing steps, to the final version of the data.

Data volume is a significant driver of costs for cloud hosting services. When the Commission adopted the CAT NMS Plan in 2016, it estimated that the CAT would need to receive 58 billion records per day²²⁹ and that annual operating costs for the CAT would range from \$36.5 million to \$55 million.²³⁰ Through 2021, the actual data volumes have been five times that original estimate. The data volumes for each period are set forth in detail above.²³¹

In addition to the effect of the data volume on the cloud hosting costs, the processing timelines set forth in the Plan contribute to the cloud hosting costs. Although CAT LLC has proactively sought to manage cloud hosting costs while complying with the Plan, including through requests to the Commission for exemptive relief and an amendment to the CAT NMS Plan, stringent CAT NMS Plan requirements do not allow for any material flexibility in cloud architecture design choices, processing timelines (e.g., the use of non-peak processing windows), or lower-cost storage tiers. As a result, the required CAT processing timelines contribute to the cloud hosting costs of the CAT.

The costs for cloud hosting services also reflect the need for specialized cloud hosting services given the data volume and unique processing needs of the CAT. The data volume as well as the data processing needs of the CAT necessitate the use of cloud hosting services. The equipment, power and services required for an on-premises data model, the alternative to cloud hosting services, would be cost prohibitive. Moreover, as CAT was being developed, there were limited cloud hosting providers that could satisfy all the necessary CAT requirements, including the operational

²²⁹ Appendix D–4 of the CAT NMS Plan at n.262.

²³⁰ CAT NMS Plan Approval Order at 84801.

²³¹ See Sections 3(a)(2)(B)(i)(a)(I), 3(a)(2)(B)(i)(b)(I), 3(a)(2)(B)(i)(c)(I) and 3(a)(2)(B)(i)(d)(I) above.

²²⁶ *Id.*

and security criteria. Over time more providers offering cloud hosting services that would satisfy these criteria have entered the market. CAT LLC will continue to evaluate alternative cloud hosting services, recognizing that the time and cost to move to an alternative cloud provider would be substantial.

The reasonableness of the cloud hosting services costs is further supported by key cost discipline mechanisms for the CAT—a cost-based funding structure, cost transparency, cost management efforts (including regular efforts to lower compute and storage costs where permitted by the Plan) and oversight. Together, these mechanisms help ensure the ongoing reasonableness of the CAT's costs and the level of fees assessed to support those costs.²³²

(ii) Technology: Operating Fees

In approving the CAT Funding Model, the SEC recognized that it is appropriate to recover costs related to operating fees as a part of Historical CAT Assessments.²³³ CAT LLC determined that the costs related to operating fees described in this filing are reasonable and should be included as a part of Historical CAT Costs 1. The operating fees include the negotiated fees paid by CAT LLC to the Plan Processor to operate and maintain the system for order-related information and to perform business operations related to the system, including compliance, security, testing, training, communications with the industry (e.g., management of the FINRA CAT Helpdesk, FAQs, website and webinars) and program management. CAT LLC determined that the selection of FCAT as the Plan Processor was reasonable and appropriate given its expertise with securities regulatory reporting, after a process of considering other potential candidates.²³⁴ CAT LLC also determined that the fixed price contract, negotiated on an arm's length basis with the goals of managing costs and receiving services required to comply with the CAT NMS Plan and Rule 613, was reasonable and appropriate, taking into consideration a variety of factors, including the breadth of services provided and market rates for similar types of activity.²³⁵ The services

performed by FCAT for each period and the costs related to such services are described above.²³⁶

(iii) Technology: CAIS Operating Fees

In approving the CAT Funding Model, the SEC recognized that it is appropriate to recover costs related to CAIS operating fees as a part of Historical CAT Assessments.²³⁷ CAT LLC determined that the costs related to CAIS operating fees described in this filing are reasonable and should be included as a part of Historical CAT Costs 1. The CAIS operating fees include the fees paid to the Plan Processor to operate and maintain CAIS and to perform the business operations related to the system, including compliance, security, testing, training, communications with the industry (e.g., management of the FINRA CAT Helpdesk, FAQs, website and webinars) and program management. CAT LLC determined that the FCAT-negotiated fees for Kingland's CAIS-related services, negotiated on an arm's length basis with the goals of managing costs and receiving services required to comply with the CAT NMS Plan, taking into consideration a variety of factors, including the services to be provided and market rates for similar types of activity, were reasonable and appropriate.²³⁸ The services performed by Kingland for each period and the costs for each period are described above.²³⁹

(iv) Technology: Change Request Fees

In approving the CAT Funding Model, the SEC recognized that it is appropriate to recover costs related to change request fees as a part of Historical CAT Assessments.²⁴⁰ CAT LLC determined that the costs related to change request fees described in this filing are reasonable and should be included as a part of Historical CAT Costs 1. It is common practice to utilize a change request process to address evolving needs in technology projects. This is particularly true for a project like CAT that is the first of its kind, both in substance and in scale. The substance and costs of each of the change requests are evaluated by the Operating Committee, and approved in accordance with the requirements for Operating Committee meetings. In each case, CAT

LLC determined that the change requests were necessary to implement the CAT. As described above, the change requests cover various technology changes, including, for example, changes related to CAT reporting, data feeds and exchange functionality. CAT LLC also determined that the costs for each change request were appropriate for the relevant technology change. A description of the change requests for each FAM Period and their total costs is described above.²⁴¹ As noted above, the total costs for change requests through FAM Period 3 represent a small percentage of Historical CAT Costs 1—that is, 0.25% of Historical CAT Costs 1.

(v) Capitalized Developed Technology Costs

In approving the CAT Funding Model, the SEC recognized that it is appropriate to recover costs related to capitalized developed technology costs as a part of Historical CAT Assessments.²⁴² Capitalized developed technology costs include costs related to certain development costs, costs related to certain modifications, upgrades and other changes to the CAT, CAIS implementation fees and license fees. The amount and type of costs for each period are described in more detail above.²⁴³ CAT LLC determined that these costs are reasonable and should be included as a part of Historical CAT Costs 1.

These costs involve the activity of both the Initial Plan Processor and FCAT, as the successor Plan Processor.²⁴⁴ With regard to the Initial Plan Processor, the Participants utilized an RFP to seek proposals to build and operate the CAT, receiving a number of proposals in response to the RFP. The Participants carefully reviewed and considered each of the proposals, including holding in-person meetings with each of the Bidders. After several rounds of review, the Participants selected the Initial Plan Processor in accordance with the CAT NMS Plan. CAT LLC entered into an agreement with the Initial Plan Processor in which CAT LLC would pay the Initial Plan Processor a negotiated, fixed price fee.²⁴⁵ In addition, as described above, CAT LLC determined that is was

²³² See Securities Exchange Act Rel. No. 97151 (Mar. 15, 2023), 88 FR 17086, 17117 (Mar. 21, 2023) (describing key cost discipline mechanisms for the CAT).

²³³ Section 11.3(b)(iii)(B)(II)(B)(1) of the CAT NMS Plan.

²³⁴ See Section 3(a)(2)(B)(i)(a)(II) above.

²³⁵ See Sections 3(a)(2)(B)(i)(a)(II), 3(a)(2)(B)(i)(b)(II), 3(a)(2)(B)(i)(c)(II) and 3(a)(2)(B)(i)(d)(II) above.

²³⁶ *Id.*

²³⁷ Section 11.3(b)(iii)(B)(II)(B)(1) of the CAT NMS Plan.

²³⁸ See Sections 3(a)(2)(B)(i)(a)(III), 3(a)(2)(B)(i)(b)(III), 3(a)(2)(B)(i)(c)(III) and 3(a)(2)(B)(i)(d)(III) above.

²³⁹ *Id.*

²⁴⁰ Section 11.3(b)(iii)(B)(II)(B)(1) of the CAT NMS Plan.

²⁴¹ See Sections 3(a)(2)(B)(i)(a)(IV), 3(a)(2)(B)(i)(b)(IV), 3(a)(2)(B)(i)(c)(IV) and 3(a)(2)(B)(i)(d)(IV) above.

²⁴² Section 11.3(b)(iii)(B)(II)(B)(1) of the CAT NMS Plan.

²⁴³ See Sections 3(a)(2)(B)(i)(a)(V), 3(a)(2)(B)(i)(b)(V), 3(a)(2)(B)(i)(c)(V) and 3(a)(2)(B)(i)(d)(V) above.

²⁴⁴ *Id.*

²⁴⁵ See Section 3(a)(2)(B)(i)(a)(V) above.

appropriate to enter into an agreement with FCAT as the successor Plan Processor.²⁴⁶

(vi) Legal

In approving the CAT Funding Model, the SEC recognized that it is appropriate to recover costs related to legal fees as a part of Historical CAT Assessments.²⁴⁷ CAT LLC determined that the legal costs described in this filing are reasonable and should be included as a part of Historical CAT Costs 1. Given the unique nature of the CAT, the number of parties involved with the CAT (including, for example, the SEC, Participants, Industry Members, and vendors) and the many regulatory issues associated with the CAT, the scope of the necessary legal services is substantial. CAT LLC determined that the scope of the legal services is necessary to implement and maintain the CAT and that the legal rates reflect the specialized services necessary for such a project. When hiring each law firm for a CAT project, CAT LLC interviewed multiple firms, and determined to hire each firm based on a variety of factors, including the relevant expertise and fees. In each case, CAT LLC determined that the hourly fee rates were in line with market rates for the specialized legal expertise. In addition, CAT LLC determined that the total costs incurred for each CAT project were appropriate given the breadth of services provided. The services performed by each law firm for each period and the costs related to such services are described above.²⁴⁸

(vii) Consulting

In approving the CAT Funding Model, the SEC recognized that it is appropriate to recover consulting costs as a part of Historical CAT Assessments.²⁴⁹ CAT LLC determined that the consulting costs described in this filing are reasonable and should be included as a part of Historical CAT Costs 1. Because there are no CAT employees²⁵⁰ and because of the significant number of issues associated with the CAT, the consultants provided assistance in the management of various CAT matters and the processes related to such

matters.²⁵¹ CAT LLC considered a variety of factors in choosing a consulting firm and determined to select Deloitte after an interview process.²⁵² CAT LLC also determined that the consulting services were provided at reasonable market rates, as the fees were negotiated annually and comparable to the rates charged by other consulting firms for similar work.²⁵³ Moreover, the total costs for such consulting services were appropriate in light of the breadth of services provided by Deloitte. The services performed by Deloitte and the costs related to such services are described above.²⁵⁴

(viii) Insurance

In approving the CAT Funding Model, the SEC recognized that it is appropriate to recover insurance costs as a part of Historical CAT Assessments.²⁵⁵ CAT LLC determined that the insurance costs described in this filing are reasonable and should be included as a part of Historical CAT Costs 1. CAT LLC determined that it is common practice to have directors' and officers' liability insurance, and errors and omissions liability insurance. CAT LLC further determined that it was important to have cyber security insurance given the nature of the CAT, and such a decision is consistent with the CAT NMS Plan, which states that the cyber incident response plan may include "[i]nsurance against security breaches."²⁵⁶ In selecting the insurance providers for these policies, CAT LLC engaged in an evaluation of alternative insurers, including a comparison of the pricing offered by the alternative insurers.²⁵⁷ Based on this analysis, CAT LLC determined that the selected insurance policies provided appropriate coverage at reasonable market rates.²⁵⁸

(ix) Professional and Administration

In approving the CAT Funding Model, the SEC recognized that it is appropriate to recover professional and administration costs as a part of Historical CAT Assessments.²⁵⁹ CAT

LLC determined that the professional and administration costs described in this filing are reasonable and should be included as a part of Historical CAT Costs 1. Because there are no CAT employees, all required accounting, financial, tax, cash management and treasury functions for CAT LLC have been outsourced at market rates. In addition, the required annual financial statement audit of CAT LLC is included in professional and administration costs, which costs are also at market rates.

CAT LLC determined to hire a financial advisory firm, Anchin, to assist with financial matters for the CAT. CAT LLC interviewed Anchin as well as other potential financial advisory firms to assist with the CAT project, considering a variety of factors in its analysis, including the firm's relevant expertise and fees.²⁶⁰ The hourly fee rates for this firm were in line with market rates for the financial advisory services provided.²⁶¹ Moreover, the total costs for such financial advisory services was appropriate in light of the breadth of services provided by Anchin. The services performed by Anchin and the costs related to such services are described above.²⁶²

CAT LLC also determined to engage an independent accounting firm, Grant Thornton, to complete the audit of CAT LLC's financial statements, in accordance with the requirements of the CAT NMS Plan. CAT LLC interviewed this firm as well as another potential accounting firm to audit CAT LLC's financial statements, considering a variety of factors in its analysis, including the relevant expertise and fees of each of the firms. CAT LLC determined that Grant Thornton was well-qualified for the role given the balance of these considerations.²⁶³ Grant Thornton's fixed fee rate compensation arrangement was reasonable and appropriate, and in line with the market rates charged for these types of accounting services.²⁶⁴ Moreover, the total costs for such financial advisory services was appropriate in light of the breadth of services provided by Grant Thornton. The services performed by Grant

²⁴⁶ See Section 3(a)(2)(B)(i)(a)(II) above.

²⁴⁷ Section 11.3(b)(iii)(B)(II)(B)(2) of the CAT NMS Plan.

²⁴⁸ See Sections 3(a)(2)(B)(i)(a)(VI), 3(a)(2)(B)(i)(b)(VI), 3(a)(2)(B)(i)(c)(VI) and 3(a)(2)(B)(i)(d)(VI) above.

²⁴⁹ Section 11.3(b)(iii)(B)(II)(B)(3) of the CAT NMS Plan.

²⁵⁰ As stated in the filing of the proposed CAT NMS Plan, "[i]t is the intent of the Participants that the Company have no employees." Securities Exchange Act Rel. No. 77724 (Apr. 27, 2016), 81 FR 30614, 30621 (May 17, 2016).

²⁵¹ CAT LLC uses certain third parties to perform tasks that may be performed by administrators for other NMS Plans. See, e.g., CTA Plan and CQ Plan.

²⁵² See Section 3(a)(2)(B)(i)(a)(VII) above.

²⁵³ See Sections 3(a)(2)(B)(i)(a)(VII), 3(a)(2)(B)(i)(b)(VII), 3(a)(2)(B)(i)(c)(VII) and 3(a)(2)(B)(i)(d)(VII) above.

²⁵⁴ *Id.*

²⁵⁵ Section 11.3(b)(iii)(B)(II)(B)(4) of the CAT NMS Plan.

²⁵⁶ Section 4.1.5 of Appendix D of the CAT NMS Plan.

²⁵⁷ See Sections 3(a)(2)(B)(i)(a)(VIII), 3(a)(2)(B)(i)(b)(VIII), 3(a)(2)(B)(i)(c)(VIII) and 3(a)(2)(B)(i)(d)(VIII) above.

²⁵⁸ *Id.*

²⁵⁹ Section 11.3(b)(iii)(B)(II)(B)(5) of the CAT NMS Plan.

²⁶⁰ See Section 3(a)(2)(B)(i)(a)(IX) above.

²⁶¹ See Sections 3(a)(2)(B)(i)(a)(IX), 3(a)(2)(B)(i)(b)(IX), 3(a)(2)(B)(i)(c)(IX) and 3(a)(2)(B)(i)(d)(IX) above.

²⁶² *Id.*

²⁶³ See Section 3(a)(2)(B)(i)(a)(IX) above.

²⁶⁴ See Sections 3(a)(2)(B)(i)(a)(IX), 3(a)(2)(B)(i)(b)(IX), 3(a)(2)(B)(i)(c)(IX) and 3(a)(2)(B)(i)(d)(IX) above.

Thornton and the costs related to such services are described above.²⁶⁵

The professional and administrative costs also include costs related to the receipt of certain market data from Exegy. After performing an analysis of the available market data vendors to confirm that the data provided met the SIP Data requirements of the CAT NMS Plan and comparing the costs of the vendors providing the required SIP Data, CAT LLC determined to purchase market data from Exegy. Exegy provided the data elements required by the CAT NMS Plan, and the fees were reasonable and in line with market rates for the market data received.²⁶⁶

The professional and administrative costs also include costs related to a third party security assessment of the CAT performed by RSM. The assessment was designed to verify and validate the effective design, implementation and operation of the controls specified by NIST Special Publication 800–53, Revision 4 and related standards and guidelines. Such a security assessment is in line with industry practice and important given the data included in the CAT. CAT LLC determined to engage RSM to perform the security assessment, after considering a variety of factors in its analysis, including the firm's relevant expertise and fees. The fees were reasonable and in line with market rates for such an assessment.²⁶⁷

(x) Public Relations Costs

In approving the CAT Funding Model, the SEC recognized that it is appropriate to recover public relations costs as a part of Historical CAT Assessments.²⁶⁸ CAT LLC determined that the public relations costs described in this filing are reasonable and should be included as a part of Historical CAT Costs 1. CAT LLC determined that the types of public relations services utilized were beneficial to the CAT and market participants more generally. Public relations services were important for various reasons, including monitoring comments made by market participants about CAT and understanding issues related to the CAT discussed on the public record.²⁶⁹ By engaging a public relations firm, CAT LLC was better positioned to understand and address CAT issues to the benefit of all market participants.²⁷⁰ Moreover, CAT LLC

determined that the rates charged for such services were in line with market rates.²⁷¹ As noted above, the total public relations costs through FAM Period 3 represent a small percentage of Historical CAT Costs 1—that is, 0.1% of Historical CAT Costs 1.

(B) Total Executed Equivalent Share Volume for the Prior 12 Months

The total executed equivalent share volume of transactions in Eligible Securities for the 12-month period from March 2025 through February 2026 was 5,980,937,549,360.49 executed equivalent shares. CAT LLC determined the total executed equivalent share volume for the prior twelve months by counting executed equivalent shares in the same manner as it will count executed equivalent shares for CAT billing purposes.

(C) Historical Recovery Period 1A

CAT LLC has determined to establish a Historical Recovery Period of 24 months for Historical CAT Assessment 1A and that such length is reasonable. CAT LLC determined that the length of Historical Recovery Period 1A appropriately weighs the need for a reasonable fee rate for Historical CAT Assessment 1A that spreads the Historical CAT Costs over an appropriate amount of time and the need to repay the loans notes to the Participants in a timely fashion. CAT LLC determined that 24 months for Historical Recovery Period 1A would establish a fee rate that is lower than other transaction-based fees, including fees assessed pursuant to Section 31.²⁷² In addition, in establishing a Historical Recovery Period of 24 months, CAT LLC recognized that the total cost for Historical CAT Assessment 1A was less than the total costs for 2022 and 2023, and therefore it would be appropriate to recover those costs in two years.

(D) Projected Executed Equivalent Share Volume for Historical Recovery Period 1A

CAT LLC has determined to calculate the projected total executed equivalent share volume for the 24 months of Historical Recovery Period 1A by doubling the executed equivalent share volume for the prior 12 months. The Operating Committee determined that such an approach was reasonable as the CAT's annual executed equivalent share volume has increased from prior years (e.g., the executed equivalent share

volume for 2024 was 4,295,884,600,069.4) and the Operating Committee believes that it is reasonable to conclude that the annual executed equivalent share volume will remain at the higher level. Accordingly, the projected total executed equivalent share volume for Historical Recovery Period 1A is projected to be 11,961,875,098,720.98 executed equivalent shares.²⁷³

(E) Actual Fee Rate for Historical CAT Assessment 1A

(i) Decimal Places

As noted in the Plan amendment for the CAT Funding Model, as a practical matter, the fee filing for a Historical CAT Assessment would provide the exact fee per executed equivalent share to be paid for each Historical CAT Assessment, and describe the relevant number of decimal places for the fee rate.²⁷⁴ Accordingly, proposed paragraph (a)(2)(B) of the fee schedule would set forth a fee rate of \$0.000002 per executed equivalent share. CAT LLC determined that the use of six decimal places is reasonable as it balances the accuracy of the calculation with the potential systems and other impracticalities of using additional decimal places in the calculation.

(ii) Reasonable Fee Level

The Exchange believes that imposing Historical CAT Assessment 1A with a fee rate of \$0.000002 per executed equivalent share is reasonable because it provides for a revenue stream for the Company that is aligned with the remaining Historical CAT Costs 1 and such costs would be spread out over an appropriate recovery period, as discussed above. Moreover, the Exchange believes that the level of the fee rate is reasonable, as it is comparable to other transaction-based fees. Indeed, Historical CAT Assessment 1A is significantly lower than fees assessed pursuant to Section 31 (e.g., \$0.00007 per share to \$0.00072 per share),²⁷⁵ and, as a result, the magnitude of Historical CAT Assessment 1A is small, and therefore will mitigate any potential adverse economic effects or inefficiencies. Furthermore, the reasonable fee rate for Historical CAT Assessment 1A further supports CAT LLC's decision to seek to recover the costs described herein.

²⁶⁵ *Id.*

²⁶⁶ See Section 3(a)(2)(B)(i)(a)(IX) above.

²⁶⁷ *Id.*

²⁶⁸ Section 11.3(b)(iii)(B)(II)(B)(6) of the CAT NMS Plan.

²⁶⁹ See Section 3(a)(2)(B)(i)(a)(X) above.

²⁷⁰ See Sections 3(a)(2)(B)(i)(a)(X), 3(a)(2)(B)(i)(b)(X), 3(a)(2)(B)(i)(c)(X) and 3(a)(2)(B)(i)(d)(X) above.

²⁷¹ *Id.*

²⁷² As the SEC noted in the CAT Funding Model Approval Order, recent Section 31 fees ranged from \$0.00007 per share to \$0.00072 per share. CAT Funding Model Approval Order at 13469.

²⁷³ This projection was calculated by multiplying 5,980,937,549,360.49 executed equivalent shares by two.

²⁷⁴ CAT Funding Model Approval Order at 13445, n.677.

²⁷⁵ *Id.* at 13469.

(3) Historical CAT Assessment 1A Provides for an Equitable Allocation of Fees

Historical CAT Assessment 1A provides for an equitable allocation of fees, as it equitably allocates CAT costs between and among the Participants and Industry Members. The SEC approved the CAT Funding Model, finding that each aspect of the CAT Funding Model satisfied the requirements of the Exchange Act, including the formula for calculating Historical CAT Assessments as well as the Industry Members to be charged the Historical CAT Assessments.²⁷⁶ In approving the CAT Funding Model, the SEC stated that “[t]he Participants have sufficiently demonstrated that the proposed allocation of fees is appropriate.”²⁷⁷ Accordingly, the CAT Funding Model sets forth the requirements for allocating fees related to Historical CAT Costs among Participants and Industry Members, and the fee filings for Historical CAT Assessments must comply with those requirements.

Historical CAT Assessment 1A provides for an equitable allocation of fees as it complies with the requirements regarding the calculation of Historical CAT Assessments as set forth in the CAT NMS Plan. For example, as described above, the calculation of Historical CAT Assessment 1A complies with the formula set forth in Section 11.3(b) of the CAT NMS Plan. In addition, Historical CAT Assessment 1A would be charged to CEBBs and CEBs in accordance with Section 11.3(b) of the CAT NMS Plan. Furthermore, the Participants would continue to remain responsible for their designated share of Past CAT Costs through the cancellation of loans made by the Participants to CAT LLC.

In addition, as discussed above, each of the inputs into the calculation of Historical CAT Assessment 1A—Historical CAT Costs 1 (including Excluded Costs) and the exclusion of costs previously invoiced via Historical CAT Assessment 1, the count for the executed equivalent share volume for the prior 12 months, the length of the Historical Recovery Period, and the projected executed equivalent share volume for the Historical Recovery Period—are reasonable. Moreover, these inputs lead to a reasonable fee rate for Historical CAT Assessment 1A that is lower than other fee rates for transaction-based fees. A reasonable fee rate allocated in accordance with the

requirements of the CAT Funding Model provides for an equitable allocation of fees.

(4) Historical CAT Assessment 1A Is Not Unfairly Discriminatory

Historical CAT Assessment 1A is not an unfairly discriminatory fee. The SEC approved the CAT Funding Model, finding that each aspect of the CAT Funding Model satisfied the requirements of the Exchange Act. In reaching this conclusion, the SEC analyzed the potential effect of Historical CAT Assessments calculated pursuant to the CAT Funding Model on affected categories of market participants, including Participants (including exchanges and FINRA), Industry Members (including subcategories of Industry Members, such as alternative trading systems, CAT Executing Brokers and market makers), and investors generally, and considered market effects related to equities and options, among other things. Historical CAT Assessment 1A complies with the requirements regarding the calculation of Historical CAT Assessments as set forth in the CAT NMS Plan. In addition, as discussed above, each of the inputs into the calculation of Historical CAT Assessment 1A and the resulting fee rate for Historical CAT Assessment 1A is reasonable. Therefore, Historical CAT Assessment 1A does not impose an unfairly discriminatory fee on Industry Members.

Finally, the Exchange believes the proposed fees established pursuant to the CAT Funding Model promote just and equitable principles of trade, and, in general, protect investors and the public interest, and are provided in a transparent manner and specificity in the fee schedule. The Exchange also believes that the proposed fees are reasonable because they would provide ease of calculation, ease of billing and other administrative functions, and predictability of a fee based on fixed rate per executed equivalent share. Such factors are crucial to estimating a reliable revenue stream for CAT LLC and for permitting Exchange members to reasonably predict their payment obligations for budgeting purposes.

B. Self-Regulatory Organization's Statement on Burden on Competition

Section 6(b)(8) of the Act²⁷⁸ requires that the Exchange's rules not impose any burden on competition that is not necessary or appropriate in furtherance of the purpose of the Exchange Act. The Exchange does not believe that the proposed rule change will result in any

burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange notes that Historical CAT Assessment 1A implements provisions of the CAT NMS Plan that were approved by the Commission and is designed to assist the Exchange in meeting its regulatory obligations pursuant to the Plan.

In addition, all Participants (including exchanges and FINRA) are proposing to introduce Historical CAT Assessment 1A on behalf of CAT LLC to implement the requirements of the CAT NMS Plan. Therefore, this is not a competitive fee filing, and, therefore, it does not raise competition issues between and among the Participants.

Furthermore, in approving the CAT Funding Model, the SEC analyzed the potential competitive impact of the CAT Funding Model, including competitive issues related to market services, trading services and regulatory services, efficiency concerns, and capital formation.²⁷⁹ The SEC also analyzed the potential effect of CAT fees calculated pursuant to the CAT Funding Model on affected categories of market participants, including Participants (including exchanges and FINRA), Industry Members (including subcategories of Industry Members, such as alternative trading systems, CAT Executing Brokers and market makers), and investors generally, and considered market effects related to equities and options, among other things. Based on this analysis, the SEC approved the CAT Funding Model as compliant with the Exchange Act. Historical CAT Assessment 1A is calculated and implemented in accordance with the CAT Funding Model as approved by the SEC.

As discussed above, each of the inputs into the calculation of Historical CAT Assessment 1A is reasonable and the resulting fee rate for Historical CAT Assessment 1A calculated in accordance with the CAT Funding Model is reasonable. Therefore, Historical CAT Assessment 1A would not impose any burden on competition that is not necessary or appropriate in furtherance of the purpose of the Exchange Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Not applicable.

²⁷⁶ See Section 11.3(b) of the CAT NMS Plan.

²⁷⁷ CAT Funding Model Approval Order at 13412.

²⁷⁸ 15 U.S.C. 78f(b)(8).

²⁷⁹ CAT Funding Model Approval Order at 13479–13481.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act²⁸⁰ and paragraph (f) of Rule 19b-4²⁸¹ thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and

arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-CBOE-2026-043 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.
- All submissions should refer to file number SR-CBOE-2026-043. 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-CBOE-2026-043 and should be submitted on or before June 4, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁸²

J. Matthew DeLesDernier,

Deputy Secretary.

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BILLING CODE 8011-01-P

²⁸⁰ 15 U.S.C. 78s(b)(3)(A).

²⁸¹ 17 CFR 240.19b-4(f).

²⁸² 17 CFR 200.30-3(a)(12).



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Part IV

Securities and Exchange Commission

Self-Regulatory Organizations; Cboe BYX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Fee Schedule Entitled "Consolidated Audit Trail Funding Fees"; Notice

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–105431; File No. SR–CboeBYX–2026–017]

Self-Regulatory Organizations; Cboe BYX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Fee Schedule Entitled “Consolidated Audit Trail Funding Fees”

May 11, 2026.

Pursuant to Section 19(b)(1) under the Securities Exchange Act of 1934 (“Act”),¹ and Rule 19b–4 thereunder,² notice is hereby given that on April 27, 2026, Cboe BYX Exchange, Inc. (the “Exchange” or “BYX”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of the Substance of the Proposed Rule Change

Cboe BYX Exchange, Inc. (the “Exchange” or “BYX”) proposes to amend its fee schedule entitled “Consolidated Audit Trail Funding Fees”³ to establish fees for Industry Members⁴ related to certain historical costs of the National Market System Plan Governing the Consolidated Audit Trail (the “CAT NMS Plan” or “Plan”) incurred prior to January 1, 2022 that were not previously invoiced via Historical CAT Assessment 1. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Commission’s website (<https://www.sec.gov/rules/sro.shtml>), the Exchange’s website (https://www.cboe.com/us/equities/regulation/rule_filings/bzx/), and at the principal office of the Exchange.

II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On July 11, 2012, the Commission adopted Rule 613 of Regulation NMS, which required the self-regulatory organizations (“SROs”) to submit a national market system (“NMS”) plan to create, implement and maintain a consolidated audit trail that would capture customer and order event information for orders in NMS securities across all markets, from the time of order inception through routing, cancellation, modification or execution.⁵ On November 15, 2016, the Commission approved the CAT NMS Plan.⁶ Under the CAT NMS Plan, the Operating Committee has the discretion to establish funding for CAT LLC to operate the CAT, including establishing fees for Industry Members to be assessed by CAT LLC that would be implemented on behalf of CAT LLC by the Participants.⁷ On September 5, 2025, CAT LLC proposed a revised funding model to fund the CAT (“CAT Funding Model”).⁸ On March 16, 2026, the Commission approved the CAT Funding Model, after concluding that the model satisfied the requirements of Section 11A of the Exchange Act and Rule 608 thereunder.⁹

The CAT Funding Model provides a framework for the recovery of the costs to create, develop and maintain the CAT, including providing a method for allocating costs to fund the CAT among Participants and Industry Members. The CAT Funding Model establishes two categories of fees: (1) CAT fees assessed by CAT LLC and payable by certain Industry Members to recover a portion of historical CAT costs previously paid by the Participants (“Historical CAT Assessment” fees); and (2) CAT fees assessed by CAT LLC and payable by Participants and Industry Members to fund prospective CAT costs (“Prospective CAT Costs” fees).¹⁰

Under the CAT Funding Model, “[t]he Operating Committee will establish one or more fees (each a ‘Historical CAT Assessment’) to be payable by Industry Members with regard to CAT costs previously paid by the Participants (‘Past CAT Costs’).”¹¹ In establishing a Historical CAT Assessment, the Operating Committee will determine a “Historical Recovery Period” and calculate a “Historical Fee Rate” for that Historical Recovery Period. Then, for each month in which a Historical CAT Assessment is in effect, each CEBB and CEBS would be required to pay the fee—the Historical CAT Assessment—for each transaction in Eligible Securities executed by the CEBB or CEBS from the prior month as set forth in CAT Data, where the Historical CAT Assessment for each transaction will be calculated by multiplying the number of executed equivalent shares in the transaction by one-third and by the Historical Fee Rate.¹²

Each Historical CAT Assessment to be paid by CEBBs and CEBSs is designed to contribute toward the recovery of two-thirds of the Historical CAT Costs. Because the Participants previously have paid Past CAT Costs via loans to the Company, the Participants would not be required to pay any Historical

¹⁰ Under the CAT Funding Model, the Operating Committee may establish one or more Historical CAT Assessments. Section 11.3(b) of the CAT NMS Plan. This filing only establishes Historical CAT Assessment 1A related to certain Historical CAT Costs as described herein; it does not address any other potential Historical CAT Assessment related to other Historical CAT Costs. In addition, under the CAT Funding Model, the Operating Committee also may establish CAT Fees related to CAT costs going forward. Section 11.3(a) of the CAT NMS Plan. This filing does not address any potential CAT Fees related to CAT costs going forward. Any such other fee for any other Historical CAT Assessment or CAT Fee for Prospective CAT Costs will be subject to a separate fee filing.

¹¹ Section 11.3(b) of the CAT NMS Plan.

¹² In approving the CAT Funding Model, the Commission stated that, “[i]n the Commission’s view, the proposed recovery of the Past CAT Costs via the Historical CAT Assessment is appropriate.” CAT Funding Model Approval Order at 13450.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

³ The Exchange and each of its affiliated exchanges (Cboe BZX Exchange, Inc., Cboe C2 Exchange, Inc., Cboe Exchange, Inc., Cboe EDGA Exchange, Inc., and Cboe EDGX Exchange, Inc.) are filing to adopt the same amendment to this fee schedule.

⁴ An “Industry Member” is defined as “a member of a national securities exchange or a member of a national securities association.” See Exchange Rule 4.5(u); see also Section 1.1 of the CAT NMS Plan. Unless otherwise specified, capitalized terms used in this rule filing are defined as set forth in the CAT NMS Plan and/or the CAT Compliance Rule. See Rule 4.5–4.17.

⁵ Securities Exchange Act Rel. No. 67457 (July 18, 2012), 77 FR 45721 (Aug. 1, 2012) (“Rule 613 Adopting Release”).

⁶ Securities Exchange Act Rel. No. 79318 (Nov. 15, 2016), 81 FR 84696 (Nov. 23, 2016) (“CAT NMS Plan Approval Order”).

⁷ Section 11.1(b) of the CAT NMS Plan.

⁸ Securities Exchange Act Rel. No. 103960 (Sept. 12, 2025), 90 FR 44910 (Sept. 17, 2025).

⁹ Securities Exchange Act Rel. No. 105003 (Mar. 16, 2026), 91 FR 13410 (Mar. 29, 2026) (“CAT Funding Model Approval Order”). This CAT Funding Model replaced the prior funding model that was approved by the Commission on September 6, 2023. Securities Exchange Act Rel. No. 98290 (Sept. 6, 2023), 88 FR 62628 (Sept. 12, 2023).

CAT Assessment. In lieu of a Historical CAT Assessment, the Participants' one-third share of Historical CAT Costs will be paid by the cancellation of loans made by the Participants to the Company on a pro rata basis based on the outstanding loan amounts due under the loans, instead of through the payment of a CAT fee.¹³ In addition, the Participants also will be 100% responsible for certain Excluded Costs (as discussed below).

CAT LLC proposes to charge CEBBs and CEBs (as described in more detail below) Historical CAT Assessment 1A to recover certain historical CAT costs incurred prior to January 1, 2022, in accordance with the CAT Funding Model. To implement this fee on behalf of CAT LLC, the CAT NMS Plan requires the Participants to "file with the SEC under Section 19(b) of the Exchange Act any such fees on Industry Members that the Operating Committee approves, and such fees shall be labeled as 'Consolidated Audit Trail Funding Fees.'" ¹⁴ The Plan further states that "Participants will be required to file with the SEC pursuant to Section 19(b) of the Exchange Act a filing for each Historical CAT Assessment."¹⁵ Accordingly, the purpose of this filing is to implement a Historical CAT Assessment on behalf of CAT LLC for Industry Members, referred to as Historical CAT Assessment 1A, in accordance with the CAT NMS Plan.¹⁶

The Exchange, along with the other Participants in the CAT, previously filed a fee filing to implement Historical CAT Assessment 1.¹⁷ Based on the fee filing for Historical CAT Assessment 1, Historical CAT Assessment 1 was expected to be in effect from the first invoice in November 2024 until \$212,039,879.34 (two-thirds of Historical CAT Costs 1) was invoiced to CAT Executing Brokers collectively.¹⁸ However, Historical CAT Assessment 1 ceased before the entire amount was invoiced.¹⁹ The last invoice for Historical CAT Assessment 1 was provided on December 2025, after only \$173,075,024 of the total \$212,039,879.34 had been invoiced to Industry Members.²⁰ Accordingly, \$38,964,855.34 of Historical CAT Costs 1 has not been invoiced. Historical CAT Assessment 1A would seek to recover this outstanding amount of Historical CAT Costs 1 that has not been invoiced.

(1) CAT Executing Brokers

Historical CAT Assessment 1A will be charged to each CEBB and CEBs for each applicable transaction in Eligible Securities.²¹ The CAT NMS Plan defines a "CAT Executing Broker" to mean:

(a) with respect to a transaction in an Eligible Security that is executed on an exchange, the Industry Member identified as the Industry Member responsible for the order on the buy-side of the transaction and the Industry

Member responsible for the sell-side of the transaction in the equity order trade event and option trade event in the CAT Data submitted to the CAT by the relevant exchange pursuant to the Participant Technical Specifications; and (b) with respect to a transaction in an Eligible Security that is executed otherwise than on an exchange and required to be reported to an equity trade reporting facility of a registered national securities association, the Industry Member identified as the executing broker and the Industry Member identified as the contra-side executing broker in the TRF/ORF/ADF transaction data event in the CAT Data submitted to the CAT by FINRA pursuant to the Participant Technical Specifications; provided, however, in those circumstances where there is a non-Industry Member identified as the contra-side executing broker in the TRF/ORF/ADF transaction data event or no contra-side executing broker is identified in the TRF/ORF/ADF transaction data event, then the Industry Member identified as the executing broker in the TRF/ORF/ADF transaction data event would be treated as CAT Executing Broker for the Buyer and for the Seller.²²

The following fields of the Participant Technical Specifications indicate the CAT Executing Brokers for the transactions executed on an exchange.

EQUITY ORDER TRADE (EOT)²³

No.	Field name	Data type	Description	Include key
12.n.8/13.n.8	member	Member Alias	The identifier for the member firm that is responsible for the order on this side of the trade. Not required if there is no order for the side as indicated by the NOBUYID/NOSELLID instruction. This must be provided if orderID is provided.	C

¹³ Section 11.3(b)(ii) of the CAT NMS Plan.

¹⁴ Section 11.1(b) of the CAT NMS Plan.

¹⁵ Section 11.3(b)(iii)(B)(I) of the CAT NMS Plan.

¹⁶ Note that there may be one or more Historical CAT Assessments. Section 11.3(b) of the CAT NMS Plan.

¹⁷ Securities Exchange Act Release No. 100939 (September 5, 2024), 89 FR 73902 (September 11, 2024) (SR-CboeBYX-2024-031) ("Historical CAT Assessment 1 Filing").

¹⁸ See Consolidated Audit Trail Funding Fees (a)(1).

¹⁹ In response to the Eleventh Circuit's decision vacating the prior CAT NMS Plan funding model, the last invoices for Historical CAT Assessment 1 were sent in December 2025 based on November 2025 transactions. See *American Securities*

Association v. SEC, No. 23-13396 (11th Cir. July 25, 2025).

²⁰ CAT Fee Alert 2025-4 (Nov. 25, 2025).

²¹ In its approval order for the CAT Funding Model, the Commission determined that charging CAT fees to CAT Executing Brokers was appropriate. In reaching this conclusion the Commission noted that the use of CAT Executing Brokers is appropriate because the CAT Funding Model is based upon the calculation of *executed* equivalent shares, and, therefore, charging CAT Executing Brokers would reflect their executing role in each transaction. Furthermore, the Commission noted that, because CAT Executing Brokers are already identified in transaction reports from the exchanges and FINRA's equity trade reporting facilities recorded in CAT Data, charging CAT

Executing Brokers could streamline the billing process. CAT Funding Model Approval Order at 13413.

²² Section 1.1 of the CAT NMS Plan. In its approval order for the CAT Funding Model, the Commission "recognize[d] that Industry Members may pass-through CAT fees for customer executed volume." See CAT Funding Model Approval Order at 13424.

²³ See Table 23, Section 4.7 (Order Trade Event) of the CAT Reporting Technical Specifications for Plan Participants, Version 4.2.0-r2 (Feb. 24, 2026), https://www.catnmsplan.com/sites/default/files/2026-02/02.24.2026-CAT_Reporting_Technical_Specifications_for_Participants_4.2.0-r2.pdf ("CAT Reporting Technical Specifications for Plan Participants").

OPTION TRADE (OT)²⁴

No.	Field name	Data type	Description	Include key
16.n.13/17.n.13	member	Member Alias	The identifier for the member firm that is responsible for the order.	R

In addition, the following fields of the Participant Technical Specifications would indicate the CAT Executing

Brokers for the transactions executed otherwise than on an exchange.

TRF/ORF/ADF TRANSACTION DATA EVENT (TRF)²⁵

No.	Field name	Data type	Description	Include key
26	reportingExecutingMpid	Member Alias	MPID of the executing party	R
28	contraExecutingMpid	Member Alias	MPID of the contra-side executing party	C

(2) Calculation of Fee Rate for Historical CAT Assessment 1A

The Operating Committee determined the fee rate to be used in calculating Historical CAT Assessment 1A based on the Historical CAT Costs for Historical CAT Assessment 1A and the projected total executed share volume of all transactions in Eligible Securities for the Historical Recovery Period for Historical CAT Assessment 1A (“Historical Recovery Period 1A”), as discussed in detail below. Based on this calculation, the Operating Committee has determined that the fee rate for Historical CAT Assessment 1A would be \$0.000002, as discussed in detail below.

(A) Executed Equivalent Shares for Transactions in Eligible Securities

Under the CAT NMS Plan, for purposes of calculating each Historical CAT Assessment, executed equivalent shares in a transaction in Eligible Securities will be reasonably counted as follows: (1) each executed share for a transaction in NMS Stocks will be counted as one executed equivalent share; (2) each executed contract for a transaction in Listed Options will be counted based on the multiplier applicable to the specific Listed Options (*i.e.*, 100 executed equivalent shares or such other applicable multiplier); and (3) each executed share for a transaction in OTC Equity Securities shall be counted as 0.01 executed equivalent share.²⁶

(B) Historical CAT Costs

The CAT NMS Plan states that “[t]he Operating Committee will reasonably determine the Historical CAT Costs sought to be recovered by each Historical CAT Assessment, where the Historical CAT Costs will be Past CAT Costs minus Past CAT Costs reasonably excluded from Historical CAT Costs by the Operating Committee. Each Historical CAT Assessment will seek to recover from CAT Executing Brokers two-thirds of Historical CAT Costs incurred during the period covered by the Historical CAT Assessment.”²⁷ Historical CAT Assessment 1, the original Historical CAT Assessment, was implemented to recover \$212,039,879.34 of Historical CAT Costs 1 from CEBBs and CEBBs collectively.²⁸ As described in the fee filings for Historical CAT Assessment 1, Historical CAT Costs 1 of \$212,039,879.34 includes Past CAT Costs of \$401,312,909 minus certain Excluded Costs of \$83,253,090. As described in the filing for Historical CAT Assessment 1, Participants collectively will remain responsible for one-third of Historical CAT Costs 1 (which is \$106,019,939.67), plus the Excluded Costs of \$83,253,090. Accordingly, CEBBs collectively will be responsible for one-third of Historical CAT Costs 1 (which is \$106,019,939.67), and CEBBs collectively will be responsible for one-third of Historical CAT Costs 1 (which is \$106,019,939.67), for a total of \$212,039,879.34. CEBBs and CEBBs collectively have been invoiced for \$173,075,024 of the

\$212,039,879.34 of Historical CAT Costs 1 via Historical CAT Assessment 1. Accordingly, Historical CAT Assessment 1A would charge CEBBs and CEBBs collectively for the remaining \$38,964,855.34 of Historical CAT Costs 1 that was not invoiced to CEBBs and CEBBs via Historical CAT Assessment 1. Historical CAT Assessment 1A will be designed to recover the remaining \$38,964,855.34 of Historical CAT Costs 1 from CEBBs and CEBBs collectively, with CEBBs collectively responsible for \$19,482,427.67 and CEBBs collectively responsible for \$19,482,427.67.

(i) Historical CAT Costs 1

The following describes in detail Historical CAT Costs 1 with regard to four separate historical time periods as well as Past CAT Costs excluded from Historical CAT Costs 1 (“Excluded Costs”). The following cost details are provided in accordance with the requirement in the CAT NMS Plan to provide in the fee filing “a brief description of the amount and type of Historical CAT Costs, including (1) the technology line items of cloud hosting services, operating fees, CAIS operating fees, change request fees, and capitalized developed technology costs, (2) legal, (3) consulting, (4) insurance, (5) professional and administration and (6) public relations costs.”²⁹ Each of the costs described below are reasonable, appropriate and necessary for the creation, implementation and maintenance of CAT. These Historical

²⁴ See Table 52, Section 5.2.5.1 (Simple Option Trade Event) of the CAT Reporting Technical Specifications for Plan Participants.

²⁵ See Table 62, Section 6.1 (TRF/ORF/ADF Transaction Data Event) of the CAT Reporting Technical Specifications for Plan Participants.

²⁶ Section 11.3(a)(i)(B) and 11.3(b)(i)(B) of the CAT NMS Plan. In approving the CAT Funding Model, the Commission concluded that “in the Commission’s view, the use of executed equivalent share volume as the basis for determining and allocating CAT costs during the two-year interim period is appropriate and consistent with the

funding principles of the CAT NMS Plan.” CAT Funding Model Approval Order at 13427.

²⁷ Section 11.3(b)(i)(C) of the CAT NMS Plan.

²⁸ See Historical CAT Assessment 1 Filing at 73923–73924.

²⁹ Section 11.3(b)(iii)(B)(II)(B) of the CAT NMS Plan.

CAT Costs 1 are the same as described in the fee filing for Historical CAT Assessment 1.³⁰

(a) Historical CAT Costs Incurred Prior to June 22, 2020 (Pre-FAM Costs)

Historical CAT Costs 1 would include costs incurred by CAT prior to June 22, 2020 ("Pre-FAM Period") and already

funded by the Participants, excluding Excluded Costs (described further below). Historical CAT Costs 1 would include costs for the Pre-FAM Period of \$124,290,730. The Participants would remain responsible for one-third of this cost (which they have previously paid) (\$41,430,243.33), and Industry Members would be responsible for the remaining

two-thirds, with CEBBs paying one-third (\$41,430,243.33) and CEBBs paying one-third (\$41,430,243.33). These costs do not include Excluded Costs, as discussed further below. The following table breaks down Historical CAT Costs 1³¹ for the Pre-FAM Period into the categories set forth in Section 11.3(b)(iii)(B)(II) of the CAT NMS Plan.

Operating expense	Historical CAT costs 1 for Pre-FAM Period (prior to June 22, 2020)
Capitalized Developed Technology Costs *	\$51,847,150
Technology Costs	33,568,579
Cloud Hosting Services	10,268,840
Operating Fees	21,085,485
CAIS Operating Fees	2,072,908
Change Request Fees	141,346
Legal	19,674,463
Consulting	17,013,414
Insurance	880,419
Professional and administration	1,082,036
Public relations	224,669
Total Operating Expenses	124,290,730

* The non-cash amortization of these capitalized developed technology costs of \$2,115,545 incurred during the period prior to June 22, 2020 have been appropriately excluded from the above table.³²

The Pre-FAM Period includes a broad range of CAT-related activity from 2012 through June 22, 2020, including the evaluation of the requirements of SEC Rule 613, the development of the CAT NMS Plan, the evaluation and selection of the initial and successor Plan Processors, the commencement of the creation and implementation of the CAT to comply with Rule 613 and the CAT NMS Plan, including technical specifications for transaction reporting and regulatory access, and related technology and the commencement of reporting to the CAT. The following describes the costs for each of the categories for the Pre-FAM Period.

(I) Technology Costs—Cloud Hosting Services

The \$10,268,840 in technology costs for cloud hosting services represent costs incurred for services provided by the cloud services provider for the CAT,

Amazon Web Services, Inc. ("AWS"), during the Pre-FAM Period.

As part of its proposal for acting as the successor Plan Processor for the CAT, FCAT selected AWS as a subcontractor to provide cloud hosting services. In 2019, after reviewing the capabilities of other cloud services providers, FCAT determined that AWS was the only cloud services provider at that time sufficiently mature and capable of providing the full suite of necessary cloud services for the CAT, including, for example, the security, resiliency and complexity necessary for the CAT computing requirements. The use of cloud hosting services is standard for this type of high-volume data activity and reasonable and necessary for implementation of the CAT, particularly given the substantial data volumes associated with the CAT.

Under the Plan Processor Agreement with FCAT, CAT LLC is required to pay FCAT the fees incurred by the Plan

Processor for cloud hosting services provided by AWS as FCAT's subcontractor on a monthly basis for the cloud hosting services, and FCAT, in turn, pays such fees to AWS. The fees for cloud hosting services were negotiated by FCAT on an arm's length basis with the goals of managing cost and receiving services required to comply with the CAT NMS Plan and Rule 613, taking into consideration a variety of factors, including the expected volume of data, the breadth of services provided and market rates for similar services. The fees for cloud hosting services during the Pre-FAM Period were paid to FCAT by CAT NMS, LLC³³ and subsequently Consolidated Audit Trail, LLC (as previously noted, both entities are referred to generally as "CAT LLC"),³⁴ and FCAT, in turn, paid AWS. CAT LLC was funded via loan contributions by the Participants.³⁵

AWS was engaged by FCAT to provide a broad array of cloud hosting

³⁰ See generally Historical CAT Assessment 1 Filing.

³¹ The costs described in this table of costs for the Pre-FAM Period were calculated based upon CAT LLC's review of applicable bills and invoices and related financial statements. CAT LLC financial statements are available on the CAT website. In addition, in accordance with Section 6.6(a)(i) of the CAT NMS Plan, in 2018 CAT LLC provided the SEC with "an independent audit of fees, costs, and expenses incurred by the Participants on behalf of the Company prior to the Effective Date of the Plan that will be publicly available." The audit is available on the CAT website.

³² With respect to certain costs that were "appropriately excluded," such excluded costs

relate to the amortization of capitalized technology costs, which are amortized over the life of the Plan Processor Agreement. As such costs have already been otherwise reflected in the filing, their inclusion would double count the capitalized technology costs. In addition, amortization is a non-cash expense.

³³ CAT NMS, LLC was formed by FINRA and the U.S. national securities exchanges to implement the requirements of SEC Rule 613 under the Exchange Act. SEC Rule 613 required the SROs to jointly submit to the SEC the CAT NMS Plan to create, implement and maintain the CAT. The SEC approved the CAT NMS Plan on November 15, 2016. CAT NMS Plan Approval Order.

³⁴ On August 29, 2019, the Participants formed a new Delaware limited liability company named Consolidated Audit Trail, LLC for the purpose of conducting activities related to the CAT from and after the effectiveness of the proposed amendment of the CAT NMS Plan to replace CAT NMS, LLC. See Securities Exchange Act Rel. No. 87149 (Sept. 27, 2019), 84 FR 52905 (Oct. 3, 2019).

³⁵ For each of the costs paid by CAT NMS, LLC and Consolidated Audit Trail, LLC as discussed throughout this filing, CAT NMS, LLC and Consolidated Audit Trail, LLC paid these costs via loan contributions by the Participants to CAT NMS, LLC and Consolidated Audit Trail, LLC, respectively.

services for the CAT, including data ingestion, data management, and analytic tools. Services provided by AWS include storage services, databases, compute services and other services (such as networking, management tools and DevOps tools). AWS also was engaged to provide various environments for CAT, such as development, performance testing, test and production environments.

The cost for AWS services for the CAT is a function of the volume of CAT Data. The greater the amount of CAT Data, the greater the cost of AWS

services to the CAT. During the Pre-FAM Period from the engagement of AWS in February 2019 through June 2020, AWS provided cloud hosting services for volumes of CAT Data far in excess of the volume predictions set forth in the CAT NMS Plan. The CAT NMS Plan states, when all CAT Reporters are submitting their data to the CAT, it “must be sized to receive[,] process and load more than 58 billion records per day,”³⁶ and that “[i]t is expected that the Central Repository will grow to more than 29 petabytes of raw, uncompressed data.”³⁷ However,

the volume of CAT Data for the Pre-FAM Period was far in excess of these predicted levels. By the end of this period, data submitted to the CAT included options and equities Participant Data,³⁸ Phase 2a and Phase 2b Industry Member Data³⁹ (including certain linkages), as well as SIP Data,⁴⁰ reference data and other types of Other Data.⁴¹ The following chart provides data regarding the average daily volume, cumulative total events, total compute hours and storage footprint of the CAT during the Pre-FAM Period.⁴²

	Date range: 3/29/19 to 4/12/20 *	Date range: 4/13/20 to 6/21/20 **
Average Daily Volume in Billions:		
Participant—Equities	5	5
Participant—Options	80	981
Industry Member—Equities		3
Industry Member—Options		0.04
SIP—Options & Equities	64	70
Average Total Daily Volume	149	166
Cumulative Total Events for the Period	3,890	4,990
Total Compute Hours for the Period	*** N/A	5,663,247
Storage Footprint at End of Period (Petabytes)	30.57	47.96

* The Participant Equities in RSA format.

** Start of Industry Member reporting on 4/13/2020

*** Note that, although there were compute hours during this period, data related to such compute hours are no longer available in current data.

(II) Technology Costs—Operating Fees

The \$21,085,485 in technology costs related to operating fees represent costs incurred with regard to activities of FCAT as the Plan Processor. Operating fees are those fees paid by CAT LLC to FCAT as the Plan Processor to operate and maintain the CAT and to perform business operations related to the system, including compliance, security, testing, training, communications with the industry (e.g., management of the FINRA CAT Helpdesk, FAQs, website and webinars) and program management as required by the CAT NMS Plan.

FCAT was selected to assume the role of the successor Plan Processor. Prior to this selection, the Participants engaged in discussions with two prior Bidders⁴³ for the successor Plan Processor role. The Operating Committee formed a Selection Subcommittee in accordance with Section 4.12 of the CAT NMS Plan to evaluate and review Bids and to make

a recommendation to the Operating Committee with respect to the selection of the successor Plan Processor. In an April 9, 2019 letter to the Commission, the Participants described the reasons for its selection of the successor Plan Processor:

The Selection Subcommittee considered factors including, but not limited to, the following, in recommending FINRA to the Operating Committee as the successor Plan Processor:

a. FINRA’s specialized technical expertise and capabilities in the area of broker-dealer technology;

b. The need to appoint a successor Plan Processor with specialized expertise to develop, implement, and maintain the CAT System in accordance with the CAT NMS Plan and SEC Rule 613;

c. FINRA’s detailed proposal in response to CATLLC’s recent inquiries; and

d. FINRA’s data query and analytics systems demonstration to the Participants.

Based on these and other factors, the Selection Subcommittee determined that FINRA was the most appropriate Bidder to become the successor Plan Processor.⁴⁴

On February 26, 2019, the Operating Committee (with FINRA recusing itself) voted to select FINRA as the successor Plan Processor pursuant to Section 6.1(t) of the CAT NMS Plan.⁴⁵ On March 29, 2019, CAT LLC and FCAT (a wholly owned subsidiary of FINRA) entered into a Plan Processor Agreement pursuant to which FCAT would perform the functions and duties of the Plan Processor contemplated by the CAT NMS Plan, including the management and operation of the CAT.

Under the Plan Processor Agreement with FCAT, CAT LLC is required to pay FCAT a negotiated monthly fixed price for the operation of the CAT. This fixed price contract was negotiated on an

³⁶ Appendix D–4 of the CAT NMS Plan at n.262.

³⁷ Appendix D–5 of the CAT NMS Plan.

³⁸ See Section 6.3(d) of the CAT NMS Plan.

³⁹ See Securities Exchange Rel. No. 88702 (Apr. 20, 2020), 85 FR 23075 (Apr. 24, 2020) (“Phased Reporting Exemptive Relief Order”) for a description of Phase 2a and Phase 2b Industry Member Data.

⁴⁰ See Section 6.5(a)(ii) of the CAT NMS Plan.

⁴¹ See Appendix C–109 of the CAT NMS Plan.

⁴² Note that the volume data described in this table does not include CAIS data.

⁴³ The term “Bidder” is defined in Section 1.1 of the CAT NMS Plan.

⁴⁴ Letter from Michael J. Simon, Chair, CAT NMS, LLC Operating Committee, to Brent J. Fields, Secretary, SEC (Apr. 9, 2019), <https://www.sec.gov/divisions/marketreg/rule613-info-notice-of-plan-processor-selection-040919.pdf>.

⁴⁵ *Id.*

arm's length basis with the goals of managing costs and receiving services required to comply with the CAT NMS Plan and Rule 613, taking into consideration a variety of factors, including the breadth of services provided and market rates for similar types of activity. The operating fees during the Pre-FAM Period were paid to FCAT by CAT LLC.

From March 29, 2019 (the commencement of the Plan Processor Agreement with FCAT) through June 22, 2020 (the end of the Pre-FAM Period), the Plan Processor's activities with respect to the CAT included the following:

- Commenced user acceptance testing with market data provided by Exegy Incorporated ("Exegy"), a market data provider;⁴⁶
- Published Technical Specifications and related reporting scenarios documents for Phase 2a, 2b and 2c reporting for Industry Members, after substantial engagement with SEC staff, Industry Members and Participants on the Technical Specifications;
- Facilitated testing for Phase 2a and 2b reporting for Industry Members;
- Began developing Technical Specifications and related reporting scenarios documents for Phase 2d reporting for Industry Members, after substantial engagement with SEC staff, Industry Members and Participants on the Technical Specifications;
- Published Central Repository Access Technical Specifications, and provided regulator access to test data from Industry Members;
- Facilitated Participant exchanges that support options market makers sending Quote Sent Time to the CAT;
- Facilitated the introduction of OPRA and Options NBBO Other Data to CAT;
- Addressed compliance items, including drafting CAT policies and procedures, and addressing requirements under Regulation SCI;
- Provided support to the Operating Committee, the Compliance Subcommittee and CAT working groups;
- Assisted with interpretive efforts and exemptive requests regarding the CAT NMS Plan;
- Oversaw the security of the CAT;
- Monitored the operation of the CAT, including with regard to Participant and Industry Member reporting;
- Provided support to subcontractors under the Plan Processor Agreement;

⁴⁶ The use of Exegy to provide market data, including the costs and market data provided, is discussed below in Section 3(a)(2)(B)(a)(IX).

- Provided support in discussions with Participants, the SEC and its staff;
- Operated the FINRA CAT Helpdesk, which is the primary source for answers to questions about CAT, including questions regarding: clock synchronization, firm reporting responsibilities, interpretive questions, technical specifications for reporting to CAT and more;
- Facilitated communications with the industry, including via FAQs, CAT Alerts, meetings, presentations and webinars;
- Administered the CAT website and all of its content;⁴⁷ and
- Provided technical support and assistance with connectivity, data access, and user support, including the use of CAT Data and query tools, for Participants and the SEC staff.

(III) Technology Costs—CAIS Operating Fees

The \$2,072,908 in technology costs related to CAIS operating fees represent the fees paid for FCAT's subcontractor charged with the development and operation of CAT's Customer and Account Information System ("CAIS"). The CAT is required under the CAT NMS Plan to capture and store Customer Identifying Information and Customer Account Information in a database separate from the transactional database and to create a CAT-Customer-ID for each Customer.

During the Pre-FAM Period, the CAIS-related services were provided by the Plan Processor through the Plan Processor's subcontractor, Kingland Systems Incorporation ("Kingland"). Kingland had experience operating in the securities regulatory technology space, and as a part of its proposal for acting as the Plan Processor for the CAT, FCAT selected Kingland as a subcontractor to provide certain CAIS-related services.

Under the Plan Processor Agreement with FCAT, CAT LLC was required to pay to the Plan Processor the fees incurred by FCAT for CAIS-related services provided by FCAT through Kingland on a monthly basis. FCAT negotiated the fees for Kingland's CAIS-related services on an arm's length basis with the goals of managing costs and receiving services required to comply with the CAT NMS Plan, taking into consideration a variety of factors, including the services to be provided and market rates for similar types of activity. The fees for CAIS-related services during the Pre-FAM Period

were paid by CAT LLC to FCAT. FCAT, in turn, paid Kingland.

During the Pre-FAM Period, Kingland began development of the CAIS Technical Specifications and the building of CAIS. In addition, Kingland also worked on the build related to the CCID Alternative, an alternative approach to customer information that was not included in the CAT NMS Plan as originally adopted.⁴⁸ Furthermore, Kingland also worked on the acceleration of the reporting of large trader identifiers ("LTID") earlier than originally contemplated during this period, in accordance with exemptive relief granted by the SEC.⁴⁹

(IV) Technology Costs—Change Request Fees

The technology costs related to change request fees include costs related to certain modifications, upgrades or other changes to the CAT. Change requests are standard practice and necessary to reflect operational changes, including changes related to new market developments, such as new market participants. In general, if CAT LLC determines that a modification, upgrade or other change to the functionality or service is necessary and appropriate, CAT LLC will submit a request for such a change to the Plan Processor. The Plan Processor will then respond to the request with a proposal for implementing the change, including the cost (if any) of such a change. CAT LLC then determines whether to approve the proposed change. The change request costs were paid by CAT LLC to FCAT. During the Pre-FAM Period, CAT LLC incurred costs of \$141,346 related to change requests implemented by FCAT. Such change requests related to a development fee regarding the OPRA and SIP data feeds, and the reprocessing of certain exchange data.⁵⁰

(V) Technology Costs—Capitalized Developed Technology Costs

This category of costs includes capitalizable application development costs incurred in the development of the CAT. The capitalized developed technology costs for the Pre-FAM Period of \$51,847,150 relate to technology provided by the Initial Plan Processor and the successor Plan Processor.

⁴⁸ For a discussion of the CCID Alternative, see Securities Exchange Act Rel. No. 88393 (Mar. 17, 2020), 85 FR 16152 (Mar. 20, 2020).

⁴⁹ Phased Reporting Exemptive Relief Order at 23079–80.

⁵⁰ Note that CAT LLC also has incurred costs related to specific Industry Members (e.g., reprocessing costs related to Industry Member reporting errors).

⁴⁷ The CAT website is <https://www.catnmsplan.com>.

Initial Plan Processor: Thesys CAT, LLC. The capitalized developed technology costs related to the Initial Plan Processor include costs incurred with regard to testing for Participant reporting, Participant reporting to the CAT, a security assessment of the CAT, and the development of the billing function for the CAT.

On January 17, 2017, the Selection Committee of the CAT NMS Plan selected the Initial Plan Processor, Thesys Technologies, LLC, for the CAT NMS Plan pursuant to Article V of the CAT NMS Plan.⁵¹ The Participants utilized a request for proposal ("RFP") to seek proposals to build and operate the CAT, receiving a number of proposals in response to the RFP. The Participants carefully reviewed and considered each of the proposals, including holding in-person meetings with each of the Bidders. After several rounds of review, the Participants selected the Initial Plan Processor in accordance with the CAT NMS Plan, taking into consideration that the Initial Plan Processor had experience operating in the securities regulatory technology space, among other considerations. On April 6, 2017, CAT LLC entered into an agreement with Thesys CAT LLC ("Thesys CAT"), a Thesys affiliate, to perform the functions and duties of the Plan Processor contemplated by the CAT NMS Plan, including the management and operation of the CAT. Under the agreement, CAT LLC would pay Thesys CAT a negotiated, fixed price fee for its role as the Initial Plan Processor. Effective January 30, 2019, the Plan Processor Agreement with Thesys CAT was terminated, and FCAT was subsequently selected as the successor Plan Processor.

From January 17, 2017 through January 30, 2019, the time in which Thesys CAT was engaged for the CAT, but excluding the period from November 15, 2017 through January 30, 2019, the Initial Plan Processor engaged in various activities with respect to the CAT, including preparing iterative drafts of Participant Technical Specifications, Industry Member Technical Specifications and the Central Repository Access Technical Specifications. In addition, Thesys CAT also developed CAT technology, addressed compliance items, including drafting CAT policies and procedures, addressing Regulation SCI requirements, establishing a CAT Compliance Officer and a Chief Information Security

Officer, addressed security-related matters for the CAT, and worked towards the initiation of Participant reporting per the Participant Technical Specifications.

Successor Plan Processor: FCAT. The capitalized developed technology costs related to FCAT include: (1) development costs incurred during the application development stage to meet various agreed-upon milestones regarding the CAT, including the completion of go-live functionality related to options ingestion and validation, equities regulatory services agreement query tool updates and unlinked options data query, options linkages release, Industry Member Phase 2a file submission and data integrity (including error corrections), and Industry Member testing, including reporting relationships, ATS order type management, basic reporting statistics, SFTP data integrity feedback and error correction; (2) costs related to certain modifications, upgrades, or other changes to the CAT that were not contemplated by the agreement between CAT LLC and the Plan Processor, including a one-time development fee for a secure analytics workspace, a one-time development fee for an Industry Member connectivity solution, and a one-time development fee for the acceleration of multi-factor authentication; (3) CAIS implementation fees; and (4) license fees.

(VI) Legal Costs

The legal costs of \$19,674,463 represent the fees paid for legal services provided by two law firms, Wilmer Cutler Pickering Hale and Dorr LLP ("WilmerHale") and Pillsbury Winthrop Shaw Pittman LLP ("Pillsbury"), during the Pre-FAM Period. The legal costs exclude those costs incurred from November 15, 2017 through November 15, 2018.

Law Firm: WilmerHale. Following the adoption of Rule 613, the Participants determined it was necessary to engage external legal counsel to advise the Participants with respect to corporate and regulatory legal matters related to the CAT, including drafting and developing the CAT NMS Plan. The Participants considered a variety of factors in their analysis of prospective law firms, including (1) the firm's qualifications, resources and expertise; (2) the firm's relevant experience and understanding of the regulatory matters raised by the CAT and in advising on matters of similar scope; (3) the composition of the legal team; and (4) professional fees. Following a series of interviews, the Participants acting as a

consortium determined that WilmerHale was well qualified given the balance of these considerations and engaged WilmerHale in February 2013.

WilmerHale's billing rates are negotiated on an annual basis and are determined with reference to the rates charged by other leading law firms for similar work. The Participants assess WilmerHale's performance and review prospective budgets and staffing plans submitted by WilmerHale on an annual basis. WilmerHale's compensation arrangements are reasonable and appropriate, and in line with the rates charged by other leading law firms for similar work.

The legal costs for WilmerHale during the Pre-FAM Period included costs incurred from 2013 until June 22, 2020 to address corporate and regulatory legal matters related to the CAT. The legal fees for this law firm during the period from February 2013 until the formation of the CAT NMS, LLC on November 15, 2016 were paid directly by the exchanges and FINRA to WilmerHale. After the formation of CAT NMS LLC, the legal fees were paid by CAT LLC to WilmerHale.

After WilmerHale was engaged in 2013 through the end of the Pre-FAM Period on June 22, 2020 (excluding the legal costs from November 15, 2017 through November 15, 2018), WilmerHale provided legal assistance to the CAT on a variety of matters, including with regard to the following:

- Analyzed various legal matters associated with the Selection Plan, and drafted an amendment to the Selection Plan;
- Assisted with the RFP and bidding process for the CAT Plan Processor;
- Analyzed legal matters related to the Development Advisory Group ("DAG");
- Drafted the CAT NMS Plan, analyzed various items related to the CAT NMS Plan, and responded to comment letters on CAT NMS Plan;
- Provided legal support for the formation of the legal entity, the governance of the CAT, including governance support prior to the adoption of the CAT NMS Plan, which involved support for the full committee of exchanges and FINRA as well as subcommittees of this group (e.g., Joint Subcommittee Group, Technical, Industry Outreach, Cost and Funding and Other Products) and the DAG, governance support during the transition to the new governance structure under the CAT NMS Plan, and governance support after the adoption of the CAT NMS Plan, which involved support for the Operating Committee, Advisory Committee, Compliance

⁵¹ Letter from the Participants to Brent J. Fields, Secretary, SEC (Jan. 18, 2017), <https://www.sec.gov/divisions/marketregrule613-info-notice-of-plan-processor-selection.pdf>.

Subcommittee and CAT working groups;

- Assisted with the development of the CAT funding model and drafted related amendments of the CAT NMS Plan and related filings;

- Negotiated and drafted the plan processor agreements with the Initial Plan Processor and the successor Plan Processor;

- Provided assistance with compliance with Regulation SCI;

- Assisted with clock synchronization study;

- Provided assistance with respect to the establishment of CAT security;

- Drafted exemptive requests from CAT NMS Plan requirements, including with regard to options market maker quotes, Customer IDs, CAT Reporter IDs, linking allocations to executions, CAT reporting timeline, FDIDs, customer and account information, timestamp granularity, small industry members, data facility reporting and linkage, allocation reports, SRO-assigned market participant identifiers and cancelled trade indicators, thereby seeking to implement changes that would be cost effective and benefit Industry Members and Participants;

- Assisted with the Implementation Plan required pursuant to Section 6.6(c)(i) of the CAT NMS Plan;

- Provided advice regarding CAT policies and procedures;

- Analyzed the SEC's amendment of the CAT NMS Plan regarding financial accountability;

- Provided interpretations of and related to the CAT NMS Plan;

- Provided support with regard to discussions with the SEC and its staff, including with respect to addressing interpretive and implementation issues; and

- Assisted with third-party vendor agreements.

Law Firm: Pillsbury. The legal costs for CAT during the Pre-FAM Period include costs related to the legal services performed by Pillsbury. The Participants interviewed this law firm as well as other potential law firms to provide legal assistance regarding certain liability matters. After considering a variety of factors in its analysis, including the relevant expertise and fees of the firm, CAT LLC determined to hire Pillsbury in April 2019. The hourly fee rates for this law firm were in line with market rates for specialized legal expertise. The legal fees were paid by CAT LLC to Pillsbury. The legal costs for Pillsbury during the Pre-FAM Period included costs incurred from April 2019 until June 22, 2020 to address legal matters regarding the agreements between CAT Reporters and

CAT LLC concerning certain terms associated with CAT Reporting (the "Reporter Agreement"). During that period, Pillsbury advised CAT LLC regarding applicable legal matters, participated in negotiations between the Participants and Industry Members, participated in meetings with senior SEC staff, the Chairman, and Commissioners, represented CAT LLC and the Participants in an SEC administrative proceeding, and drafted a proposed amendment to the CAT NMS Plan regarding liability matters. Liability issues related to the CAT are important matters that needed to be resolved and clarified. CAT LLC's efforts to seek such resolution and clarity work to the benefit of Participants, Industry Members and other market participants. Moreover, litigation involving CAT LLC is an expense of operating the CAT, and, therefore, is appropriately an obligation of both Participants and Industry Members under the CAT Funding Model.

(VII) Consulting Costs

The consulting costs of \$17,013,414 represent the fees paid to the consulting firm Deloitte & Touche LLP ("Deloitte") as project manager during the Pre-FAM Period, from October 2012 until June 22, 2020. These consulting costs include costs for advisory services related to the operation of the CAT, and meeting facilitation and communications coordination, vendor support and financial analyses.

To help facilitate project management given the unprecedented complexity and scope of the CAT project, the Participants determined it was necessary to engage a consulting firm to assist with the CAT project in 2012, following the adoption of Rule 613. A variety of factors were considered in the analysis of prospective consulting firms, including (1) the firm's qualifications, resources, and expertise; (2) the firm's relevant experience and understanding of the regulatory issues raised by the CAT and in coordinating matters of similar scope; (3) the composition of the consulting team; and (4) professional fees. Following a series of interviews, the exchanges and FINRA as a consortium determined that Deloitte was well qualified given the balance of these considerations and engaged Deloitte on October 1, 2012.

Deloitte's fee rates are negotiated on an annual basis and are in line with market rates for this type of specialized consulting work. CAT LLC assesses Deloitte's performance and reviews prospective budgets and staffing plans submitted by Deloitte on an annual basis. Deloitte's compensation

arrangements are reasonable and appropriate, and in line with the rates charged by other leading consulting firms for similar work.

The consulting costs for CAT during the period from 2012 until the formation of the CAT NMS, LLC were paid directly by the Participants to Deloitte. After the formation of CAT NMS, LLC, the consulting fees were paid by CAT LLC to Deloitte. CAT LLC reviewed the consulting fees each month and approved the invoices.

After Deloitte was hired in 2012 through the end of the Pre-FAM Period on June 22, 2020 (excluding the consulting costs from November 15, 2017 through November 15, 2018), Deloitte provided a variety of consulting services, including the following:

- Established and implemented program operations for the CAT project, including the program management office and workstream design;

- Assisted with the Plan Processor selection process, including but not limited to, the development of the RFP and the bidder evaluation process, and facilitation and consolidation of the Participant's independent reviews;

- Assisted with the development and drafting of the CAT NMS Plan, including conducting cost-benefit studies, analyzing OATS and CAT requirements, and drafting appendices to the Plan;

- Assisted with cost and funding-related activities for the CAT, including the development of the CAT funding model and assistance with loans and the CAT bank account for CAT funding;

- Provided governance support to the CAT, including governance support prior to the adoption of the CAT NMS Plan, which involved support for the full committee of exchanges and FINRA as well as subcommittees of this group (e.g., Joint Subcommittee Group, Technical, Industry Outreach, Cost and Funding and Other Products) and the DAG, governance support during the transition to the new governance structure under the CAT NMS Plan and governance support after the adoption of the CAT NMS Plan, which involved support for the Operating Committee, Advisory Committee, Compliance Subcommittee and CAT working groups;

- Provided support to the Operating Committee, the Chair of the Operating Committee and the Leadership Team, including project management support, coordination and planning for meetings and communications, and interfacing with law firms and the SEC;

- Assisted with industry outreach and communications regarding the CAT, including assistance with industry

outreach events, the development of the CAT website, frequently asked questions, and coordinating with the CAT LLC's public relations firm;

- Provided support for updating the SEC on the progress of the development of the CAT;

- Provided active planning and coordination with and support for the Initial Plan Processor with regard to the development of the CAT, and reported to the Participants on the progress;

- Coordinated efforts regarding the selection of the successor Plan Processor;

- Assisted with the transition from the Initial Plan Processor to the successor Plan Processor, including support for the Operating Committee and successor Plan Processor for the new role; and

- Provided support for third-party vendors for the CAT, including FCAT, Anchin and the law firms engaged by CAT LLC.

(VIII) Insurance

The insurance costs of \$880,419 represent the cost incurred for insurance for CAT during the Pre-FAM Period. Commencing in 2020, CAT LLC performed an evaluation of various potential alternatives for CAT insurance policies, which included engaging in discussions with different insurance companies and conducting cost comparisons of various alternative approaches to insurance. Based on an analysis of a variety of factors, including coverage and premiums, CAT LLC determined to purchase cyber security liability insurance, directors' and officers' liability insurance, and errors and omissions liability insurance from USI Insurance Services LLC ("USI"). Such policies are standard for corporate entities, and cyber security liability insurance is important for the CAT System. The annual premiums for these policies were competitive for the coverage provided. The annual premiums were paid by CAT LLC to USI.

(IX) Professional and Administration Costs

In adopting the CAT NMS Plan, the Commission amended the Plan to add a requirement that CAT LLC's financial statements be prepared in compliance with GAAP, audited by an independent public accounting firm, and made publicly available.⁵² The professional and administration costs include costs related to accounting and accounting advisory services to support the operating and financial functions of

CAT, financial statement audit services by an independent accounting firm, preparation of tax returns, and various cash management and treasury functions. In addition, professional and administration costs for the Pre-FAM Period include costs related to the receipt of market data and a security assessment. The costs for these professional and administration services were \$1,082,036 for the Pre-FAM Period.

Financial Advisory Firm: Anchin Accountants & Advisors ("Anchin"). CAT LLC determined to hire a financial advisory firm, Anchin, to assist with financial matters for the CAT in April 2018. CAT LLC interviewed Anchin as well as other potential financial advisory firms to assist with the CAT project, considering a variety of factors in its analysis, including the firm's relevant expertise and fees. The hourly fee rates for this firm were in line with market rates for these financial advisory services. The fees for these services were paid by CAT LLC to Anchin.

After Anchin was hired in April 2018 through the end of the Pre-FAM Period on June 22, 2020 (excluding the period from April 2018 through November 15, 2018), Anchin provided a variety of services, including the following:

- Developed, updated and maintained internal controls;
- Provided cash management and treasury functions;
- Facilitated bill payments;
- Provided monthly bookkeeping;
- Reviewed vendor invoices and documentation in support of cash disbursements;
- Provided accounting research and consultations on various accounting, financial reporting and tax matters;
- Addressed not-for-profit tax and accounting considerations;
- Prepared tax returns;
- Addressed various accounting, financial and operating inquiries from Participants;
- Developed and maintained quarterly and annual operating and financial budgets, including budget to actual fluctuation analyses;
- Addressed accounting and financial reporting matters relating to the transition from CAT NMS, LLC to Consolidated Audit Trail, LLC, including supporting the dissolution of CAT NMS, LLC;
- Supported compliance with the CAT NMS Plan;
- Worked with and provided support to the Operating Committee and various CAT working groups;
- Prepared monthly, quarterly and annual financial statements;

- Supported the annual financial statement audits by an independent auditor;

- Reviewed historical costs from inception; and

- Provided accounting and financial information in support of SEC filings.

Accounting Firm: Grant Thornton LLP ("Grant Thornton"). In February 2020, CAT LLC determined to engage an independent accounting firm, Grant Thornton, to complete the audit of CAT LLC's financial statements, in accordance with the requirements of the CAT NMS Plan. CAT LLC interviewed this firm as well as another potential accounting firm to audit CAT LLC's financial statements, considering a variety of factors in its analysis, including the relevant expertise and fees of each of the firms. CAT LLC determined that Grant Thornton was well-qualified for the proposed role given the balance of these considerations. Grant Thornton's fixed fee rate compensation arrangement was reasonable and appropriate, and in line with the market rates charged for these types of accounting services. The fees for these services were paid by CAT LLC to Grant Thornton.

Market Data Provider: Exegy. The professional and administrative costs for the Pre-FAM Period included costs related to the receipt of certain market data for the CAT pursuant to an agreement with the CAT LLC, and then with FCAT. Exegy provided SIP Data required by the CAT NMS Plan.

After performing an analysis of the available market data vendors to confirm that the data provided met the SIP Data requirements of the CAT NMS Plan and comparing the costs of the vendors providing the required SIP Data, CAT LLC determined to purchase market data from Exegy from July 2018 through March 2019. CAT LLC determined that, unlike certain other vendors, Exegy provided market data that included all data elements required by the CAT NMS Plan.⁵³ In addition, the fees were reasonable and in line with market rates for the market data received. Accordingly, the professional and administrative costs for the Pre-FAM Period include the Exegy costs from November 2018 through March 2019. The cost of the market data was reasonable for the market data received. The fees for the market data were paid directly by CAT LLC to Exegy.

Upon the termination of the contract between CAT LLC and Exegy, FCAT entered into a contract with Exegy to purchase the required market data from Exegy in July 2019. All costs under the

⁵² Section 9.2 of the CAT NMS Plan.

⁵³ See Section 6.5(a)(ii) of the CAT NMS Plan.

contract were treated as a direct pass through cost to CAT LLC. Therefore, the fees for the market data were paid by CAT LLC to FCAT, who, in turn, paid Exegy for the market data.

Security Assessment: RSM US LLP (“RSM”). The operating costs for the Pre-FAM Period include costs related to a third party security assessment of the CAT performed by RSM. The assessment was designed to verify and validate the effective design, implementation, and operation of the controls specified by NIST Special Publication 800–53, Revision 4 and related standards and guidelines. Such a security assessment is in line with industry practice and important given the data included in the CAT. CAT LLC determined to engage RSM to perform the security assessment, after considering a variety of factors in its analysis, including the firm’s relevant expertise and fees. The fees were reasonable and in line with market rates for such an assessment. RSM performed the assessment from October 2018 through December 2018. Accordingly, the costs for the Pre-FAM Period include the costs incurred in November and December 2018. The cost for the security assessment were paid directly to RSM by CAT LLC.

(X) Public Relations Costs

The public relations costs of \$224,669 represent the fees paid to public relations firms during the Pre-FAM Period for professional communications services to CAT, including media relations consulting, strategy and execution. By engaging a public relations firm, CAT LLC was better positioned to understand and address CAT matters to the benefit of all market participants. Specifically, the public relations firms provided services related to communications with the public regarding the CAT, including

monitoring developments related to the CAT (e.g., congressional efforts, public comments and reaction to proposals, press coverage of the CAT), reporting such developments to CAT LLC, and drafting and disseminating communications to the public regarding such developments as well as reporting on developments related to the CAT (e.g., amendments to the CAT NMS Plan). Public relations services were important for various reasons, including monitoring comments made by market participants about CAT and understanding issues related to the CAT discussed on the public record.

The services performed by each of the public relations firms were comparable. The fees for such services were reasonable and in line with market rates. Only one public relations firm was engaged at a time; the three firms were engaged sequentially as the primary public relations contact moved among the three firms during this time period.

Public Relations Firm: Peppercomm, Inc. (“Peppercomm”). The national securities exchanges and FINRA, acting as a consortium, determined to hire the public relations firm Peppercomm in October 2014 and continued to engage this firm through September 2017. The exchanges and FINRA made this engagement decision after considering a variety of factors in its analysis, including the firm’s relevant expertise and fees. The fee rates for this public relations firm were negotiated on an arm’s length basis and were in line with market rates for these types of services. The public relations costs during the period from October 2014 until the formation of the CAT NMS, LLC were paid directly by the exchanges and FINRA to the public relations firm. After the formation of CAT NMS, LLC, the consulting fees were paid by CAT LLC.

Public Relations Firm: Sloane & Company (“Sloane”). CAT LLC determined to hire a new public relations firm, Sloane, in March 2018, based on, among other things, their expertise and the primary contact’s history with the project. The fee rates for this public relations firm were in line with market rates for these types of services. The fees during the Pre-FAM Period were paid by CAT LLC to Sloane. CAT LLC continued the engagement with Sloane until February 2020.

Public Relations Firm: Peak Strategies. CAT LLC determined to hire a new public relations firm, Peak Strategies, in March 2020, based on, among other things, their expertise and the primary contact’s history with the project. The fee rates for this public relations firm were in line with market rates for these types of services. The fees during the Pre-FAM Period were paid by CAT LLC to Peak Strategies.

(b) Historical CAT Costs Incurred in Financial Accountability Milestone Period 1

Historical CAT Costs 1 would include costs incurred by CAT and already funded by the Participants during Period 1 of the Financial Accountability Milestones (“FAM Period 1”),⁵⁴ which covers the period from June 22, 2020–July 31, 2020. Historical CAT Costs 1 would include costs for FAM Period 1 of \$6,377,343. The Participants would remain responsible for one-third of this cost (which they have previously paid) (\$2,125,781), and Industry Members would be responsible for the remaining two-thirds, with CEBBs paying one-third (\$2,125,781) and CEBBs paying one-third (\$2,125,781). The following table breaks down Historical CAT Costs 1 for FAM Period 1⁵⁵ into the categories set forth in Section 11.3(b)(iii)(B)(II) of the CAT NMS Plan.

Operating expense	Historical CAT costs for FAM Period 1
Capitalized Developed Technology Costs *	\$1,684,870
Technology Costs	3,996,800
Cloud Hosting Services	2,642,122
Operating Fees	1,099,680
CAIS Operating Fees	254,998
Change Request Fees .....	.....
Legal	481,687
Consulting	137,209
Insurance .....	.....
Professional and administration	69,077
Public relations	7,700

⁵⁴ Section 11.6(a)(i)(A) of the CAT NMS Plan.

⁵⁵ The costs described in this table of costs for FAM Period 1 were calculated based upon CAT LLC’s review of applicable bills and invoices and

related financial statements. CAT LLC financial statements are available on the CAT website.

Operating expense	Historical CAT costs for FAM Period 1
Total Operating Expenses	6,377,343

* The non-cash amortization of these capitalized developed technology costs of \$362,121 incurred during FAM Period 1 have been appropriately excluded from the above table.⁵⁶

By the completion of FAM Period 1, CAT LLC was required to implement the reporting by Industry Members (excluding Small Industry Members that are not OATS reporters) of equities transaction data and options transaction data, excluding Customer Account Information, Customer-ID and Customer Identifying Information.⁵⁷ CAT LLC completed the requirements of FAM Period 1 by July 31, 2020. The following describes the costs for each of the categories for FAM Period 1.

(I) Technology Costs—Cloud Hosting Services

CAT LLC continued to utilize AWS in FAM Period 1 to provide a broad array of cloud hosting services for the CAT, including data ingestion, data management, and analytic tools. AWS

continued to provide storage services, databases, compute services and other services (such as networking, management tools and DevOps tools), as well as various environments for CAT, such as development, performance testing, test, and production environments, during the FAM 1 Period. Accordingly, the \$2,642,122 in technology costs for cloud hosting services represent costs incurred for services provided by AWS, as the cloud services provider, during FAM Period 1. The fee arrangement for AWS described above with regard to the Pre-FAM Period continued in place during FAM Period 1 pursuant to the Plan Processor Agreement. Moreover, CAT LLC continued to believe that AWS's maturity in the cloud services space as well as the significant cost and time

necessary to move the CAT to a different cloud services provider supported the continued engagement of AWS.

The cost for AWS cloud services for the CAT continued to be a function of the volume of CAT Data. During the FAM 1 Period, the volume of CAT Data continued to far exceed the original predictions for the CAT as set forth in the CAT NMS Plan. During this period, data submitted to the CAT included options and equities Participant Data, Phase 2a and Phase 2b Industry Member Data (including certain linkages) as well as SIP Data, reference data and other types of Other Data. The following chart provides data regarding the average daily volume, cumulative total events, total compute hours and storage footprint of the CAT during FAM Period 1.⁵⁸

	Date range: 6/22/20–7/31/20
Average Daily Volume in Billions:	
Participant—Equities	6
Participant—Options	103
Industry Member—Equities	7
Industry Member—Options	0.31
SIP—Options & Equities	74
Average Total Daily Volume	185
Cumulative Total Events for the Period	5,190
Total Compute Hours for the Period	2,612,082
Storage Footprint at End of Period (Petabytes)	57.47

(II) Technology Costs—Operating Fees

Pursuant to the Plan Processor Agreement discussed above, FCAT continued in its role as the Plan Processor for the CAT during FAM Period 1. Accordingly, the \$1,099,680 in technology costs for operating fees represent costs incurred for the services provided by FCAT under the Plan Processor Agreement during FAM Period 1. The fee arrangement for FCAT described above with regard to the Pre-FAM Period continued in place during FAM Period 1 pursuant to the Plan Processor Agreement. During FAM Period 1, FCAT's activities with respect to the CAT included the following:

- Published iterative drafts of draft Technical Specifications for Phase 2d, after substantial engagement with SEC staff, Industry Members and Participants on the Technical Specifications;
- Published iterative drafts of CAIS Technical Specifications, after substantial engagement with SEC staff, Industry Members and Participants on the Technical Specifications;
- Facilitated Industry Member reporting of Quote Sent Time on Options Market Maker quotes;
- Addressed compliance items, including drafting CAT policies and procedures, and addressing Regulation SCI requirements;

- Provided support to the Operating Committee, the Compliance Subcommittee and CAT working groups;
- Assisted with interpretive efforts and exemptive requests regarding the CAT NMS Plan;
- Oversaw the security of the CAT;
- Monitored the operation of the CAT, including with regard to Participant and Industry Member reporting;
- Provided support to subcontractors under the Plan Processor Agreement;
- Provided support in discussions with Participants and the SEC and its staff;
- Operated the FINRA CAT Helpdesk;

⁵⁶ As discussed above, with respect to certain costs that were "appropriately excluded," such excluded costs relate to the amortization of capitalized technology costs, which are amortized over the life of the Plan Processor Agreement. As

such costs have already been otherwise reflected in the filing, their inclusion would double count the capitalized technology costs. In addition, amortization is a non-cash expense.

⁵⁷ See definition of "Initial Industry Member Core Equity and Options Reporting" in Section 1.1 of the CAT NMS Plan.

⁵⁸ Note that the volume data described in this table does not include CAIS data.

- Facilitated communications with the industry, including via FAQs, CAT Alerts, meetings, presentations and webinars;
- Administered the CAT website and all of its content; and
- Provided technical support and assistance with connectivity, data access, and user support, including the use of CAT Data and query tools, for Participants and the SEC staff.

(III) Technology Costs—CAIS Operating Fees

Pursuant to the Plan Processor Agreement discussed above, Kingland continued in its role as a subcontractor for the development and implementation of CAIS during FAM Period 1. Accordingly, the \$254,998 in technology costs for CAIS operating fees represent costs incurred for services provided by Kingland during FAM Period 1. The fee arrangement for Kingland described above with regard to the Pre-FAM Period continued in place during FAM Period 1 pursuant to the Plan Processor Agreement. During FAM Period 1, Kingland continued the development of the CAIS Technical Specifications and building of CAIS. In addition, Kingland continued to work on the CAIS Technical Specifications and build related to CCID Alternative, as well as the acceleration of the reporting of LTIDs.

(IV) Technology Costs—Change Request Fees

CAT LLC did not incur costs related to change requests during FAM Period 1.

(V) Technology Costs—Capitalized Developed Technology Costs

Capitalized developed technology costs for FAM Period 1 of \$1,684,870 include capitalizable application development costs incurred in the development of the CAT by FCAT. Such costs include: (1) costs related to certain modifications, upgrades, or other changes to the CAT that were not contemplated by the agreement between CAT LLC and the Plan Processor, including separate production and industry test entitlements, and reprocessing of exchange event timestamps; (2) implementation fees; and (3) license fees.

(VI) Legal Costs

The legal costs of \$481,687 represent the fees paid for legal services provided by two law firms, WilmerHale and Pillsbury during FAM Period 1.

Law Firm: WilmerHale. CAT LLC continued to employ WilmerHale during FAM Period 1 based on, among

other things, their expertise and long history with the project. The hourly fee rates for this law firm were in line with market rates for specialized legal expertise. The legal fees during FAM Period 1 were paid by CAT LLC to WilmerHale. During FAM Period 1, WilmerHale provided legal assistance to the CAT including with regard to the following:

- Assisted with the development of the CAT funding model and drafted related amendments and fee filings;
- Drafted exemptive requests from CAT NMS Plan requirements regarding, for example, verbal activity, options market maker quote sent time, TRF linkages, and allocations;
- Provided interpretations related to CAT NMS Plan requirements, including the Financial Accountability Milestone amendment;
- Assisted with compliance with Regulation SCI;
- Provided support for the Operating Committee, Compliance Subcommittee, working groups and Leadership Team, including with regard to meetings with the SEC staff;
- Assisted with the drafting of the Implementation Plan required pursuant to Section 6.6(c)(i) of the CAT NMS Plan;
- Assisted with communications and presentations for the industry regarding CAIS;
- Drafted SRO rule filings related to the CAT Compliance Rule;
- Provided support for Compliance Subcommittee, including with regard to responses to OCIE examinations and the annual assessment;
- Provided guidance regarding CAT technical specifications;
- Assisted with third-party vendor agreements; and
- Provided support with regard to discussions with the SEC and its staff, including with respect to addressing interpretive and implementation issues.

Law Firm: Pillsbury. CAT LLC continued to employ Pillsbury during FAM Period 1 based on, among other things, their expertise and history with the project. The hourly fee rates for this law firm were in line with market rates for specialized legal expertise. The legal fees during FAM Period 1 were paid by CAT LLC to Pillsbury. During FAM Period 1, Pillsbury provided legal assistance to the CAT regarding the CAT Reporter Agreement. During that period, Pillsbury advised CAT LLC regarding applicable legal matters and drafted a proposed amendment to the CAT NMS Plan regarding liability matters. Liability issues related to the CAT are important matters that needed to be resolved and clarified. CAT LLC's efforts to seek such

resolution and clarity work to the benefit of Participants, Industry Members and other market participants.

(VII) Consulting Costs

The consulting costs of \$137,209 represent the fees paid to Deloitte as project manager during FAM Period 1. CAT LLC continued to employ Deloitte during FAM Period 1 based on, among other things, their expertise and cumulative experience with the CAT. The fee rates for Deloitte during FAM Period 1 were negotiated and in line with market rates for this type of specialized consulting work. The consulting fees during FAM Period 1 were paid by CAT LLC to the consulting firm. CAT LLC reviewed the consulting fees each month and approved the invoices. During FAM Period 1, Deloitte's CAT-related activities included the following:

- Implemented program operations for the CAT project;
- Provided support to the Operating Committee, the Chair of the Operating Committee and the Leadership Team, including project management support, coordination and planning for meetings and communications, and interfacing with law firms and the SEC;
- Assisted with cost and funding matters for the CAT, including the development of the CAT funding model and assistance with loans and the CAT bank account for CAT funding;
- Provided support for updating the SEC on the progress of the development of the CAT;
- Assisted with the transition from the Initial Plan Processor to the successor Plan Processor; and
- Provided support for third-party vendors for the CAT, including FCAT, Anchin and the law firms engaged by CAT LLC.

(VIII) Insurance

Although insurance was in effect during FAM Period 1, CAT LLC did not incur costs related to insurance during FAM Period 1.

(IX) Professional and Administration Costs

Financial Advisory Firm: Anchin. The professional and administration costs of \$69,077 represent the fees paid to Anchin during FAM Period 1. CAT LLC continued to employ Anchin during FAM Period 1 based on, among other things, their expertise and history with the project. The hourly fee rates for this firm were in line with market rates for these type of financial advisory services. The fees for these services during FAM Period 1 were paid by CAT LLC to Anchin. During FAM Period 1, Anchin

provided a variety of services, including the following:

- Maintained internal controls;
- Provided cash management and treasury functions;
- Facilitated bill payments;
- Provided monthly bookkeeping;
- Reviewed vendor invoices and documentation in support of cash disbursements;
- Provided accounting research and consultations on various accounting, financial reporting and tax matters;
- Addressed various accounting, financial reporting and operating inquiries from Participants;
- Developed and maintained quarterly and annual operating and financial budgets, including budget to actual fluctuation analyses;
- Supported compliance with the CAT NMS Plan;
- Worked with and provided support to the Operating Committee and various CAT working groups; and
- Prepared monthly and quarterly financial statements.

(X) Public Relations Costs

The public relations costs of \$7,700 represent the fees paid to Peak Strategies during FAM Period 1. CAT

LLC continued to employ Peak Strategies during FAM Period 1 based on, among other things, their expertise and history with the project. The fee rates for this firm were reasonable and in line with market rates for these types of services. The fees for these services during FAM Period 1 were paid by CAT LLC to Peak Strategies. During FAM Period 1, Peak Strategies continued to provide professional communications services to CAT LLC, including media relations consulting, strategy and execution. Specifically, the public relations firm provided services related to communications with the public regarding the CAT, including monitoring developments related to the CAT (*e.g.*, congressional efforts, public comments and reaction to proposals, press coverage of the CAT), reporting such developments to CAT LLC, and drafting and disseminating communications to the public regarding such developments as well as reporting on developments related to the CAT (*e.g.*, amendments to the CAT NMS Plan). As discussed above, such public relations services were important for various reasons, including monitoring comments made by market participants about the CAT and understanding issues

related to the CAT discussed on the public record. By engaging a public relations firm, CAT LLC was better positioned to understand and address CAT matters to the benefit of all market participants.

(c) Historical CAT Costs Incurred in Financial Accountability Milestone Period 2

Historical CAT Costs 1 would include costs incurred by CAT LLC and already funded by Participants during Period 2 of the Financial Accountability Milestones (“FAM Period 2”),⁵⁹ which covers the period from August 1, 2020—December 31, 2020. Historical CAT Costs 1 would include costs for FAM Period 2 of \$42,976,478. The Participants would remain responsible for one-third of this cost (which they have previously paid) (\$14,325,493), and Industry Members would be responsible for the remaining two-thirds, with CEBBs paying one-third (\$14,325,493) and CEBBs paying one-third (\$14,325,493). The following table breaks down Historical CAT Costs 1 for FAM Period 2⁶⁰ into the categories set forth in Section 11.3(b)(iii)(B)(II) of the CAT NMS Plan.

Operating expense	Historical CAT costs for FAM Period 2
Capitalized Developed Technology Costs *	\$6,761,094
Technology Costs	31,460,033
Cloud Hosting Services	20,709,212
Operating Fees	9,108,700
CAIS Operating Fees	1,590,298
Change Request Fees	51,823
Legal	2,766,644
Consulting	532,146
Insurance	976,098
Professional and administration	438,523
Public relations	41,940
Total Operating Expenses	42,976,478

* The non-cash amortization of these capitalized developed technology costs of \$1,892,505 incurred during FAM Period 2 have been appropriately excluded from the above table.⁶¹

By the completion of FAM Period 2, CAT LLC was required to implement the following with regard to the CAT:

(a) Industry Member reporting (excluding reporting by Small Industry Members that are not OATS reporters) for equities transactions, excluding Customer Account Information, CustomerID, and Customer Identifying Information, is developed, tested, and implemented at a 5% Error Rate or less

and with sufficient intra-firm linkage, inter-firm linkage, national securities exchange linkage, and trade reporting facilities linkage to permit the Participants and the Commission to analyze the full lifecycle of an order across the national market system, excluding linkage of representative orders, from order origination through order execution or order cancellation; and (b) the query tool functionality

required by Section 6.10(c)(i)(A) and Appendix D, Sections 8.1.1–8.1.3 and Section 8.2.1 incorporates the Industry Member equities transaction data described in condition (a) and is available to the Participants and to the Commission.⁶²

CAT LLC completed the requirements of FAM Period 2 by December 31, 2020. The following describes the costs for each of the categories for FAM Period 2.

⁵⁹ Section 11.6(a)(i)(B) of the CAT NMS Plan.

⁶⁰ The costs described in this table of costs for FAM Period 2 were calculated based upon CAT LLC's review of applicable bills and invoices and related financial statements. CAT LLC financial statements are available on the CAT website.

⁶¹ As discussed above, with respect to certain costs that were “appropriately excluded,” such excluded costs relate to the amortization of capitalized technology costs, which are amortized over the life of the Plan Processor Agreement. As such costs have already been otherwise reflected in

the filing, their inclusion would double count the capitalized technology costs. In addition, amortization is a non-cash expense.

⁶² See definition of “Full Implementation of Core Equity Reporting Requirements” in Section 1.1 of the CAT NMS Plan.

(I) Technology Costs—Cloud Hosting Services

CAT LLC continued to utilize AWS in FAM Period 2 to provide a broad array of cloud hosting services for the CAT, including data ingestion, data management, and analytic tools. AWS continued to provide storage services, databases, compute services and other services (such as networking, management tools and DevOps tools), as well as various environments for CAT, such as development, performance testing, test, and production environments, during the FAM 2 Period.

Accordingly, the \$20,709,212 in technology costs for cloud hosting services represent costs incurred for services provided by AWS, as the cloud services provider, during FAM Period 2. The fee arrangement for AWS described above with regard to the Pre-FAM Period and FAM Period 1 continued in place during FAM Period 2 pursuant to the Plan Processor Agreement.

The cost for AWS cloud services for the CAT continued to be a function of the volume of CAT Data. During the FAM 2 Period, the volume of CAT Data continued to far exceed the original

predictions for the CAT as set forth in the CAT NMS Plan. During this period, data submitted to the CAT included options and equities Participant Data, Phase 2a and Phase 2b Industry Member Data (including certain linkages) as well as SIP Data, and Other Data, including reference data. In addition, Industry Members began reporting LTID account information. The following chart provides data regarding the average daily volume, cumulative total events, total compute hours and storage footprint of the CAT during FAM Period 2.⁶³

	Date range: 8/1/20—12/31/20
Average Daily Volume in Billions:	
Participant—Equities	6
Participant—Options	116
Industry Member—Equities	11
Industry Member—Options	0.98
SIP—Options & Equities	80
Average Total Daily Volume	282
Cumulative Total Events for the Period	2,170
Total Compute Hours for the Period	15,660,392
Storage Footprint at End of Period (Petabytes)	114.59

(II) Technology Costs—Operating Fees

Pursuant to the Plan Processor Agreement discussed above, FCAT continued in its role as the Plan Processor for the CAT during FAM Period 2. Accordingly, the \$9,108,700 in technology costs for operating fees represent costs incurred for the services provided by FCAT under the Plan Processor Agreement during FAM Period 2. The fee arrangement for FCAT described above with regard to the Pre-FAM Period and FAM Period 1 continued in place during FAM Period 2 pursuant to the Plan Processor Agreement. During FAM Period 2, FCAT's activities with respect to the CAT included publishing the Technical Specifications for Phase 2d and overseeing the reporting of firm to firm and intrafirm linkages by Industry Members. In addition, FCAT also continued to engage in the following activities during FAM Period 2

- Addressed compliance items, including drafting CAT policies and procedures, and addressing Regulation SCI requirements;

- Provided support to the Operating Committee, Compliance Subcommittee and CAT working groups;

- Assisted with interpretive efforts and exemptive requests regarding the CAT NMS Plan;
- Oversaw the development and implementation of the security of the CAT;
- Monitored the operation of the CAT, including with regard to Participant and Industry Member reporting;
- Provided support to subcontractors under the Plan Processor Agreement;
- Provided support in discussions with the Participants and the SEC and its staff;
- Operated the FINRA CAT Helpdesk;
- Facilitated communications with the industry, including via FAQs, CAT Alerts, meetings, presentations and webinars;
- Administered the CAT website and all of its content; and
- Provided technical support and assistance with connectivity, data access, and user support, including the use of CAT Data and query tools, for Participants and the SEC staff.

(III) Technology Costs—CAIS Operating Fees

Pursuant to the Plan Processor Agreement discussed above, Kingland continued in its role as a subcontractor for the development and

implementation of CAIS during FAM Period 2. Accordingly, the \$1,590,298 in technology costs for CAIS operating fees represent costs incurred for services provided by Kingland during FAM Period 2. The fee arrangement for Kingland described above with regard to the Pre-FAM Period and FAM Period 1 continued in place during FAM Period 2 pursuant to the Plan Processor Agreement. During FAM Period 2, Kingland continued the development of the CAIS Technical Specifications and building of CAIS. In addition, Kingland continued to work on the CAIS Technical Specifications and build related to the CCID Alternative, as well as the acceleration of the reporting of LTIDs.

(IV) Technology Costs—Change Request Fees

During FAM Period 2, CAT LLC engaged FCAT to pursue certain change requests in accordance with the Plan Processor Agreement. The change request costs were paid by CAT LLC to FCAT. Specifically, during FAM Period 2, CAT incurred costs of \$51,823 related to a change request regarding the addition of functionality for exchange Participants to report rejected messages to the CAT.

⁶³ Note that the volume data described in this table does not include CAIS data.

(V) Technology Costs—Capitalized Developed Technology Costs

Capitalized developed technology costs for FAM Period 2 of \$6,761,094 include capitalizable application development costs incurred in the development of the CAT by FCAT. Such costs include (1) development costs incurred during the application development stage to meet various agreed-upon milestones regarding the CAT, as defined in the agreement between CAT LLC and the Plan Processor; (2) costs related to certain modifications, upgrades, or other changes to the CAT that were not contemplated by the agreement between CAT LLC and the Plan Processor, including costs related to separate production and industry test entitlements, market maker reference data, and back-processing of exchange exception logic; (3) implementation fees; and (4) license fees.

(VI) Legal Costs

The legal costs of \$2,766,644 represent the fees paid for legal services provided by two law firms, WilmerHale and Pillsbury during FAM Period 2.

Law Firm: WilmerHale. CAT LLC continued to employ WilmerHale during FAM Period 2 based on, among other things, their expertise and long history with the project. The hourly fee rates for this law firm were in line with market rates for specialized legal expertise. The legal fees during FAM Period 2 were paid by CAT LLC to WilmerHale. During FAM Period 2, the legal assistance provided by WilmerHale included providing legal advice regarding the following:

- Assisted with the development of the CAT funding model and drafting related amendments and rule filings;
- Drafted exemptive requests from CAT NMS Plan requirements regarding, for example, allocations, exchange activity, OTQT, initial data validation, error corrections and recordkeeping;
- Provided interpretations related to CAT NMS Plan requirements, including with regard to the Financial Accountability Milestone amendment, FAQs and technical specifications;
- Provided support for the Operating Committee, Compliance Subcommittees, working groups and Leadership Team, including with regard to meetings with the SEC staff;
- Assisted with the Implementation Plan and Quarterly Progress Reports required pursuant to Section 6.6 of the CAT NMS Plan;
- Drafted SRO rule filings related to the CAT Compliance Rule;
- Provided support for the Compliance Subcommittee, including

with regard to responses to OCIE examinations and the annual assessment;

- Provided guidance regarding the SEC's proposed security amendments to the CAT NMS Plan;
- Provided guidance regarding SRO rule filings for the retirement of systems;
- Provided legal support for Operating Committee meetings, including drafting resolutions and other materials and voting advice;
- Assisted with third-party vendor agreements (e.g., with regard to Anchin, Grant Thornton and insurance policies);
- Assisted with change requests; and
- Provided support with regard to discussions with the SEC and its staff, including with respect to addressing interpretive and implementation issues.

Law Firm: Pillsbury. CAT LLC continued to employ Pillsbury during FAM Period 2 based on, among other things, their expertise and history with the project. The hourly fee rates for this law firm were in line with market rates for specialized legal expertise. The legal fees during FAM Period 2 were paid by CAT LLC to Pillsbury. During FAM Period 2, Pillsbury provided legal assistance to the CAT regarding the CAT Reporter Agreement. During that period, Pillsbury advised CAT LLC regarding applicable legal matters and drafted and filed a proposed amendment to the CAT NMS Plan regarding liability matters. As discussed above, liability issues related to the CAT are important matters that needed to be resolved and clarified. CAT LLC's efforts to seek such resolution and clarity work to the benefit of Participants, Industry Members and other market participants.

(VII) Consulting Costs

The consulting costs of \$532,146 represent the fees paid to Deloitte as project manager during FAM Period 2. CAT LLC continued to employ Deloitte during FAM Period 2 based on, among other things, their expertise and long history with the project. The fee rates for Deloitte during FAM Period 2 were negotiated and in line with market rates for this type of specialized consulting work. The consulting fees during FAM Period 2 were paid to Deloitte by CAT LLC. CAT LLC reviewed the consulting fees each month and approved the invoices. During FAM Period 2, Deloitte's CAT-related activities included the following:

- Implemented program operations for the CAT project;
- Provided support to the Operating Committee, the Chair of the Operating Committee and the Leadership Team, including project management support, coordination and planning for meetings

and communications, and interfacing with law firms and the SEC;

- Assisted with cost and funding matters for the CAT, including the development of the CAT funding model and assistance with loans and the CAT bank account for CAT funding;
- Provided support for updating the SEC on the progress of the development of the CAT; and
- Provided support for third-party vendors for the CAT, including FCAT, Anchin and the law firms engaged by CAT LLC.

(VIII) Insurance

The insurance costs of \$976,098 represent the fees paid for insurance during FAM Period 2. CAT LLC continued to maintain cyber security liability insurance, directors' and officers' liability insurance, and errors and omissions liability insurance offered by USI. After engaging in a process for renewing the coverage, CAT LLC determined to purchase these insurance policies from USI. The annual premiums for these policies were competitive for the coverage provided. The annual premiums were paid by CAT LLC to USI.

(IX) Professional and Administration Costs

The professional and administration costs of \$438,523 represent the fees paid to Anchin and Grant Thornton for financial services provided during FAM Period 2.

Financial Advisory Firm: Anchin. CAT LLC continued to engage Anchin during FAM Period 2 based on, among other things, their expertise and history with the project. The hourly fee rates for this firm were in line with market rates for these types of financial advisory services. The fees for these services during FAM Period 2 were paid by CAT LLC to Anchin. During FAM Period 2, Anchin provided a variety of services, including the following:

- Updated and maintained internal controls;
- Provided cash management and treasury functions;
- Facilitated bill payments;
- Provided monthly bookkeeping;
- Reviewed vendor invoices and documentation in support of cash disbursements;
- Provided accounting research and consultations on various accounting, financial reporting and tax matters;
- Addressed not-for-profit tax and accounting considerations;
- Prepared tax returns;
- Addressed various accounting, financial reporting and operating inquiries from the Participants;

- Developed and maintained quarterly and annual operating and financial budgets, including budget to actual fluctuation analyses;

- Supported compliance with the CAT NMS Plan;

- Worked with and provided support to the Operating Committee and various CAT working groups;

- Prepared monthly, quarterly and annual financial statements;

- Supported the annual financial statement audit by an independent auditor; and

- Reviewed historical costs from inception.

Accounting Firm: Grant Thornton. CAT LLC continued to employ the accounting firm Grant Thornton during FAM Period 2 based on, among other things, its expertise and cumulative knowledge of CAT LLC. CAT LLC continued to believe that Grant Thornton was well qualified for its role and its fee rates were in line with market rates for these accounting services. The fees for these services during FAM Period 2 were paid by CAT LLC to Grant Thornton. During FAM Period 2, Grant Thornton performed a financial statement audit for CAT LLC as an independent accounting firm.

(X) Public Relations Costs

The public relations costs of \$41,940 represent the fees paid to Peak Strategies during FAM Period 2. CAT LLC continued to employ Peak Strategies during FAM Period 2 based on, among other things, their expertise and history with the project. The fee rates for this firm were in line with market rates for these types of services. The fees for these services during FAM Period 2 were paid by CAT LLC to Peak Strategies. During FAM Period 2, Peak Strategies continued to provide professional communications services to CAT, including media relations consulting, strategy and execution. Specifically, the public relations firm provided services related to communications with the public regarding the CAT, including monitoring developments related to the CAT (e.g., congressional efforts, public comments and reaction to proposals, press coverage of the CAT), reporting such developments to CAT LLC, and drafting and disseminating communications to the public regarding such developments as well as reporting on developments related to the CAT (e.g., amendments to the CAT NMS Plan). As discussed above, such public relations services were important for various reasons, including monitoring

comments made by market participants about the CAT and understanding issues related to the CAT discussed on the public record. By engaging a public relations firm, CAT LLC was better positioned to understand and address CAT matters to the benefit of all market participants.

(d) Historical CAT Costs Incurred in Financial Accountability Milestone Period 3

Historical CAT Costs 1 would include costs incurred by CAT and already funded by the Participants during Period 3 of the Financial Accountability Milestones ("FAM Period 3"),⁶⁴ which covers the period from January 1, 2021–December 31, 2021. Historical CAT Costs 1 would include costs for FAM Period 3 of \$144,415,268. The Participants would remain responsible for one-third of this cost (which they have previously paid) (\$48,138,423), and Industry Members would be responsible for the remaining two-thirds, with CEBBs paying one-third (\$48,138,423) and CEBsS paying one-third (\$48,138,423). The following table breaks down Historical CAT Costs 1 for FAM Period 3⁶⁵ into the categories set forth in Section 11.3(b)(iii)(B)(II) of the CAT NMS Plan.

Operating expense	Historical CAT costs for FAM Period 3
Capitalized Developed Technology Costs *	\$10,763,372
Technology Costs	123,639,402
Cloud Hosting Services	94,574,759
Operating Fees	23,106,091
CAIS Operating Fees	5,562,383
Change Request Fees	396,169
Legal	6,333,248
Consulting	1,408,209
Insurance	1,582,714
Professional and administration	595,923
Public relations	92,400
Total Operating Expenses	144,415,268

* The non-cash amortization of these capitalized developed technology costs of \$5,108,044 incurred during FAM Period 3 have been appropriately excluded from the above table.⁶⁶

By the completion of FAM Period 3, CAT LLC was required to implement the following requirements with regard to the CAT:

(a) reporting to the Order Audit Trail System ("OATS") is no longer required for new orders; (b) Industry Member reporting for equities transactions and simple electronic options transactions,

excluding Customer Account Information, Customer-ID, and Customer Identifying Information, with sufficient intra-firm linkage, inter-firm linkage, national securities exchange linkage, trade reporting facilities linkage, and representative order linkages (including any equities allocation information provided in an

Allocation Report) to permit the Participants and the Commission to analyze the full lifecycle of an order across the national market system, from order origination through order execution or order cancellation, is developed, tested, and implemented at a 5% Error Rate or less; (c) Industry Member reporting for manual options

⁶⁴ Section 11.6(a)(i)(C) of the CAT NMS Plan.

⁶⁵ The costs described in this table of costs for FAM Period 3 were calculated based upon CAT LLC's review of applicable bills and invoices and related financial statements. CAT LLC financial statements are available on the CAT website.

⁶⁶ As discussed above, with respect to certain costs that were "appropriately excluded," such excluded costs relate to the amortization of capitalized technology costs, which are amortized over the life of the Plan Processor Agreement. As such costs have already been otherwise reflected in

the filing, their inclusion would double count the capitalized technology costs. In addition, amortization is a non-cash expense.

transactions and complex options transactions, excluding Customer Account Information, Customer-ID, and Customer Identifying Information, with all required linkages to permit the Participants and the Commission to analyze the full lifecycle of an order across the national market system, from order origination through order execution or order cancellation, including any options allocation information provided in an Allocation Report, is developed, tested, and fully implemented; (d) the query tool functionality required by Section 6.10(c)(i)(A) and Appendix D, Sections 8.1.1–8.1.3, Section 8.2.1, and Section 8.5 incorporates the data described in conditions (b)–(c) and is available to the Participants and to the Commission; and (e) the requirements of Section 6.10(a) are met.⁶⁷

CAT LLC completed the requirements of FAM Period 3 by December 31, 2021.

The following describes the costs for each of the categories for FAM Period 3.

(I) Technology Costs—Cloud Hosting Services

CAT LLC continued to utilize AWS in FAM Period 3 to provide a broad array of cloud hosting services for the CAT, including data ingestion, data management, and analytic tools. AWS continued to provide storage services, databases, compute services and other services (such as networking, management tools and DevOps tools), as well as various environments for CAT, such as development, performance testing, test, and production environments, during the FAM 3 Period. Accordingly, the \$94,574,759 in technology costs for cloud hosting services represents costs incurred for services provided by AWS, as the cloud services provider, during FAM Period 3. The fee arrangement for AWS described

above for the earlier periods continued in place during FAM Period 3 pursuant to the Plan Processor Agreement.

The cost for AWS cloud services for the CAT continued to be a function of the volume of CAT Data. During FAM Period 3, the volume of CAT Data continued to far exceed the original predictions for the CAT as set forth in the CAT NMS Plan. During this period, data submitted to the CAT included options and equities Participant Data, Phase 2a, Phase 2b, Phase 2c and Phase 2d Industry Member Data (including certain linkages), SIP Data, Other Data, including reference data, and LTID account information. The following chart provides data regarding the average daily volume, cumulative total events, total compute hours and storage footprint of the CAT during FAM Period 3.⁶⁸

	Date range: 1/1/21 to 4/25/21	Date range: 4/26/21/to 12/31/21 *
Average Daily Volume in Billions:		
Participant—Equities	9	9
Participant—Options	135	136
Industry Member—Equities	20	19
Industry Member—Options	2	2
SIP—Options & Equities	129	137
Average Total Daily Volume	297	304
Cumulative Total Events for the Period	7,480	5,310
Total Compute Hours for the Period	15,860,304	33,487,318
Storage Footprint at End of Period (Petabytes)	180.22	284.62

* Start of Participant Equities in CAT format and SIP Equities on 4/26/21.

(II) Technology Costs—Operating Fees

Pursuant to the Plan Processor Agreement discussed above, FCAT continued in its role as the Plan Processor for the CAT during FAM Period 3. Accordingly, the \$23,106,091 in technology costs for operating fees represent costs incurred for the services provided by FCAT under the Plan Processor Agreement during FAM Period 3. The fee arrangement for FCAT described above with regard to the prior Periods continued in place during FAM Period 3 pursuant to the Plan Processor Agreement. During FAM Period 3, FCAT's activities with respect to the CAT included the following:

- Facilitated Phase 2c and Phase 2d testing for Industry Members;
- Oversaw creation of linkages of the lifecycle of order events based on the received data through Phase 2d;

- Addressed compliance items, including drafting CAT policies and procedures, and addressing Regulation SCI requirements;
- Provided support to the Operating Committee, the Compliance Subcommittee and CAT working groups;
- Assisted with interpretive efforts and exemptive requests regarding the CAT NMS Plan;
- Oversaw the security of the CAT;
- Monitored the operation of the CAT, including with regard to Participant and Industry Member reporting;
- Provided support to subcontractors under the Plan Processor Agreement;
- Provided support in discussions with the Participants and the SEC and its staff;
- Operated the FINRA CAT Helpdesk;
- Facilitated communications with the industry, including via FAQs, CAT

Alerts, meetings, presentations and webinars;

- Administered the CAT website and all of its content; and
- Provided technical support and assistance with connectivity, data access, and user support, including the use of CAT Data and query tools, for Participants and the SEC staff.

(III) Technology Costs—CAIS Operating Fees

Pursuant to the Plan Processor Agreement with FCAT discussed above, Kingland continued in its role as a subcontractor for the development and implementation of CAIS during FAM Period 3. Accordingly, the \$5,562,383 in technology costs for CAIS operating fees represents costs incurred for services provided by Kingland during FAM Period 3. The fee arrangement for Kingland described above with regard to

⁶⁷ See definition of “Full Availability and Regulatory Utilization of Transactional Database Functionality” in Section 1.1 of the CAT NMS Plan.

⁶⁸ Note that the volume data described in this table does not include CAIS data.

the prior Periods continued in place during FAM Period 3 pursuant to the Plan Processor Agreement. During FAM Period 3, Kingland continued the development of the CAIS Technical Specifications and building of CAIS. In addition, Kingland continued to work on the CAIS Technical Specifications and build related to the CCID Alternative, as well as the acceleration of the reporting of LTIDs. The full CAIS Technical Specifications were published during FAM Period 3.

(IV) Technology Costs—Change Request Fees

During FAM Period 3, CAT LLC engaged FCAT to pursue certain change requests in accordance with the Plan Processor Agreement. The change request costs were paid by CAT LLC to FCAT. Specifically, during FAM Period 3, CAT incurred costs of \$396,169 related to change requests, including the following: (1) the addition of functionality for exchange Participants to report rejected messages to the CAT; (2) the migration of MIRS query engine to AWS to reduce operational costs and increase resiliency; and (3) updating the Participant Technical Specifications to allow for two-sided Participant option quote reporting.

(V) Technology Costs—Capitalized Developed Technology Costs

Capitalized developed technology costs for FAM Period 3 of \$10,763,372 include capitalizable application development costs incurred in the development of the CAT by FCAT. Such costs include (1) development costs incurred during the application development stage to meet various agreed-upon milestones regarding the CAT, as defined in the agreement between CAT LLC and the Plan Processor, including the transition from equity data received by FINRA pursuant to various regulatory services agreements between FINRA and Participant exchanges to the equity CAT Data, and the completion of the Industry Member Phase 2d options manual and complex orders go-live requirements; (2) costs related to certain modifications, upgrades, or other changes to the CAT that were not contemplated by the agreement between CAT LLC and the Plan Processor, including costs related to off-exchange volume concentration, Participant 24-hour trading and an external metastore; (3) implementation fees; and (4) license fees.

(VI) Legal Costs

The legal costs of \$6,333,248 represent the fees paid for legal services provided by three law firms,

WilmerHale, Pillsbury and Covington & Burling LLP (“Covington”) during FAM Period 3.

Law Firm: WilmerHale. CAT LLC continued to employ WilmerHale during FAM Period 3 based on, among other things, their expertise and long history with the project. The hourly fee rates for this law firm were in line with market rates for specialized legal expertise. The legal fees during FAM Period 3 were paid by CAT LLC to WilmerHale. During FAM Period 3, the legal assistance provided by WilmerHale included providing legal advice regarding the following:

- Assisted with the development of the CAT funding model and drafting related amendments and rule filings;
- Drafted exemptive requests from CAT NMS Plan requirements, including, for example, verbal activity regarding Phase 2c cutover, error reports, error corrections, Phase 2d Reporting, unique Order-ID on internal route events, reporting addresses, recordkeeping, and unique CCID for foreign customers;
- Provided interpretations related to CAT NMS Plan requirements, including with regard to the Financial Accountability Milestone amendment, FAQs, CAIS requirements, ADF, and technical specifications;
- Provided support for the Operating Committee, Compliance Subcommittee, working groups and Leadership Team, including with regard to meetings with the SEC staff;
- Assisted with the Implementation Plan and Quarterly Progress Reports required pursuant to Section 6.6(c) of the CAT NMS Plan;
- Drafted SRO rule filings related to the CAT Compliance Rule;
- Provided support for the Compliance Subcommittee, including with regard to responses to OCIE examinations and the annual assessment;
- Provided guidance regarding the SEC’s proposed security amendments to the CAT NMS Plan;
- Provided guidance regarding SRO rule filings for the retirement of systems;
- Provided legal support for Operating Committee meetings, including drafting resolutions and other materials and voting advice;
- Provided assistance with change requests;
- Provided guidance and regulatory support for litigation regarding the response to the SEC’s exemptive orders;
- Assisted with communications with the industry, including CAT Alerts and presentations;
- Provided guidance regarding the confidentiality of CAT Data, including third-party information requests;

- Assisted with cost management analysis and proposals; and
- Provided support with regard to discussions with the SEC and its staff, including with respect to addressing interpretive and implementation issues.

Law Firm: Pillsbury. CAT LLC continued to employ Pillsbury during FAM Period 3 based on, among other things, their expertise and history with the project. The hourly fee rates for this law firm were in line with market rates for specialized legal expertise. The legal fees during FAM Period 3 were paid by CAT LLC to Pillsbury. During FAM Period 3, Pillsbury provided legal assistance to the CAT regarding the CAT Reporter Agreement. During this period, Pillsbury advised CAT LLC regarding applicable legal matters, reviewed and responded to comment letters regarding the proposed Plan amendment, participated in meetings with senior SEC staff, responded to comments submitted following the SEC’s April 6, 2021 order instituting proceedings,⁶⁹ and assessed legal matters regarding the SEC’s October 29, 2021 order denying the proposed Plan amendment.⁷⁰

Law Firm: Covington. CAT LLC hired Covington for litigation with the SEC regarding certain exemptive orders related to the CAT, including orders issued in December 2020.⁷¹ CAT LLC interviewed this law firm as well as other potential law firms, considering a variety of factors in its analysis for choosing legal assistance, including the relevant expertise and fees of the potential lawyers. CAT LLC approved the engagement of Covington in January 2021. The fee rates for this law firm, which were calculated based on hourly rates, were in line with market rates for specialized services. The legal fees for FAM Period 3 for this firm were paid by CAT LLC to Covington.

After Covington was hired in 2021 through the end of 2021, the firm provided legal assistance regarding the litigation with the SEC regarding the 2020 Orders. These services included researching, drafting, and filing motions to stay the 2020 orders and related materials in proceedings before the SEC, as well as researching, drafting, and filing petitions for judicial review of the 2020 Orders in proceedings before the U.S. Court of Appeals for the D.C. Circuit. Covington oversaw ongoing

⁶⁹ Securities Exchange Act Rel. No. 91487 (Apr. 6, 2021), 86 FR 19054 (Apr. 12, 2021).

⁷⁰ Securities Exchange Act Rel. No. 93484 (Oct. 29, 2021), 86 FR 60933 (Nov. 4, 2021).

⁷¹ See Securities Exchange Act Rel. No. 90688 (Dec. 16, 2020), 85 FR 83634 (Dec. 22, 2020); and Securities Exchange Act Rel. No. 90689 (Dec. 16, 2020), 85 FR 83667 (Dec. 22, 2020) (collectively, the “2020 Orders”).

litigation proceedings on these matters, and also supported WilmerHale with respect to settlement negotiations with the SEC staff regarding the 2020 Orders.

In addition to these services, CAT LLC engaged Covington in November 2021 to provide assistance with respect to the SEC's disapproval of CAT NMS Plan amendments concerning a proposed limitation on liability in the event of a data breach or similar event. Covington provided advice concerning CAT's response to the SEC's disapproval order. This work accounted for a minority of Covington's fees in 2021.⁷²

(VII) Consulting Costs

The consulting costs of \$1,408,209 represent the fees paid to Deloitte as project manager during FAM Period 3. CAT LLC continued to employ Deloitte during FAM Period 3 based on, among other things, their expertise and long history with the project. The fee rates for Deloitte during FAM Period 3 were negotiated and in line with market rates for this type of specialized consulting work. The consulting fees during FAM Period 3 were paid to Deloitte by CAT LLC. CAT LLC reviewed the consulting fees each month and approved the invoices. During FAM Period 3, Deloitte's CAT-related activities included the following:

- Implemented program operations for the CAT project;
- Provided support to the Operating Committee, the Chair of the Operating Committee and the Leadership Team, including project management support, coordination and planning for meetings and communications, and interfacing with law firms and the SEC;
- Assisted with cost and funding matters for the CAT, including the development of the CAT funding model and assistance with loans and the CAT bank account for CAT funding;
- Provided support for updating the SEC on the progress of the development of the CAT; and
- Provided support for third-party vendors for the CAT, including FCAT, Anchin and the law firms engaged by CAT LLC.

(VIII) Insurance

The insurance costs of \$1,582,714 represent the fees paid for insurance during FAM Period 3. CAT LLC continued to maintain cyber security

liability insurance, directors' and officers' liability insurance, and errors and omissions liability insurance offered by USI. After engaging in a process for renewing the coverage, CAT LLC determined to purchase these insurance policies from USI. The annual premiums for these policies were competitive for the coverage provided. The annual premiums were paid by CAT LLC to USI.

(IX) Professional and Administration Costs

The professional and administration costs of \$595,923 represent the fees paid to Anchin and Grant Thornton for financial services during FAM Period 3.

Financial Advisory Firm: Anchin. CAT LLC continued to employ Anchin during FAM Period 3 based on, among other things, their expertise and history with the project. The hourly fee rates for this firm were in line with market rates for these financial advisory services. The fees for these services during FAM Period 3 were paid by CAT LLC to Anchin. During FAM Period 3, Anchin provided a variety of services, including the following:

- Updated and maintained internal controls;
- Provided cash management and treasury functions;
- Facilitated bill payments;
- Provided monthly bookkeeping;
- Reviewed vendor invoices and documentation in support of cash disbursements;
- Provided accounting research and consultations on various accounting, financial reporting and tax matters;
- Addressed not-for-profit tax and accounting considerations;
- Prepared tax returns;
- Addressed various accounting, financial reporting and operating inquiries from Participants;
- Developed and maintained quarterly and annual operating and financial budgets, including budget to actual fluctuation analyses;
- Supported compliance with the CAT NMS Plan;
- Worked with and provided support to the Operating Committee and various CAT working groups;
- Prepared monthly, quarterly and annual financial statements;
- Supported the annual financial statement audits by an independent auditor;
- Reviewed historical costs from inception; and
- Provided accounting and financial information in support of SEC filings.

Accounting Firm: Grant Thornton. CAT LLC continued to employ the accounting firm Grant Thornton during

FAM Period 3 based on, among other things, their expertise and cumulative knowledge of CAT LLC. CAT LLC determined that Grant Thornton was well qualified for its role and that its fixed fee rates were in line with market rates for these accountant services. The fees for these services during FAM Period 3 were paid by CAT LLC to Grant Thornton. During FAM Period 3, Grant Thornton provided audited financial statements for CAT LLC.

(X) Public Relations Costs

The public relations costs of \$92,400 represent the fees paid to Peak Strategies during FAM Period 3. CAT LLC continued to employ Peak Strategies during FAM Period 3 based on, among other things, their expertise and history with the project. The fee rates for this firm were in line with market rates for these types of services. The fees for these services during FAM Period 3 were paid by CAT LLC to Peak Strategies. During FAM Period 3, Peak Strategies continued to provide professional communications services to CAT, including media relations consulting, strategy and execution. Specifically, the public relations firm provided services related to communications with the public regarding the CAT, including monitoring developments related to the CAT (e.g., congressional efforts, public comments and reaction to proposals, press coverage of the CAT), reporting such developments to CAT LLC, and drafting and disseminating communications to the public regarding such developments as well as reporting on developments related to the CAT (e.g., amendments to the CAT NMS Plan). As discussed above, such public relations services were important for various reasons, including monitoring comments made by market participants about the CAT and understanding issues related to the CAT discussed on the public record. By engaging a public relations firm, CAT LLC was better positioned to understand and address CAT matters to the benefit of all market participants.

(e) Excluded Costs

Historical CAT Costs 1 would not include three categories of CAT costs ("Excluded Costs"): (1) \$14,749,362 of costs related to the termination of the relationship with the Initial Plan Processor; (2) \$48,874,937, which are all CAT costs incurred from November 15, 2017 through November 15, 2018; and (3) \$19,628,791, which are costs paid to the Initial Plan Processor from November 16, 2018 through February 2019 when the relationship with the

⁷² As discussed above with regard to Pillsbury's work on liability matters, liability issues related to the CAT are important matters that needed to be resolved and clarified. CAT LLC's efforts to seek such resolution and clarity work to the benefit of Participants, Industry Members and other market participants. Moreover, such activity is a necessary part of the operation of the CAT.

Initial Plan Processor was concluded. The Participants would remain responsible for 100% of these costs, which total \$83,253,090. CAT LLC determined to exclude these Excluded Costs from Historical CAT Costs 1 because these costs relate to the delay in the start of reporting to the CAT and the conclusion of the relationship with the Initial Plan Processor.⁷³

(I) Costs Related to Conclusion of Relationship With Initial Plan Processor

First, Historical CAT Costs 1 would not include \$14,749,362 of costs related to the conclusion of the relationship

with the Initial Plan Processor. Such costs include costs related to the American Arbitration Association, the legal assistance of Pillsbury with regard to the arbitration with the Initial Plan Processor, and the settlement costs related to the arbitration with the Initial Plan Processor. The Participants would remain responsible for 100% of these \$14,749,362 in costs.

(II) Costs Incurred From November 15, 2017 Through November 15, 2018

Second, Historical CAT Costs 1 would not include all CAT costs incurred from November 15, 2017 through November

15, 2018. CAT LLC determined to exclude all costs during this one-year period of \$48,874,937 from fees charged to Industry Members due to the delay in the start of reporting to the CAT. The Participants would remain responsible for 100% of these \$48,874,937 in costs. The following table⁷⁴ breaks down these costs into the categories set forth in Section 11.3(b)(iii)(B)(II) of the CAT NMS Plan.

Operating expense	Excluded costs for November 15, 2017–November 15, 2018
Capitalized Developed Technology Costs	\$37,852,083
<i>Technology Costs:</i>	
Cloud Hosting Services	
Operating Fees	
CAIS Operating Fees	
Change Request Fees	
Legal	6,143,278
Consulting	4,452,106
Insurance	
Professional and administration	340,145
Public relations	87,325
Total Operating Expenses	48,874,937

The following provides additional detail regarding the Excluded Costs.

(a) Technology Costs—Cloud Hosting Services, Operating Fees, CAIS Operating Fees and Change Request Fees

CAT LLC did not incur technology costs related to the categories of cloud hosting services, operating fees, CAIS operating fees or change requests during the period from November 15, 2017 through November 15, 2018.

(b) Technology Costs—Capitalized Developed Technology Costs

Capitalized developed technology costs for the period from November 15, 2017 through November 15, 2018 include capitalizable application development costs of \$37,852,083 incurred in the development of the CAT by the Initial Plan Processor. Such costs include development costs incurred during the application development stage to meet various agreed-upon milestones regarding the CAT, as defined in the agreement between CAT LLC and the Initial Plan Processor. Such

costs include costs related to Industry Member technical specifications for orders and transactions, the system security plan, testing and production for Participant CAT reporting, third-party security assessment and response, query portal, onboarding of the Chief Information Security Officer, and ingestion of FINRA TRF data and FINRA data related to halts and corporate actions.

(c) Legal Costs

The legal costs of \$6,143,278 represent the fees paid to WilmerHale for legal services from November 15, 2017 through November 15, 2018. During this period, WilmerHale provided legal assistance to the CAT, including with regard to the following:

- Provided legal support for the governance of the CAT, including governance support for the Operating Committee, Advisory Committee, Compliance Subcommittee, and CAT working groups;
- Assisted with the development of the CAT funding model and drafted

related amendments of the CAT NMS Plan;

- Provided assistance related to CAT security;
- Drafted exemptive requests, including requests related to PII;
- Assisted with the Implementation Plan required pursuant to Section 6.6(c)(i) of the CAT NMS Plan;
- Provided interpretations of and related to the CAT NMS Plan;
- Provided advice with regard to regulator access to the CAT;
- Assisted with the Plan Processor transition;
- Provided assistance regarding communications with the industry regarding the CAT;
- Provided advice regarding Customer Account Information and PII;
- Provided support for litigation related to SEC exemptive orders; and
- Provided support with regard to discussions with the SEC and its staff, including with respect to addressing interpretative and implementation issues.

⁷³ In approving the CAT Funding Model, the Commission states that “the proposed exclusion of the excluded costs from Past CAT Costs is appropriate in the Commission’s view because it would not require all costs incurred by the Participants to be recovered from Industry Members

through the Historical CAT Assessment, specifically excluding those costs related to the delay in the start of reporting to the CAT and costs related to the conclusion of the relationship with the Initial Plan Processor.” CAT Funding Model Approval Order at 13450.

⁷⁴ The costs described in this table of Excluded Costs were calculated based upon CAT LLC’s review of applicable bills and invoices and related financial statements. CAT LLC financial statements are available on the CAT website.

(d) Consulting Costs

The consulting costs of \$4,452,106 represent the fees paid to Deloitte for their role as project manager for the CAT from November 15, 2017 through November 15, 2018. During this period, Deloitte engaged in the following activities with respect to the CAT:

- Implemented program operations for the CAT project;
- Provided governance support to the Operating Committee, including support for Subcommittees and working groups of the Operating Committee (e.g., Compliance Subcommittee, Cost and Funding Working Group, Technical Working Group, Industry Outreach Working Group, Security Working Group and Steering Committee);
- Assisted with cost and funding issues for the CAT, including the development of the CAT funding model and assistance with loans and the CAT bank account for CAT funding;
- Provided support for updating the SEC on the progress of the development of the CAT; and
- Provided active planning and coordination with and support for the Initial Plan Processor with regard to the development of the CAT, and reported to the Participants on the progress.

(e) Insurance

CAT LLC did not incur costs related to insurance during the period from November 15, 2017 through November 15, 2018.

(f) Professional and Administration Costs

The professional and administration costs of \$340,145 represent the fees paid to Anchin, Exegy and RSM from November 15, 2017 through November 15, 2018.

Financial Advisory Firm: Anchin. From the commencement of its engagement in April 2018 through November 15, 2018, Anchin engaged in the following activities with respect to the CAT:

- Developed, updated and maintained internal controls;
- Provided cash management and treasury functions;
- Facilitated bill payments;
- Provided monthly bookkeeping;
- Reviewed vendor invoices and documentation in support of cash disbursements;
- Provided accounting research and consultations on various accounting, financial reporting and tax matters;
- Addressed not-for-profit tax and accounting considerations;
- Prepared tax returns;

- Addressed various accounting, financial reporting and operating inquiries from Participants;
- Developed and maintained quarterly and annual operating and financial budgets, including budget to actual fluctuation analyses;
- Addressed accounting and financial matters relating to the transition from CAT NMS, LLC to Consolidated Audit Trail, LLC, including supporting the dissolution of CAT NMS, LLC;
- Supported compliance with the CAT NMS Plan;
- Worked with and provided support to the Operating Committee and various CAT working groups;
- Prepared monthly, quarterly and annual financial statements;
- Supported the annual financial statement audits by an independent auditor;
- Reviewed historical costs from inception; and
- Provided accounting and financial information in support of SEC filings.

Market Data Provider: Exegy. From July 2018 through November 15, 2018, CAT LLC purchased market data from Exegy (as described in more detail above).

Security Assessment: RSM. From October 2018 through November 15, 2018, CAT LLC incurred costs for RSM's performance of a security assessment (as described in more detail above).

(g) Public Relations Costs

The public relations costs of \$87,325 represent the fees paid to Sloane from November 15, 2017 through November 15, 2018. From the commencement of its engagement in March 2018 through November 15, 2018, Sloane provided professional communications services to CAT, including media relations consulting, strategy and execution. Specifically, Sloane provided services related to communications with the public regarding the CAT, including monitoring developments related to the CAT (e.g., congressional efforts, public comments and reaction to proposals, press coverage of the CAT), reporting such developments to CAT LLC, and drafting and disseminating communications to the public regarding such developments as well as reporting on developments related to the CAT (e.g., amendments to the CAT NMS Plan).

(III) Costs Paid to Initial Plan Processor From November 16, 2018 Through February 2019

Third, Historical CAT Costs 1 would not include the \$19,628,791 in costs paid to the Initial Plan Processor from November 16, 2018 through February

2019 when CAT LLC's relationship with the Initial Plan Processor concluded. CAT LLC determined that Historical CAT Costs 1 would not include any fees paid to the Initial Plan Processor after November 15, 2017,⁷⁵ which was the date by which Participants were required to begin reporting to the CAT.⁷⁶ As discussed above, the Participants determined that Historical CAT Costs 1 would not include all CAT costs incurred from November 15, 2017 through November 15, 2018, which includes \$37,852,083 in Initial Plan Processor costs incurred from November 15, 2017 through November 15, 2018 (as well as other CAT costs during this period). The remaining Initial Plan Processor costs incurred after November 15, 2018 are the \$19,628,791 in costs for the period from November 16, 2018 through February 2019 incurred in the development of the CAT by the Initial Plan Processor, as well as a transition fee for the transition from the Initial Plan Processor to the successor Plan Processor. The Participants would remain responsible for 100% of these \$19,628,791 in costs.

(ii) Previously Invoiced Costs for Historical CAT Costs 1

CEBBs and CEBBs collectively have been invoiced for \$173,075,024 of the \$212,039,879.34 of Historical CAT Costs 1 via Historical CAT Assessment 1, where \$86,537,512 was invoiced collectively to CEBBs and \$86,537,512 was invoiced collectively to CEBBs. Accordingly, Historical CAT Assessment 1A would seek to recover the remaining \$38,964,855.34 of Historical CAT Costs 1 collectively from CEBBs and CEBBs, where CEBBs collectively will be responsible for \$19,482,427.67, and CEBBs collectively will be responsible for \$19,482,427.67.

(C) Historical Recovery Period 1A

Under the CAT NMS Plan, the Operating Committee is required to reasonably establish the length of the Historical Recovery Period used in calculating each Historical Fee Rate based upon the amount of the Historical CAT Costs to be recovered by the Historical CAT Assessment, and to

⁷⁵ As discussed below, CAT LLC believes that it is appropriate to recover costs related to the services performed by the Initial Plan Processor prior to November 15, 2017. See Section 3(a)(10)(E) below.

⁷⁶ The SEC approved the CAT NMS Plan on November 15, 2016, and Participant reporting was required to begin on the first anniversary of this date, November 15, 2017. See Section 6.3 of the CAT NMS Plan and CAT NMS Plan Approval Order.

describe the reasons for its length.⁷⁷ The Historical Recovery Period used in calculating the Historical Fee Rate may not be less than 24 months or more than five years.⁷⁸ The Operating Committee has determined to establish a Historical Recovery Period 1A of 24 months for Historical CAT Assessment 1A.

The Operating Committee determined that the length of Historical Recovery Period 1A appropriately weighs the need for a reasonable Historical Fee Rate 1A that spreads the Historical CAT Costs over an appropriate amount of time and the need to repay the loans to the Participants in a timely fashion. The Operating Committee determined that 24 months for Historical Recovery Period 1A would establish a fee rate that is lower than other transaction-based fees, including fees assessed pursuant to Section 31.⁷⁹ In addition, in establishing a Historical Recovery Period of 24 months, the Operating Committee recognized that the total costs for Historical CAT Assessment 1A were less than the total costs for 2022 and 2023,⁸⁰ and therefore it would be reasonable and appropriate to recover costs subject to this filing over an approximate two-year period.⁸¹

The length of the Historical Recovery Period 1A and the reasons for its length are provided in this filing in accordance with the requirement in the CAT NMS Plan to provide such information in a fee filing for a Historical CAT Assessment.⁸²

(D) Projected Total Executed Equivalent Share Volume

The calculation of the fee rate for Historical CAT Assessment 1A also requires the determination of the projected total executed equivalent share volume of transactions in Eligible Securities for Historical Recovery Period 1A. Under the CAT NMS Plan, the

Operating Committee is required to “reasonably determine the projected total executed equivalent share volume of all transactions in Eligible Securities for each Historical Recovery Period based on the executed equivalent share volume of all transactions in Eligible Securities for the prior twelve months.”⁸³ The Operating Committee is required to base its projection on the prior twelve months, but it may use its discretion to analyze the likely volume for the upcoming year. Such discretion would allow the Operating Committee to use its judgment when estimating projected total executed equivalent share volume if the volume over the prior twelve months was unusual or otherwise unfit to serve as the basis of a future volume estimate.⁸⁴

The total executed equivalent share volume of transactions in Eligible Securities for the 12-month period from March 2025 through February 2026 was 5,980,937,549,360.49 executed equivalent shares. The Operating Committee has determined to calculate the projected total executed equivalent share volume for the 24 months of Historical Recovery Period 1A by doubling the executed equivalent share volume for the prior 12 months. The Operating Committee determined that such an approach was reasonable as the CAT’s annual executed equivalent share volume has increased from prior years (e.g., the executed equivalent share volume for 2024 was 4,295,884,600,069.4), and the Operating Committee believes that it is reasonable to conclude that the annual executed equivalent share volume will remain at the higher level. Accordingly, the projected total executed equivalent share volume for Historical Recovery Period 1A is projected to be 11,961,875,098,720.98 executed equivalent shares.⁸⁵

The projected total executed equivalent share volume of all transactions in Eligible Securities for Historical Recovery Period 1A and a description of the calculation of the projection is provided in this filing in accordance with the requirement in the CAT NMS Plan to provide such information in a fee filing for a Historical CAT Assessment.⁸⁶

(E) Fee Rate for Historical CAT Assessment 1A

The fee rate for Historical CAT Assessment 1A would be calculated by dividing the total amount of costs to be recovered by Historical CAT Assessment 1A by the reasonably projected total executed equivalent share volume of all transactions in Eligible Securities for Historical Recovery Period 1A, and dividing by 2. Specifically, the fee rate for Historical CAT Assessment 1A would be calculated by dividing \$38,964,855.34 by 11,961,875,098,720.98, and then dividing by 2, which equals \$0.00000162871017371542 per executed equivalent shares. Rounding this to six decimal places results in a fee rate of \$0.000002 per executed equivalent share.⁸⁷ This fee rate is provided in this filing in accordance with the requirement in the CAT NMS Plan to provide the Historical Fee Rate in a fee filing for a Historical CAT Assessment.⁸⁸

(3) Past CAT Costs and Participants

Participants would not be required to pay any fees associated with Historical CAT Assessment 1A as the Participants previously have paid all Past CAT Costs. The CAT NMS Plan explains that:

Because Participants previously have paid Past CAT Costs via loans to the Company, Participants would not be required to pay any Historical CAT Assessment. In lieu of a Historical CAT Assessment, the Participants’ one-third share of Historical CAT Costs and such other additional Past CAT Costs as reasonably determined by the Operating Committee will be paid by the cancellation of loans made to the Company on a pro rata basis based on the outstanding loan amounts due under the loans.⁸⁹

The CAT NMS Plan further states that “Historical CAT Assessments are designed to recover two-thirds of the Historical CAT Costs.”⁹⁰

⁸⁷ As the SEC noted in approving the CAT Funding Model, the fee filing would provide the exact fee per executed equivalent share and describe the relevant number of decimal places for the fee rate. CAT Funding Model Approval Order at 13445, n.677. The Operating Committee determined to use six decimal places to balance the accuracy of the calculation with the potential systems and other impracticalities of using additional decimal places in the calculation.

⁸⁸ Section 11.3(b)(iii)(B)(II)(A) of the CAT NMS Plan.

⁸⁹ Section 11.3(b)(ii) of the CAT NMS Plan.

⁹⁰ *Id.* In approving the CAT Funding Model, the Commission stated that the proposed allocation of the Historical CAT Assessment solely to CEBs and CEBs is appropriate. The Historical CAT Assessment will still be divided into thirds, as the Participants’ one-third share of Historical CAT

⁷⁷ Section 11.3(b)(i)(D)(I) and Section 11.3(b)(iii)(B)(II) of the CAT NMS Plan.

⁷⁸ Section 11.3(b)(i)(D)(I) of the CAT NMS Plan. In the CAT Funding Model Approval Order, the SEC stated that “[i]n the Commission’s view, it is appropriate for the Operating Committee to establish the length of the Historical Recovery Period to be no less than 24 months and no more than five years.” CAT Funding Model Approval Order at 13451.

⁷⁹ For example, as the SEC noted in the CAT Funding Model Approval Order, recent Section 31 fees ranged from \$0.00007 per share to \$0.00072 per share. CAT Funding Model at 13469.

⁸⁰ The total CAT costs for 2022 were approximately \$186 million and the total CAT costs for 2023 were approximately \$233 million.

⁸¹ Note that the proposed 24-month recovery period also recognizes the prohibition on the collection of Historical CAT Assessments after March 31, 2028 as set forth in Section 11.3(f) of the CAT NMS Plan.

⁸² Section 11.3(b)(iii)(B)(II)(C) of the CAT NMS Plan.

⁸³ Section 11.3(b)(i)(E) of the CAT NMS Plan.

⁸⁴ CAT Funding Model Approval Order at 13452.

⁸⁵ This projection was calculated by multiplying 5,980,937,549,360.49 executed equivalent shares by two.

⁸⁶ Section 11.3(b)(iii)(B)(II)(D) of the CAT NMS Plan.

(4) Monthly Fees

CEBBs and CEBSs would be required to pay fees for Historical CAT Assessment 1A on a monthly basis for the period in which Historical CAT Assessment 1A is in effect.⁹¹ A CEBB or CEBS's fee for each month would be calculated based on the transactions in Eligible Securities executed by the CEBB or CEBS from the prior month.⁹² Proposed paragraph (a)(2)(A) of the fee schedule would state that each CAT Executing Broker would receive its first invoice in June 2026, and "would receive an invoice each month thereafter in which Historical CAT Assessment 1A is in effect." Proposed paragraph (a)(2)(B) of the fee schedule would state that "Consolidated Audit Trail, LLC shall provide each CAT Executing Broker with an invoice for Historical CAT Assessment 1A on a monthly basis." In addition, paragraph (b)(1) of the fee schedule states that each CEBB and CEBS is required to pay its CAT fees "each month."

(5) Actual Recovery Period for Historical CAT Assessment 1A

The CAT NMS Plan states that, "[n]otwithstanding the length of the Historical Recovery Period used in calculating the Historical Fee Rate, each Historical CAT Assessment calculated using the Historical Fee Rate will remain in effect until all Historical CAT Costs for the Historical CAT Assessment are collected."⁹³ Accordingly, Historical CAT Assessment 1A will remain in effect until the remaining \$38,964,855.34 of Historical CAT Costs 1 have been collected.⁹⁴ The actual recovery period for Historical CAT Assessment 1A may be shorter or longer than Historical Recovery Period 1A depending on the actual executed equivalent share volumes during the time that Historical CAT Assessment 1A is in effect and subject to any time limitation in the CAT NMS Plan.⁹⁵

Costs will be paid by the cancellation of loans made to the Company. CAT Funding Model Approval Order at 13453.

⁹¹ See Section 11.3(b)(iii)(A) of the CAT NMS Plan.

⁹² See proposed paragraph (a)(2)(B) of the fee schedule.

⁹³ Section 11.3(b)(i)(D)(II) of the CAT NMS Plan.

⁹⁴ In approving the CAT Funding Model, the Commission stated that, "[i]n the Commission's view, it is appropriate for Industry Members to be charged a Historical CAT Assessment until all Historical CAT Costs for the Historical CAT Assessment are collected." CAT Funding Model Approval Order at 13452.

⁹⁵ Section 11.3(f) of the CAT NMS Plan would prohibit the billing of Historical CAT Assessments after March 31, 2028.

(6) Consolidated Audit Trail Funding Fees

To implement Historical CAT Assessment 1A, a new section would be added to the Exchange's fee schedule for "Consolidated Audit Trail Funding Fees", and it would include the proposed paragraphs described below.

(A) Fee Schedule for Historical CAT Assessment 1A

The CAT NMS Plan states that: Each month in which a Historical CAT Assessment is in effect, each CEBB and each CEBS shall pay a fee for each transaction in Eligible Securities executed by the CEBB or CEBS from the prior month as set forth in CAT Data, where the Historical CAT Assessment for each transaction will be calculated by multiplying the number of executed equivalent shares in the transaction by one-third and by the Historical Fee Rate reasonably determined pursuant to paragraph (b)(i) of this Section 11.3.⁹⁶

Accordingly, based on the factors discussed above, the Exchange proposes to add paragraph (a)(2) to the Consolidated Audit Trail Funding Fees section of its fee schedule. Proposed paragraph (a)(2) would state the following:

(A) Each CAT Executing Broker shall receive its first invoice for Historical CAT Assessment 1A in June 2026, which shall set forth the Historical CAT Assessment 1A fees calculated based on transactions in May 2026, and shall receive an invoice for Historical CAT Assessment 1A for each month thereafter in which Historical CAT Assessment 1A is in effect.

(B) Consolidated Audit Trail, LLC shall provide each CAT Executing Broker with an invoice for Historical CAT Assessment 1A on a monthly basis. Each month, such invoices shall set forth a fee for each transaction in Eligible Securities executed by the CAT Executing Broker in its capacity as a CAT Executing Broker for the Buyer ("CEBB") and/or the CAT Executing Broker for the Seller ("CEBS") (as applicable) from the prior month as set forth in CAT Data. The fee for each such transaction will be calculated by multiplying the number of executed equivalent shares in the transaction by the fee rate of \$0.000002 per executed equivalent share.

(C) Historical CAT Assessment 1A will remain in effect until \$38,964,855.34 is collected from CAT Executing Brokers collectively, which is estimated to be approximately two years, but could be for a longer or

shorter period of time. Consolidated Audit Trail, LLC will provide notice when Historical CAT Assessment 1A will no longer be in effect.

(D) Each CAT Executing Broker shall be required to pay each invoice for Historical CAT Assessment 1A in accordance with paragraph (b).

Proposed paragraph (a)(2)(B) of the fee schedule would set forth the fee rate of \$0.000002 per executed equivalent share for Historical CAT Assessment 1A, which is calculated as discussed above.

The proposed language in paragraph (a)(2)(B) of the fee schedule would describe when CAT Executing Brokers would receive their first monthly invoice for Historical CAT Assessment 1A. Specifically, CAT Executing Brokers would receive their first monthly invoice for Historical CAT Assessment 1A in June 2026 and the fees set forth in that invoice would be calculated based on transactions executed in the prior month, that is, transactions executed in May 2026. The payment for the first invoice would be required within 30 days after the receipt of the first invoice (unless a longer period is indicated), as described in paragraph (b)(2) of the fee schedule.

Proposed paragraph (a)(2)(A) of the fee schedule also would describe the monthly cadence of the invoices for Historical CAT Assessment 1A. Specifically, after the first invoices are provided to CAT Executing Brokers in June 2026, invoices will be sent to CAT Executing Brokers each month thereafter while Historical CAT Assessment 1A is in effect.

Proposed paragraph (a)(2)(B) of the fee schedule would describe the invoices for Historical CAT Assessment 1A. Proposed paragraph (a)(2)(B) of the fee schedule would state that "Consolidated Audit Trail, LLC shall provide each CAT Executing Broker with an invoice for Historical CAT Assessment 1A on a monthly basis." Proposed paragraph (a)(2)(B) of the fee schedule also would describe the fees to be set forth in the invoices for Historical CAT Assessment 1A. Specifically, it would state that "[e]ach month, such invoices shall set forth a fee for each transaction in Eligible Securities executed by the CAT Executing Broker in its capacity as a CAT Executing Broker for the Buyer ("CEBB") and/or the CAT Executing Broker for the Seller ("CEBS") (as applicable) from the prior month as set forth in CAT Data. The fee for each such transaction will be calculated by multiplying the number of executed equivalent shares in the transaction by the fee rate of \$0.000002 per executed equivalent share."

⁹⁶ Section 11.3(b)(iii)(A) of the CAT NMS Plan.

Furthermore, proposed paragraph (a)(2)(C) of the fee schedule would describe how long Historical CAT Assessment 1A would remain in effect. It would state that “Historical CAT Assessment 1A will remain in effect until \$38,964,855.34 is collected from CAT Executing Brokers collectively, which is estimated to be approximately two years, but could be for a longer or shorter period of time.” This proposed paragraph would further state that “Consolidated Audit Trail, LLC will provide notice when Historical CAT Assessment 1A will no longer be in effect.”

Historical CAT Assessment 1A will be assessed for all transactions executed in each month through the end of the month in which \$38,964,855.34 is assessed, and then CAT LLC will provide notice that Historical CAT Assessment 1A is no longer in effect. Since Historical CAT Assessment 1A is a monthly fee based on transaction volume from the prior month, Historical CAT Assessment 1A may collect more than \$38,964,855.34. To the extent that occurs, any excess money collected during the final month in which Historical CAT Assessment 1A is in effect will be used to offset future fees and/or to fund the reserve for the CAT.

Finally, proposed paragraph (a)(2)(D) of the fee schedule sets forth the requirement for the CAT Executing Brokers to pay the invoices for Historical CAT Assessment 1A. It would state that “[e]ach CAT Executing Broker shall be required to pay each invoice for Historical CAT Assessment 1A in accordance with paragraph (b).”

(B) Manner of Payment

Paragraph (b)(1) of the “Consolidated Audit Trail Funding Fees” section of its fee schedule describes the manner of payment of Industry Member CAT fees. Paragraph (b)(1) states that “[e]ach CAT Executing Broker shall pay its CAT fees as required pursuant to paragraph (a) each month to the Consolidated Audit Trail, LLC in the manner prescribed by the Consolidated Audit Trail, LLC.” The CAT NMS Plan requires the Operating Committee to establish a system for the collection of CAT fees.⁹⁷ The Plan Processor has established a billing system for CAT fees.⁹⁸ Therefore, the Exchange proposes to require CAT

Executing Brokers to pay Historical CAT Assessment 1A in accordance with such system.

(C) Failure To Pay CAT Fees

The CAT NMS Plan further states that:

Participants shall require each Industry Member to pay all applicable fees authorized under this Article XI within thirty (30) days after receipt of an invoice or other notice indicating payment is due (unless a longer payment period is otherwise indicated). If an Industry Member fails to pay any such fee when due (as determined in accordance with the preceding sentence), such Industry Member shall pay interest on the outstanding balance from such due date until such fee is paid at a per annum rate equal to the lesser of: (a) the Prime Rate plus 300 basis points; or (b) the maximum rate permitted by applicable law.⁹⁹

Accordingly, the Exchange previously has added this requirement to the Exchange’s fee schedule. Specifically, paragraph (b)(2) of the fee schedule states:

Each CAT Executing Broker shall pay the CAT fees required pursuant to paragraph (a) within thirty days after receipt of an invoice or other notice indicating payment is due (unless a longer payment period is otherwise indicated). If a CAT Executing Broker fails to pay any such CAT fee when due, such CAT Executing Broker shall pay interest on the outstanding balance from such due date until such fee is paid at a per annum rate equal to the lesser of (i) the Prime Rate plus 300 basis points, or (ii) the maximum rate permitted by applicable law.

The requirements of paragraph (b)(2) would apply to Historical CAT Assessment 1A.

(7) Historical CAT Assessment Details

The CAT NMS Plan states that: Details regarding the calculation of a CAT Executing Broker’s Historical CAT Assessment will be provided upon request to such CAT Executing Broker. At a minimum, such details would include each CAT Executing Broker’s executed equivalent share volume and corresponding fee by (1) Listed Options, NMS Stocks and OTC Equity Securities, (2) by transactions executed on each exchange and transactions executed otherwise than on an exchange, and (3) by buy-side transactions and sell-side transactions.¹⁰⁰

Such information would provide CEBBs and CEBs with the ability to

understand the details regarding the calculation of their Historical CAT Assessment.¹⁰¹ CAT LLC will provide CAT Executing Brokers with these details regarding the calculation of their Historical CAT Assessments on their monthly invoice for the Historical CAT Assessment.

In addition, CAT LLC will make certain aggregate statistics regarding Historical CAT Assessments publicly available. Specifically, the CAT NMS Plan states that, “[f]or each Historical CAT Assessment, at a minimum, CAT LLC will make publicly available the aggregate executed equivalent share volume and corresponding aggregate fee by (1) Listed Options, NMS Stocks and OTC Equity Securities, (2) by transactions executed on each exchange and transactions executed otherwise on an exchange, and (3) by buy-side transactions and sell-side transactions.”¹⁰² Such aggregate statistics will be available on the CAT website.

Furthermore, CAT LLC will make publicly available on the CAT website the total amount invoiced each month that Historical CAT Assessment 1A is in effect as well as the total amount invoiced for Historical CAT Assessment 1A for all months since its commencement. CAT LLC also will make publicly available on the CAT website the total costs to be collected from Industry Members for Historical CAT Assessment 1A. By reviewing statistics regarding how much has been invoiced and how much remains to be invoiced for Historical CAT Assessment 1A, Industry Members would have sufficient information to reasonably track how much longer Historical CAT Assessment 1A is likely to be in place.

(8) Billing Implementation

To date, CAT LLC, via FCAT, has billed Industry Members for Historical CAT Assessment 1 and certain Prospective CAT Fees. Industry Members will be billed for Historical CAT Assessment 1A via the same processes established for Historical CAT Assessment 1 and the Prospective CAT

¹⁰¹ In approving the CAT Funding Model, the Commission stated that, “[i]n the Commission’s view, providing CAT Execut[ing] Brokers information regarding the calculation of their CAT Fees will aid in transparency and permit CAT Execut[ing] Brokers to confirm the accuracy of their invoices for CAT Fees.” CAT Funding Model Approval Order at 13454.

¹⁰² Section 11.3(a)(iv)(B) of the CAT NMS Plan. In approving the CAT Funding Model, the Commission stated that “[t]he publication of the aggregate executed equivalent share volume and aggregate fee is appropriate because it would allow Participants and CAT Executing Brokers a high-level validation of executed volume and fees.” CAT Funding Model Approval Order at 13454.

⁹⁷ Section 11.4 of the CAT NMS Plan.

⁹⁸ The billing process and system are described in CAT Alert 2023-02 as well as the CAT FAQs related to the billing of CAT fees, the Industry Member CAT Reporter Portal User Guide, the FCAT Industry Member Onboarding Guide, the FCAT Connectivity Supplement for Industry Members and the CAT Billing Webinars (dated Sept. 28, 2023, and Nov. 7, 2023), each available on the CAT website.

⁹⁹ Section 11.4 of the CAT NMS Plan.

¹⁰⁰ Section 11.3(a)(iv)(A) of the CAT NMS Plan.

Fees. Accordingly, Industry Members have substantial experience with the CAT billing processes.

(9) Financial Accountability Milestones

The CAT NMS Plan states that “[n]o Participant will make a filing with the SEC pursuant to Section 19(b) of the Exchange Act regarding any Historical CAT Assessment until any applicable Financial Accountability Milestone described in Section 11.6 has been satisfied.”¹⁰³ The CAT NMS Plan further states that “in all filings submitted by the Participants to the Commission under Section 19(b) of the Exchange Act, to establish or implement Post-Amendment Industry Member Fees pursuant to this Article, . . . the Participants shall clearly indicate whether such fees are related to Post-Amendment Expenses incurred during Period 1, Period 2, Period 3, or Period 4.”¹⁰⁴ As discussed in detail below, all applicable Financial Accountability Milestones for Historical CAT Assessment 1A—that is, Period 1, Period 2 and Period 3 of the Financial Accountability Milestones—have been satisfied. Furthermore, as discussed below, this filing clearly indicates that Historical CAT Assessment 1A relates to Post-Amendment Expenses incurred during Periods 1, 2 and 3 of the Financial Accountability Milestones.

(A) Period 1 of the Financial Accountability Milestones

In accordance with Section 11.6(b) of the CAT NMS Plan, Historical CAT Assessment 1A seeks to recover costs that are related to “all fees, costs, and expenses (including legal and consulting fees, costs, and expenses) incurred by or for the Company in connection with the development, implementation and operation of the CAT from the effective date of [Section 11.6 of the CAT NMS Plan] until such time as Full Implementation of CAT NMS Plan Requirements has been achieved”¹⁰⁵ (“Post-Amendment Expenses”) incurred during FAM Period 1. FAM Period 1 began on June 22, 2020, the effective date of Section 11.6 of the CAT NMS Plan, and concluded on July 31, 2020, the date of Initial Industry Member Core Equity and Options Reporting. Section 1.1 of the CAT NMS Plan defines “Initial Industry Member Core Equity and Options Reporting” as:

The reporting by Industry Members (excluding Small Industry Members that

are not OATS reporters) of both: (a) equities transaction data, excluding Customer Account Information, Customer-ID, and Customer Identifying Information; and (b) options transaction data, excluding Customer Account Information, Customer-ID and Customer Identifying Information.

Under Section 1.1 of the CAT NMS Plan, this Financial Accountability Milestone is considered complete as of the date identified in the Participants’ Quarterly Progress Reports.¹⁰⁶ As indicated by the Participants’ Quarterly Progress Report for the third quarter of 2020,¹⁰⁷ Initial Industry Member Core Equity and Option Reporting was completed on schedule on July 22, 2020, which is prior to the July 31, 2020 deadline.

Under the FAM Period 1 requirement of Initial Industry Member Core Equity and Options Reporting, Industry Members—excluding Small Industry Members that are not OATS reporters—were required to report two categories of data to the CAT: equities transaction data and options transaction data (both excluding Customer Account Information, Customer-ID, and Customer Identifying Information) by July 31, 2020. Pursuant to exemptive relief provided by the Commission, the Commission authorized the Participants’ Compliance Rules to allow core equity reporting for Industry Members (Phase 2a) to begin on June 22, 2020 and core options reporting for Industry Members (Phase 2b) to begin on July 20, 2020.¹⁰⁸

In adopting the FAMs, the Commission stated that the equities transaction reporting required for FAM Period 1 “is consistent with the functionality that the Participants describe on the CAT NMS Plan website as ‘Production Go-Live for Equities 2a file submission and data integrity

validations.’”¹⁰⁹ The Phase 2a Industry Member Data is described in detail in the SEC’s Phased Reporting Exemptive Relief Order, and includes the following data related to Eligible Securities that are equities:

- All events and scenarios covered by OATS, which includes information related to the receipt or origination of orders, order transmittal, and order modifications, cancellations and executions;

- Reportable Events for: (1) proprietary orders, including market maker orders, for Eligible Securities that are equities; (2) electronic quotes in listed equity Eligible Securities (*i.e.*, NMS stocks) sent to a national securities exchange or FINRA’s Alternative Display Facility (“ADF”); (3) electronic quotes in unlisted Eligible Securities (*i.e.*, OTC Equity Securities) received by an Industry Member operating an interdealer quotation system (“IDQS”); and (4) electronic quotes in unlisted Eligible Securities sent to an IDQS or other quotation system not operated by a Participant or Industry Member;

- Firm Designated IDs (“FDIDs”), which Industry Members must report to the CAT as required by Sections 6.3(d)(i)(A) and 6.4(d)(ii)(C) of the CAT NMS Plan;

- Industry Members would be required to report all street side representative orders, including both agency and proprietary orders and mark such orders as representative orders, except in certain limited exceptions as described in the Industry Member Technical Specifications;

- The link between the street side representative order and the order being represented when: (1) the representative order was originated specifically to represent a single order received either from a customer or another broker-dealer; and (2) there is (a) an existing direct electronic link in the Industry Member’s system between the order being represented and the representative order and (b) any resulting executions are immediately and automatically applied to the represented order in the Industry Member’s system;

- Manual and Electronic Capture Time for Manual Order Events;

- Special handling instructions for the original receipt or origination of an order during Phase 2a; and

- When routing an order, whether the order was routed as an intermarket sweep order (“ISO”).

In Phase 2a, Industry Members were not required to report modifications of

¹⁰⁶ The Quarterly Progress Reports are available at <https://www.catnmsplan.com/implementation-plan>.

¹⁰⁷ See Q3 2020 Quarterly Progress Report (Oct. 30, 2020) and Updated Q3 2020 Quarterly Progress Report (Jan. 29, 2021).

¹⁰⁸ See Phased Reporting Exemptive Relief Order. Under the CAT NMS Plan as adopted, the Participants were required, through their Compliance Rules, to require their Large Industry Members to commence reporting Industry Member Data to the Central Repository by November 15, 2018, and to require their Small Industry Members to commence reporting Industry Member Data to the Central Repository by November 15, 2019. Sections 6.7(a)(v) and (vi) of the CAT NMS Plan. The SEC granted exemptive relief from these provisions of the CAT NMS Plan to allow for the phased implementation of Industry Member reporting via five phases addressing the reporting requirements for Phase 2a Industry Member Data, Phase 2b Industry Member Data, Phase 2c Industry Member Data, Phase 2d Industry Member Data and Phase 2e Industry Member Data.

¹⁰³ Section 11.3(b)(iii)(B)(III) of the CAT NMS Plan.

¹⁰⁴ Section 11.6(b) of the CAT NMS Plan.

¹⁰⁵ Section 11.6 of the CAT NMS Plan.

¹⁰⁹ Securities Exchange Act Rel. No. 88890 (May 15, 2020), 85 FR 31322, 31330 n.97 (May 22, 2020) (“FAM Adopting Release”).

a previously routed order in certain limited instances, nor were they required to report a cancellation of an order received from a Customer after the order has been executed.¹¹⁰

The Quarterly Progress Report for the third quarter of 2020 states that “Interim Step: Production Go-Live for Equities 2a file submission and data integrity validation (Large Industry Members and Small OATS Reporters)” was completed on June 22, 2020. Accordingly, the FAM Period 1 requirement of reporting by Industry Members (excluding Small Industry Members that are not OATS reporters) of “equities transaction data, excluding Customer Account Information, Customer-ID, and Customer Identifying Information” was completed on June 22, 2020.

In adopting the FAMs, the Commission stated that the options transaction reporting required for FAM Period 1 is “consistent with the functionality that the Participants describe on the CAT NMS Plan website as ‘Production Go-Live for Options 2b file submission and data integrity validations.’”¹¹¹ The Phase 2b Industry Member Data is described in detail in the SEC’s Phased Reporting Exemptive Relief Order, and includes the Industry Member Data related to Eligible Securities that are options and related to simple electronic option orders, excluding electronic paired option orders. A simple electronic option order is an order to buy or sell a single option that is not related to or dependent on any other transaction for pricing and timing of execution that is either received or routed electronically by an Industry Member. Electronic receipt of an order is defined as the initial receipt of an order by an Industry Member in electronic form in standard format directly into an order handling or execution system. Electronic routing of an order is the routing of an order via electronic medium in standard format from one Industry Member’s order handling or execution system to an exchange or another Industry Member. An electronic paired option order is an electronic option order that contains both the buy and sell side that is routed to another Industry Member or exchange for crossing and/or price improvement as a single transaction on an exchange. Responses to auctions of simple orders and paired simple orders would be reportable in Phase 2b. Furthermore, combined orders in options would be treated in Phase 2b in the same way as equity representative orders are treated

in Phase 2a. A combined order would mean, as permitted by SRO rules, a single, simple order in Listed Options created by combining individual, simple orders in Listed Options from a customer with the same exchange origin code before routing to an exchange. During Phase 2b, the single combined order sent to an exchange must be reported and marked as a combined order, but the linkage to the underlying orders is not required to be reported until Phase 2d.¹¹²

The Quarterly Progress Report for the third quarter of 2020 states that “Interim Step: Production Go-Live for Options 2b file submission and data integrity validations” was completed on July 20, 2020. Accordingly, the FAM Period 1 requirement of reporting by Industry Members (excluding Small Industry Members that are not OATS reporters) of “options transaction data, excluding Customer Account Information, Customer-ID and Customer Identifying Information” was completed on July 20, 2020.

As discussed above, the remaining Historical CAT Costs 1 to be recovered via Historical CAT Assessment 1A would include fees, costs and expenses incurred by or for the Company in connection with the development, implementation and operation of the CAT during the period from June 22, 2020 through July 31, 2020. The total costs for this period, as discussed above, are \$6,377,343. Participants would remain responsible for one-third of this cost (which they have previously paid), and Industry Members would be responsible for the remaining two-thirds, with CEBBs paying one-third (\$2,125,781) and CEBSS paying one-third (\$2,125,781) through Historical CAT Assessment 1 and Historical CAT Assessment 1A.

(B) Period 2 of the Financial Accountability Milestones

Historical CAT Assessment 1A seeks to recover costs that are related to Post-Amendment Expenses incurred during FAM Period 2. FAM Period 2 began on August 1, 2020, and concluded on December 31, 2020, the date of the Full Implementation of Core Equity Reporting. Section 1.1 of the CAT NMS Plan defines “Full Implementation of Core Equity Reporting” as: the point at which: (a) Industry Member reporting (excluding reporting by Small Industry Members that are not OATS reporters) for equities transactions, excluding Customer Account Information, Customer-ID, and

Customer Identifying Information, is developed, tested, and implemented at a 5% Error Rate or less and with sufficient intra-firm linkage, inter-firm linkage, national securities exchange linkage, and trade reporting facilities linkage to permit the Participants and the Commission to analyze the full lifecycle of an order across the national market system, excluding linkage of representative orders, from order origination through order execution or order cancellation; and (b) the query tool functionality required by Section 6.10(c)(i)(A) and Appendix D, Sections 8.1.1–8.1.3 and Section 8.2.1 incorporates the Industry Member equities transaction data described in condition (a) and is available to the Participants and to the Commission. This Financial Accountability Milestone shall be considered complete as of the date identified in a Quarterly Progress Report meeting the requirements of Section 6.6(c).

Under Section 1.1 of the CAT NMS Plan, this Financial Accountability Milestone is considered complete as of the date identified in the Participants’ Quarterly Progress Reports. As indicated by the Participants’ Quarterly Progress Report for the fourth quarter of 2020,¹¹³ Full Implementation of Core Equity Reporting was completed on schedule by December 31, 2020.

Specifically, the Full Implementation of Core Equity Reporting requires the satisfaction of two prongs. The first prong requires Participants to have fully implemented the first phase of equities transaction reporting for Industry Members (excluding Small Industry Members that are not OATS reporters) at an Error Rate of less than 5%. In addition, equities transaction data produced by the CAT at this stage must also be sufficiently interlinked so as to permit full analysis of an order’s lifecycle across the national market, excluding full linkage of representative orders. As CAT LLC reported on its Quarterly Progress Reports, Phase 2a was fully implemented as of October 26, 2020, including intra-firm, inter-firm, national securities exchange, and trade reporting facilities linkages.¹¹⁴ In addition to the reporting of Phase 2a Industry Member Data as described above with regard to FAM Period 1, the following linkage data was added to the CAT as described in the Quarterly Progress Reports for the third and fourth quarter of 2020:

¹¹³ Q4 2020 Quarterly Progress Report (Jan. 29, 2021).

¹¹⁴ For a description of the requirements of Phases 2a, see Phased Reporting Exemptive Relief Order.

¹¹⁰ Phased Reporting Exemptive Relief Order at 23076–78.

¹¹¹ FAM Adopting Release at 31330, n.98.

¹¹² Phased Reporting Exemptive Relief Order at 23078.

- “Production Go-Live for Equities 2a Intrafirm Linkage validations” was completed on 7/27/2020;¹¹⁵

- “Production Go-Live for Firm to Firm Linkage validations for Equities 2a (Large Industry Members and Small OATS Reporters)” was completed on October 26, 2020; and

- “Production Go-Live for Equities 2a Exchange and TRF Linkage validations (Large Industry Members and Small OATS Reporters)” was completed on October 26, 2020.

Furthermore, as CAT LLC reported on its Quarterly Progress Report for the fourth quarter of 2020, the average overall error rate for Phase 2a Industry Member Data was less than 5% as of December 31, 2020. The average overall error rate was calculated by dividing the compliance errors by processed records.

The second prong of this FAM requires that the equities transaction data collected by the CAT at this stage be made available to regulators through two basic query tools required by the CAT NMS Plan—a targeted query tool that will enable regulators to retrieve data via an online query screen with a variety of predefined selection criteria, and a user-defined direct query tool that will provide regulators with the ability to query data using all available attributes and data sources.¹¹⁶ As CAT LLC reported on its Quarterly Progress Reports, the query tool functionality incorporating the data from Phase 2a was available to the Participants and the Commission as of December 31, 2020.¹¹⁷

The Commission has determined that the Participants have sufficiently complied with the conditions set forth in the 2020 Orders and with the technical requirements for Quarterly Progress Reports set forth in Section 6.6(c) of the CAT NMS Plan for purposes of determining compliance with this FAM.¹¹⁸

As discussed above, the remaining Historical CAT Costs 1 to be recovered

via Historical CAT Assessment 1A would include fees, costs and expenses incurred by or for the Company in connection with the development, implementation and operation of the CAT during the period from August 1, 2020 through December 31, 2020. The total costs for this period, as discussed above, are \$42,976,478. Participants would remain responsible for one-third of this cost (which they have previously paid), and Industry Members would be responsible for the remaining two-thirds, with CEBBs paying one-third (\$14,325,492.70) and CEBs paying one-third (\$14,325,492.70) through Historical CAT Assessment 1 and Historical CAT Assessment 1A.

(C) Period 3 of the Financial Accountability Milestones

Historical CAT Assessment 1A seeks to recover costs that are related to Post-Amendment Expenses incurred during FAM Period 3. FAM Period 3 began on January 1, 2021, and concluded on December 31, 2021, the date of the Full Availability and Regulatory Utilization of Transactional Database Functionality. Section 1.1 of the CAT NMS Plan defines “Full Availability and Regulatory Utilization of Transactional Database Functionality” as:

the point at which: (a) reporting to the Order Audit Trail System (“OATS”) is no longer required for new orders; (b) Industry Member reporting for equities transactions and simple electronic options transactions, excluding Customer Account Information, Customer-ID, and Customer Identifying Information, with sufficient intra-firm linkage, inter-firm linkage, national securities exchange linkage, trade reporting facilities linkage, and representative order linkages (including any equities allocation information provided in an Allocation Report) to permit the Participants and the Commission to analyze the full lifecycle of an order across the national market system, from order origination through order execution or order cancellation, is developed, tested, and implemented at a 5% Error Rate or less; (c) Industry Member reporting for manual options transactions and complex options transactions, excluding Customer Account Information, Customer-ID, and Customer Identifying Information, with all required linkages to permit the Participants and the Commission to analyze the full lifecycle of an order across the national market system, from order origination through order execution or order cancellation, including any options allocation information provided in an Allocation

Report, is developed, tested, and fully implemented; (d) the query tool functionality required by Section 6.10(c)(i)(A) and Appendix D, Sections 8.1.1–8.1.3, Section 8.2.1, and Section 8.5 incorporates the data described in conditions (b)–(c) and is available to the Participants and to the Commission; and (e) the requirements of Section 6.10(a) are met. This Financial Accountability Milestone shall be considered complete as of the date identified in a Quarterly Progress Report meeting the requirements of Section 6.6(c).

Under Section 1.1 of the CAT NMS Plan, this Financial Accountability Milestone is considered complete as of the date identified in the Participants’ Quarterly Progress Reports. As indicated by the Participants’ Quarterly Progress Report for the fourth quarter of 2021,¹¹⁹ Full Availability and Regulatory Utilization of Transactional Database Functionality was completed on schedule by December 31, 2021.

Specifically, the “Full Availability and Regulatory Utilization of Transactional Database Functionality” requires the satisfaction of five prongs. The first prong requires that reporting to the Order Audit Trail System (“OATS”) is no longer required for new orders. As CAT LLC reported on its Quarterly Progress Report for the fourth quarter of 2021,¹²⁰ FINRA retired OATS effective September 1, 2021.¹²¹ Accordingly, after the retirement of OATS, reporting to OATS was no longer required.

In addition to Phase 2a and Phase 2b Industry Member Data, the second and third prongs of “Full Availability and Regulatory Utilization of Transactional Database Functionality” require Industry Member reporting of Phase 2c Industry Member Data and Phase 2d Industry Member Data. The Phase 2c Industry Member Data is described in detail in the SEC’s Phased Reporting Exemptive Relief Order. That Order states that “Phase 2c Industry Member Data” is Industry Member Data related to Eligible Securities that are equities other than Phase 2a Industry Member Data, Phase 2d Industry Member Data, or Phase 2e Industry Member Data. Specifically, the Phase 2c Industry Member Data includes Industry Member Data that is related to Eligible Securities that are equities and that is related to: (1) Allocation Reports as required to be recorded and reported to the Central Repository pursuant to Section 6.4(d)(ii)(A)(1) of the CAT NMS Plan; (2)

¹¹⁵ Q3 2020 Quarterly Progress Report (Oct. 20, 2021).

¹¹⁶ At the time of this FAM, Section 6.10(c)(i)(A) of the CAT NMS Plan required the Plan Processor to “provide Participants and the SEC with access to all CAT Data stored in the Central Repository” via an “online targeted query tool,” and Appendix D, Sections 8.1.1–8.1.3 of the CAT NMS Plan described the required functionality associated with this regulatory tool. Appendix D, Section 8.2.1 describes the required functionality associated with a user-defined direct query tool that will “deliver large sets of data that can then be used in internal surveillance or market analysis applications.”

¹¹⁷ See Q3 2020 Quarterly Progress Report (Oct. 30, 2020); Updated Q3 2020 Quarterly Progress Report (Jan. 29, 2021); and Q4 2020 Quarterly Progress Report (Jan. 29, 2021).

¹¹⁸ Securities Exchange Act Rel. No. 98848 (Nov. 2, 2023), 88 FR 77128, 77129 n.13 (Nov. 8, 2023) (“Settlement Exemptive Order”).

¹¹⁹ Q4 2021 Quarterly Progress Report (Jan. 17, 2022).

¹²⁰ *Id.*

¹²¹ Securities Exchange Act Rel. No. 92239 (June 23, 2021), 86 FR 34293 (June 29, 2021).

quotes in unlisted Eligible Securities sent to an IDQS operated by a CAT Reporter (reportable by the Industry Member sending the quotes) (except for quotes reportable in Phase 2d, as discussed below); (3) electronic quotes in listed equity Eligible Securities (*i.e.*, NMS stocks) that are not sent to a national securities exchange or FINRA's Alternative Display Facility; (4) reporting changes to client instructions regarding modifications to algorithms; (5) marking as a representative order any order originated to work a customer order in price guarantee scenarios, such as a guaranteed VWAP; (6) flagging rejected external routes to indicate a route was not accepted by the receiving destination; (7) linkage of duplicate electronic messages related to a Manual Order Event between the electronic event and the original manual route; (8) special handling instructions on order route reports (other than the ISO, which is required to be reported in Phase 2a); (9) quote identifier on trade events; (10) reporting of LTIDs (if applicable) for accounts with Reportable Events that are reportable to CAT as of and including Phase 2c; (11) reporting of date account opened or Account Effective Date (as applicable) for accounts and reporting of a flag indicating the Firm Designated ID type as account or relationship; (12) order effective time for orders that are received by an Industry Member and do not become effective until a later time; (13) the modification or cancellation of an internal route of an order; and (14) linkages to the customer orders(s) being represented for representative order scenarios, including agency average price trades, net trades, aggregated orders, and disconnected Order Management System ("OMS")—Execution Management System ("EMS") scenarios, as required in the Industry Member Technical Specifications.¹²²

Phase 2c Industry Member Data also includes electronic quotes that are provided by or received in a CAT Reporter's order/quote handling or execution systems in Eligible Securities that are equities and are provided by an Industry Member to other market participants off a national securities exchange under the following conditions: (1) an equity bid or offer is displayed publicly or has been communicated (a) for listed securities to the ADF operated by FINRA; or (b) for unlisted equity securities to an "interdealer quotation system," as defined in FINRA Rule 6420(c); or (2) an equity bid or offer which is accessible

electronically by customers or other market participants and is immediately actionable for execution or routing; *i.e.*, no further manual or electronic action is required by the responder providing the quote in order to execute or cause a trade to be executed). With respect to OTC Equity Securities, OTC Equity Securities quotes sent by an Industry Member to an IDQS operated by an Industry Member CAT Reporter (other than such an IDQS that does not match and execute orders) are reportable by the Industry Member sending them in Phase 2c. Accordingly, any response to a request for quote or other form of solicitation response provided in a standard electronic format (*e.g.*, FIX) that meets this quote definition (*i.e.*, an equity bid or offer which is accessible electronically by customers or other market participants and is immediately actionable for execution or routing) would be reportable in Phase 2c.¹²³

The Phase 2d Industry Member Data is described in detail in the SEC's Phased Reporting Exemptive Relief Order. "Phase 2d Industry Member Data" is Industry Member Data that is related to Eligible Securities that are options other than Phase 2b Industry Member Data, Industry Member Data that is related to Eligible Securities that are equities other than Phase 2a Industry Member Data or Phase 2c Industry Member Data, and Industry Member Data other than Phase 2e Industry Member Data. Phase 2d Industry Member Data includes with respect to the Eligible Securities that are options: (1) simple manual orders; (2) electronic and manual paired orders; (3) all complex orders with linkages to all CAT-reportable legs; (4) LTIDs (if applicable) for accounts with Reportable Events for Phase 2d; (5) date account opened or Account Effective Date (as applicable) for accounts with an LTID and flag indicating the Firm Designated ID type as account or relationship for such accounts; (6) Allocation Reports as required to be recorded and reported to the Central Repository pursuant to Section 6.4(d)(ii)(A)(1) of the CAT NMS Plan; (7) the modification or cancellation of an internal route of an order; and (8) linkage between a combined order and the original customer orders. Phase 2d Industry Member Data also would include electronic quotes that are provided by or received in a CAT Reporter's order/quote handling or execution systems in Eligible Securities that are options and are provided by an Industry Member to other market participants off a national securities exchange under the following

conditions: a listed option bid or offer which is accessible electronically by customers or other market participants and is immediately actionable (*i.e.*, no further action is required by the responder providing the quote in order to execute or cause a trade to be executed). Accordingly, any response to a request for quote or other form of solicitation response provided in standard electronic format (*e.g.*, FIX) that meets this definition is reportable in Phase 2d for options.¹²⁴

Phase 2d Industry Member Data also includes with respect to Eligible Securities that are options or equities (1) receipt time of cancellation and modification instructions through Order Cancel Request and Order Modification Request events; (2) modifications of previously routed orders in certain instances; and (3) OTC Equity Securities quotes sent by an Industry Member to an IDQS operated by an Industry Member CAT Reporter that does not match and execute orders. In addition, subject to any exemptive or other relief, Phase 2d Industry Member Data will include verbal or manual quotes on an exchange floor or in the over-the-counter market, where verbal quotes and manual quotes are defined as bids or offers in Eligible Securities provided verbally or that are provided or received other than via a CAT Reporter's order handling and execution system (*e.g.*, quotations provided via email or instant messaging).¹²⁵

The Quarterly Progress Report for the fourth quarter of 2021 states that "Phase 2a was fully implemented as of October 26, 2020;" "Phase 2b was fully implemented as of January 4, 2021;" "Phase 2c was implemented as of April 26, 2021;" and "Phase 2d was fully implemented as of December 13, 2021."¹²⁶ The Quarterly Progress Reports for 2021 provide additional detail regarding the implementation of these steps including the following:

- "Production Go-Live for Equities 2c reporting requirements (Large Industry Members)" was completed on April 26, 2021;
- "LTID Account Information Reporting Go-Live for Phases 2a, 2b and 2c (Large Industry Members)" was completed on April 26, 2021;
- "FCAT Plan Processor creates linkages of the lifecycle of order events based on the received data through Phase 2d Production Go-Live for Options 2d reporting requirements

¹²⁴ *Id.*

¹²⁵ *Id.* at 23079–80.

¹²⁶ See Q4 2021 Quarterly Progress Report (Jan. 17, 2022).

¹²² Phase Reporting Exemptive Relief Order at 23078–79.

¹²³ *Id.* at 23079.

(Large Industry Members)” was completed on December 13, 2021;

- “Production Go-Live for Options 2d reporting requirements (Large Industry Members)” was completed on December 13, 2021;

- “Production Go-Live for Options 2b reporting requirements (Small OATS Reporters and Small Non-OATS Reporters)” was completed on December 13, 2021;

- “Production Go-Live for Equities 2c reporting requirements (Small OATS Reporters and Small Non-OATS Reporters)” was completed on December 13, 2021;

- “Production Go-Live for Options 2d reporting requirements (Small OATS Reporters and Small Non-OATS Reporters)” was completed on December 13, 2021;

- “LTID Account Information Reporting Go-Live for Phases 2d (Large Industry Members)” was completed on December 13, 2021; and

- “LTID Account Information Reporting Go-Live for Phases 2a, 2b, 2c and 2d (Small Industry Members)” was completed on December 13, 2021.¹²⁷

The third prong of “Full Availability and Regulatory Utilization of Transactional Database Functionality” also imposes an Error Rate requirement of 5% or less. The Quarterly Progress Report for the fourth quarter of 2021 states the average overall error rate was less than 5% as of December 31, 2021. The average overall error rate was calculated by dividing the compliance errors by processed records.

The fourth prong of “Full Availability and Regulatory Utilization of Transactional Database Functionality” requires that the data collected by the CAT at this stage be made available to regulators through an online targeted query tool and a user-defined direct query tool. As CAT LLC reported on its Quarterly Progress Report for the fourth quarter of 2021, the query tool functionality incorporating the data from Phases 2a, 2b, 2c and 2d was available to the Participants and to the Commission as of December 31, 2021.¹²⁸

The fifth prong requires the requirements of Section 6.10(a) of the CAT NMS Plan to have been met. Section 6.10(a) of the CAT NMS Plan requires the Participants to use the tools described in Appendix D to “develop and implement a surveillance system, or enhance existing surveillance systems, reasonably designed to make use of the

consolidated information contained in the Central Repository.” The Exchange implemented a surveillance system, or enhanced existing surveillance systems, reasonably designed to make use of the consolidated information contained in the Central Repository as of December 31, 2021 in accordance with Section 6.10(a) of the CAT NMS Plan.¹²⁹

The Commission has determined that the Participants have sufficiently complied with the conditions set forth in the 2020 Orders and with the technical requirements for Quarterly Progress Reports set forth in Section 6.6(c) of the CAT NMS Plan for purposes of determining compliance with this FAM.¹³⁰

As discussed above, the remaining Historical CAT Costs 1 to be recovered via Historical CAT Assessment 1A would include fees, costs and expenses incurred by or for the Company in connection with the development, implementation and operation of the CAT during the period from January 1, 2021 through December 31, 2021. The total costs for this period, as discussed above, are \$144,415,268. Participants would remain responsible for one-third of this cost (which they have previously paid), and Industry Members would be responsible for the remain two-thirds, with CEBBs paying one-third (\$48,138,422.70) and CEBSSs paying one-third (\$48,138,422.70) through Historical CAT Assessment 1 and Historical CAT Assessment 1A.

(D) Additional Considerations Related to the Financial Accountability Milestones

As discussed above, CAT LLC has satisfied the Financial Accountability Milestones (“FAMs”) for Periods 1 through 3.¹³¹ As discussed below, none of the circumstances related to NIA Electronic RFQ Responses, the 2023 Verbal Quotes Exemption, the November 2023 Order, or Executing Broker reporting, affect the conclusion that the FAMs for Periods 1 through 3 were satisfied in a timely fashion.

¹²⁹ See Q1 2021 Quarterly Progress Report (Apr. 30, 2021); Q2 2021 Quarterly Progress Report (July 27, 2021); Q3 2021 Quarterly Progress Report (Nov. 1, 2021); and Q4 2021 Quarterly Progress Report (Jan. 17, 2022).

¹³⁰ Settlement Exemptive Order at 77129 n.13.

¹³¹ In May 2020, the Commission adopted amendments to the CAT NMS Plan that establish four Financial Accountability Milestones and set target deadlines by which these milestones must be achieved. These amendments also reduce the amount of any fees, costs, and expenses that may be recovered from Industry Members if the Participants fail to meet the target deadlines. FAM Adopting Release.

(i) NIA Electronic RFQ Responses

CAT LLC does not believe that the exemptive relief relating to the reporting of electronic responses for quotes (“RFQs”) that are not immediately actionable (“NIA Electronic RFQ Responses”) affect the conclusion that FAMs 1 through 3 have been satisfied. The only reason CAT LLC pursued this relief is because certain Industry Members introduced concerns that NIA Electronic RFQ Responses could be considered “orders” reportable pursuant to Rule 613(j)(8) and some Industry Members were not prepared to report such orders to CAT. Thus, the relief was requested on behalf of Industry Members. CAT LLC itself has not taken any position on whether NIA Electronic RFQ Responses are “orders,” as the definition of “order” is an SEC rule and the trading processes for NIA Electronic RFQ Responses are the Industry Members’, not those of the Participants or CAT LLC. Accordingly, CAT LLC stated in its letter that “Industry Members must determine whether trading interest falls within the definition of an ‘order’ for CAT purposes. To the extent an NIA Electronic RFQ Response is not considered an ‘order’ as defined in Rule 613(j)(8) and the CAT NMS Plan, it would not be reportable to CAT.”¹³²

Only “orders” as defined in SEC Rule 613(j)(8) are reportable to CAT. There is no agreement across the industry or among regulators as to whether NIA Electronic RFQ Responses are “orders” reportable to CAT. Certain Industry Members have raised the question as to whether NIA Electronic RFQ Responses are orders, but others have argued that they are not orders under Rule 613(j)(8).¹³³ Indeed, members of the Advisory Committee, which CAT LLC relies upon for guidance with regard to Industry Member issues, have not had a definitive view on whether NIA Electronic RFQ Responses are orders. As Rule 613(j)(8) is an SEC rule, CAT LLC believes that only the SEC can provide a definitive determination as to if, and under what circumstances, an NIA Electronic RFQ Response is considered an “order” reportable to CAT. The issue has persisted for some time. As a result, CAT LLC filed an exemptive request regarding NIA Electronic RFQ Responses for clarity on the interpretive issue. As recently as April 2024,

¹³² See Letter from Brandon Becker, Chair, CAT NMS Plan Operating Committee to Vanessa Countryman, Secretary, Commission (Feb. 13, 2024) at 2.

¹³³ See, e.g., Letter from Howard Meyerson, Managing Director, FIF, to Sai Rao, Counsel for Trading and Markets, Office of the Chair (Apr. 25, 2024).

¹²⁷ See Q2 2021 Quarterly Progress Report (July 27, 2021); and Q4 2021 Quarterly Progress Report (Jan. 17, 2022).

¹²⁸ See Q4 2021 Quarterly Progress Report (Jan. 17, 2022).

Industry Members have re-raised this issue stating that the SEC agrees that it must provide additional guidance on this interpretive issue to resolve the CAT reporting issue for NIA Electronic RFQ Responses:

As further discussed in the prior FIF letters, even if the Commission had the legal authority to require the reporting of NIA RFQ responses to CAT without an amendment to Rule 613, the Commission has not provided guidance to industry members as to the conditions under which NIA RFQ responses would be reportable to CAT. In subsequent discussions with industry members, Commission representatives have agreed that, prior to NIA RFQ responses being reportable to CAT, it would be necessary for the Commission to provide further guidance to industry members as to the conditions under which NIA RFQ responses would be reportable to CAT.¹³⁴

On May 20, 2024, the Commission granted CAT LLC's request for exemptive relief from certain CAT reporting requirements pertaining to NIA Electronic RFQ Responses to the extent such responses are considered "orders" reportable pursuant to Rule 613(j)(8).¹³⁵ The Commission, however, did not provide additional guidance regarding the conditions under which NIA Electronic RFQ Responses would be reportable to CAT. The Commission stated in its exemptive order that "[t]o the extent that the Participants are availing themselves of exemptive relief from a CAT NMS Plan requirement, such requirement shall not be included in the requirements for the Financial Accountability Milestones, provided that any conditions of the exemption are satisfied."¹³⁶

When the Commission proposed the FAMs, the Participants expressed concern that, "by conditioning the ability of CAT LLC and the Participants to collect Post-Amendment Industry Member Fees on factors dependent on the efforts of Industry Members, the Commission's proposals inadvertently establish a perverse incentive for Industry Members to devote less than maximum efforts to comply with their obligations related to the CAT as they will pay less fees in such instances."¹³⁷ The Participants further warned that "Industry Members may request or require unanticipated reporting delays

to address Industry Member implementation issues or concerns," but that, "[f]aced with financial penalties for missed deadlines, the Participants may not be able to fully address legitimate industry concerns or accommodate requests for delays with respect to future deadlines."¹³⁸ CAT LLC has engaged in good faith to help address NIA Electronic RFQ Responses and other concerns relevant to the ability of Industry Members to meet their CAT reporting obligations. CAT LLC should not be penalized financially for seeking in good faith to resolve a difficult interpretive issue for the benefit of Industry Members.

(ii) 2023 Verbal Quotes Exemption

CAT LLC does not believe that the Commission's May 19, 2023 order granting temporary exemptive relief relating to certain verbal floor activity and unstructured verbal and electronic upstairs activity (the "2023 Verbal Quotes Exemption") affects the conclusion that FAMs 1 through 3 have been satisfied. The 2023 Verbal Quotes Exemption, which was issued on May 19, 2023, is not relevant for purposes of FAM Periods 1 through 3, which only cover the period through December 31, 2021. The relevant exemption for this time period is the Commission's November 12, 2020 order, which granted relief for the same activity through July 31, 2023 (the "2020 Verbal Quotes Order").¹³⁹ The Commission has stated that, "to the extent that the Participants are availing themselves of exemptive relief from a CAT NMS Plan requirement, such requirement shall not be included in the requirements for a Financial Accountability Milestone, provided that the conditions of the exemption are satisfied."¹⁴⁰ Here, the 2020 Verbal Quotes Order was in effect and the conditions of the exemption were satisfied as of December 31, 2021, and therefore may be relied upon for purposes of determining compliance with FAM Periods 1 through 3.¹⁴¹

¹³⁸ *Id.* at 10.

¹³⁹ Securities Exchange Act Rel. No. 90405, 85 FR 73544 (Nov. 18, 2020) (the "2020 Verbal Quotes Exemption").

¹⁴⁰ See, e.g., Securities Exchange Act Rel. No. 89051 (June 11, 2020), 85 FR 36631, 36633 (June 17, 2020). The straightforward reading of the Commission's statement is that compliance with the conditions of an exemption will be measured as of the deadline for a particular FAM Period.

¹⁴¹ As a condition to the 2020 Verbal Quotes Exemption, the Commission required that the Participants provide a written status update on the reporting of these quotes and orders by July 31, 2022, including the estimated costs of reporting these quotes and orders and an implementation plan for the reporting of these quotes and orders. As noted, the 2020 Verbal Quotes Order was in effect and the conditions of the exemption were

(iii) November 2023 Order

CAT LLC does not believe that the Commission's November 2, 2023 order granting relief from certain CAT NMS Plan requirements (the "November 2023 Order") affects the conclusion that FAMs 1 through 3 have been satisfied. The November 2023 Order is not relevant for purposes of FAM Periods 1 through 3, which only cover the period through December 31, 2021. As described in the November 2023 Order, the relevant exemptive orders for this time period were issued on December 16, 2020, which also states that "the Commission has determined that the Participants have sufficiently complied with the conditions set forth in the prior Orders and with the technical requirements for Quarterly Progress Reports set forth in section 6.6(c) of the CAT NMS Plan, including for purposes of determining compliance with any applicable Financial Accountability Milestones."¹⁴² The November 2023 Exemption Order is consistent with the Commission's repeated statements in the FAM adopting release that it would have "authority to grant exemptive relief from any requirement associated with a particular Financial Accountability Milestone," citing Section 36 of the Exchange Act and Rule 608.¹⁴³ Similarly, the CAT NMS Plan expressly contemplates the Commission's ability to grant exemptive relief from any CAT NMS Plan requirement.¹⁴⁴

satisfied as of December 31, 2021, and therefore may be relied upon for purposes of determining compliance with FAM Periods 1 through 3. In any event, on June 3, 2022, the Participants provided the required written status update. See Letter from Michael Simon, CAT NMS Plan Operating Committee Chair, to Vanessa Countryman, Secretary, Commission (June 3, 2022).

¹⁴² *Id.* at 77129 n.12.

¹⁴³ FAM Adopting Release at 31335 (May 22, 2020). Section 36 of the Exchange Act grants the Commission the authority to "conditionally or unconditionally exempt any person, security, or transaction . . . from any provision or provisions of [the Exchange Act] or of any rule or regulation thereunder, to the extent that such exemption is necessary or appropriate in the public interest, and is consistent with the protection of investors." 15 U.S.C. 78mm(a)(1). Under Rule 608(e) of Regulation NMS, the Commission may "exempt from [Rule 608], either unconditionally or on specified terms and conditions, any self-regulatory organization, member thereof, or specified security, if the Commission determines that such exemption is consistent with the public interest, the protection of investors, the maintenance of fair and orderly markets and the removal of impediments to, and perfection of the mechanism of, a national market system." 17 CFR 242.608(e).

¹⁴⁴ Section 12.3 of the CAT NMS Plan ("[T]o the extent the SEC grants exemptive relief applicable to any provision of this Agreement, Participants and Industry Members shall be entitled to comply with such provision pursuant to the terms of the exemptive relief so granted at the time such relief

Continued

¹³⁴ *Id.*

¹³⁵ Securities Exchange Act Rel. No. 100181 (May 20, 2024), 89 FR 45715 (May 23, 2024).

¹³⁶ *Id.* at n.11.

¹³⁷ See Letter from Michael Simon, CAT NMS Plan Operating Committee Chair, to Vanessa Countryman, Secretary, Commission at 9 (Oct. 28, 2019).

(iv) Executing Broker Reporting

CAT LLC also completed the requirements of FAM Period 2, including the required linkages, by December 31, 2020. Although Participant exchanges may report the Executing Broker to CAT differently in certain situations, these reporting differences are irrelevant for linkage purposes as the fields used for CAT Executing Broker are not used for linkage.

(10) Additional Support for Reasonableness of Historical CAT Costs

The CAT Funding Model approved by the Commission permits the recovery of reasonable costs in each of the categories of CAT costs sought to be recovered via Historical CAT Assessment 1A.¹⁴⁵ As described in detail above and in further detail below, the CAT costs to be recovered for each category are reasonable. The following discusses in further detail how each of the following costs are reasonable: (1) costs incurred prior to the effective date of the CAT NMS Plan; (2) cloud hosting services costs; (3) costs related to funding model filings; (4) costs related to litigation with the SEC regarding the CAT NMS Plan; (5) costs related to the Initial Plan Processor; (6) CAIS implementation costs; (7) public relations costs; (8) legal costs related to the limitation of liability provision in the CAT Reporter agreements; and (9) costs for the Chair of CAT Operating Committee. As discussed in detail below, each of these costs is reasonable and should be recoverable in accordance with the CAT Funding Model.

(A) Costs Incurred Prior to the Effective Date of CAT NMS Plan

CAT LLC believes that it is reasonable to seek recovery of costs incurred prior to when the CAT NMS Plan became effective in November 2016, such as legal and consulting fees incurred to create the CAT NMS Plan. Rule 613 specifically mandates that the CAT be created, implemented and maintained, and further provides that the CAT NMS Plan include a proposed allocation of estimated costs to fund the creation, implementation and maintenance of the CAT among the Participants (referred to as “plan sponsors”), and between the Participants and Industry Members (referred to as “members of the plan

sponsors”).¹⁴⁶ Consistent with Rule 613, the CAT NMS Plan, as approved by the Commission, specifically authorizes charging Industry Members fees for costs reasonably incurred prior to the date of the approval of the CAT NMS Plan by the Commission in November 2016, including legal and consulting costs. Section 11.1(c) of the CAT NMS Plan states that:

[i]n determining fees on Participants and Industry Members the Operating Committee shall take into account fees, costs and expenses (including legal and consulting fees and expenses) reasonably incurred by Participants on behalf of the Company prior to the Effective Date in connection with the creation and implementation of the CAT.

Accordingly, the CAT NMS Plan specifically permits the recovery of costs, including legal and consulting costs, reasonably incurred prior to November 2016 in connection with the creation and implementation of the CAT.

Furthermore, the costs incurred to create and implement the CAT prior to the effective date of the CAT NMS Plan (“Pre-Formation Costs”) were reasonable both in scope and amount, in accordance with the requirements of Section 11.1(c) of the CAT NMS Plan. During the four-year period from 2012 to 2016, a total of \$13,842,881 in Pre-Formation Costs were incurred. This is an average of approximately \$3.5 million per year over this period. The Pre-Formation Costs fell into three categories: legal costs, consulting costs and public relations costs. This includes legal costs of \$3,196,434; consulting costs of \$10,589,273; and public relations costs of \$57,174. The legal, consulting and public relations services were performed by WilmerHale, Deloitte and Peppercomm, respectively. The selection considerations and fees for these three firms are described in detail above and are described further below. The Pre-Formation Costs are direct costs of CAT, which have been funded entirely by the Participants through non-interest-bearing notes. The Pre-Formation Costs do not include the significant costs incurred by each of the individual Participants in responding to the adoption of Rule 613.

The Pre-Formation Costs are reasonable and appropriate as they reflect the extensive efforts that were necessary to create the CAT NMS Plan as mandated after the SEC’s adoption of Rule 613. As described in more detail below, these efforts included, among

other things, developing a plan for selecting the Plan Processor, soliciting and evaluating bids, engaging a diverse set of market participants and the SEC in the development of the Plan, interacting with the SEC in their oversight of the development of the Plan, and seeking appropriate exemptive relief to address areas of concern in Rule 613.¹⁴⁷

(i) Request for Proposal (“RFP”)

The Participants determined to utilize an RFP to ensure that potential alternative solutions for creating the Plan could be presented and considered, and that a detailed and meaningful cost-benefit analysis could be performed. The SEC supported the use of an RFP, and approved its use as it is described in extensive detail in the CAT NMS Plan.¹⁴⁸

In the context of the SEC’s adoption of Rule 613, commenters urged the Commission to utilize an RFP process to assist in the planning and design of the NMS plan.¹⁴⁹ Specifically, the Commission explained:

In this regard, several commenters suggested that the Commission undergo a RFP or request for information (“RFI”) process to create and implement a consolidated audit trail. Specifically, FIF urged the Commission to perform a RFP process “to determine the best technical solution for developing a consolidated audit trail.” FIF suggested that the Commission “should outline a set of goals and guiding principles they are striving to achieve as part of the adopted CAT filing and leave the determination of data elements and other technical requirements to [an] industry working group.” Similarly, Direct Edge suggested that Commission staff should form and engage in a working group to develop an RFP for publication by the Commission. DirectEdge explained that an RFP process would facilitate the identification of the costs and benefits of the audit trail, as well as the consideration of a wider range of

¹⁴⁷ The Participants described in detail the process for drafting the CAT NMS Plan in its original filing of the CAT NMS Plan. See Letter from Mike Simon, on behalf of the Participants of the CAT NMS Plan, to Brent J. Fields, Secretary, Commission (Sept. 30, 2014). A non-exclusive list of filings and activities associated with CAT, including certain pre-2016 filings, are available on the SEC’s website: <https://www.sec.gov/divisions/marketreg/rule613-info>.

¹⁴⁸ See detailed discussion of RFP questions in Appendix C of the CAT NMS Plan, and incorporation of RFP requirements in Appendix D at D-2.

¹⁴⁹ For example, in its comments on proposed Rule 613, FIF suggested “that the SROs should select the processor through a ‘request for proposal.’” Rule 613 Adopting Release at 45785.

is granted irrespective of whether this Agreement has been amended.”)

¹⁴⁵ See Sections 11.1(a)(i) and 11.3(b)(iii)(B)(II) of the CAT NMS Plan.

¹⁴⁶ See, e.g., Rule 613(a)(1)(vii)(D) of the CAT NMS Plan.

technological solutions. Further, commenters, including Broadridge Financial Solutions, Inc., a technology provider, also requested more specific information about the audit trail system to better assess the Commission's initial cost estimates and to determine the best approach to the consolidated audit trail.¹⁵⁰

In response to these comments, the Commission modified Rule 613 to require the Participants to address certain important considerations regarding the features and details of the NMS plan and to extend the timeframe for submission of the CAT NMS Plan by the Participants from the 90 days as originally proposed to 270 days, in part, to accommodate a process that would address these considerations.¹⁵¹ As the SEC noted, “[i]n light of the numerous specific requirements of Rule 613, the Participants concluded that publication of a request for proposal (‘RFP’) was necessary to ensure that potential alternative solutions to creating the consolidated audit trail can be presented and considered by the Participants and that a detailed and meaningful cost/benefit analysis can be performed, both of which are required considerations to be addressed in the CAT NMS Plan.”¹⁵²

The SEC specifically recognized that the Participants planned to use an RFP when it approved the Selection Plan, and stated that the RFP was a reasonable approach.¹⁵³ As the SEC described in its approval order for the Selection Plan, “[t]he Participants filed the [Selection] Plan to govern how the SROs will proceed with formulating and submitting the CAT NMS Plan—and, as part of that process, how to review, evaluate, and narrow down the bids submitted in response to the RFP (‘Bids’)—and ultimately choosing the plan processor that will build, operate, and maintain the consolidated audit trail (‘Plan Processor’).”¹⁵⁴ After evaluating the Selection Plan, including the use of an RFP process, the Commission stated that it “believes the [Selection] Plan is reasonably designed to govern the process by which the SROs will formulate and submit the CAT NMS Plan, including the review, evaluation, and narrowing down of Bids in response to the RFP, and ultimately choosing the Plan Processor that will

build, operate, and maintain the consolidated audit trail.”¹⁵⁵

On February 26, 2013, the Participants published an RFP soliciting bids from parties interested in serving as the plan processor for the CAT. Initially, 31 firms submitted intentions to bid. In the following months, the Participants engaged with potential bidders with respect to, among other things, the selection process, selection criteria, and potential bidders' questions and concerns. On March 21, 2014, the Participants received ten bids in response to the RFP.

(ii) Selection Plan

On September 4, 2013, the Participants filed with the Commission a national market system plan to govern the process for Participant review of the bids submitted in response to the RFP, the procedures for evaluating the bids, and, ultimately, selection of the plan processor (the “Selection Plan”).¹⁵⁶ The Commission approved the Selection Plan as filed on February 21, 2014.¹⁵⁷ In approving the Selection Plan, the Commission concluded that “it is reasonably designed to achieve its objective of facilitating the development of the CAT NMS Plan and the selection of the Plan Processor.”¹⁵⁸

The Selection Plan divided the review and evaluation of bids, and the selection of the plan processor, into various stages. Specifically, pursuant to the Selection Plan, a selection committee reviewed all bids and determined which bids contained sufficient information to allow the Participants to meaningfully assess and evaluate the bids. The ten submitted bids were deemed “Qualified Bids,” and so passed to the next stage, in which each bidder presented its bids to the Participants on a confidential basis. On July 1, 2014, after conducting careful analysis and comparison of the bids, the Selection Committee voted and selected a shortlist of six eligible bidders. The Selection Committee determined which shortlisted bidders would be provided the opportunity to revise their bids. After the Selection Committee assessed and evaluated the revised bids, the Selection Committee selected the plan processor via two rounds of voting by the Participants, as described in the Selection Plan.

The Selection Plan established an Operating Committee responsible for formulating, drafting, and filing with the Commission the CAT NMS Plan and for

ensuring that the Participants' joint obligations under Rule 613 were met in a timely and efficient manner. In formulating the CAT NMS Plan, the Participants also engaged multiple persons across a wide range of roles and expertise, engaged the consulting firm Deloitte as project manager, and engaged the law firm WilmerHale to serve as legal counsel in drafting the Plan. Within this structure, the Participants focused on, among other things, comparative analyses of the proposed technologies and operating models, development of funding models to support the building and operation of the CAT, and detailed review of governance considerations. Given the complexity and scope of developing the CAT NMS Plan, these efforts were extensive.

When it approved the CAT NMS Plan in 2016, the Commission reiterated its belief that the Selection Plan remains a “reasonable approach,” that “the competitive bidding process to select the Plan Processor is a reasonable and effective way to choose a Plan Processor,” and that “the process set forth in the Selection Plan should be permitted to continue”:

In approving the Selection Plan, the Commission stated that the Selection Plan is reasonably designed to achieve its objective of facilitating the development of the CAT NMS Plan and the selection of the Plan Processor. The Commission also found that the Selection Plan is reasonably designed to govern the process by which the SROs will formulate and submit the CAT NMS Plan, including the review, evaluation, and narrowing down of Bids in response to the RFP, and ultimately choosing the Plan Processor that will build, operate, and maintain the consolidated audit trail. The Commission believes that the process set out in the Selection Plan for selecting a Plan Processor remains a reasonable approach, which will facilitate the selection of Plan Processor through a fair, transparent and competitive process and that no modifications to the Selection Plan are required to meet the approval standard. . . . In response to the comment that offered support for a specific Bidder, the Commission agrees with the Participants that the competitive bidding process to select the Plan Processor is a reasonable and effective way to choose a Plan Processor and thus believes that the process set forth in the Selection Plan should be permitted to continue.¹⁵⁹

¹⁵⁰ Rule 613 Adopting Release at 45738–39.

¹⁵¹ Rule 613 Adopting Release at 45739.

¹⁵² Securities Exchange Act Rel. No. 71596 (Feb. 21, 2014), 79 FR 11152, 11152 (Feb. 27, 2014) (“Selection Plan Approval Order”).

¹⁵³ *Id.*

¹⁵⁴ *Id.* at 11153.

¹⁵⁵ *Id.* at 11159.

¹⁵⁶ See Securities Exchange Act Rel. No. 70892 (Nov. 15, 2013), 78 FR 69910 (Nov. 21, 2013).

¹⁵⁷ See Selection Plan Approval Order.

¹⁵⁸ Selection Plan Approval Order at 11160.

¹⁵⁹ See CAT NMS Plan Approval Order at 84737.

(iii) Engagement With Market Participants and SEC

During the process of developing the CAT NMS Plan, the Participants engaged in extensive and meaningful dialogue with market participants and the SEC. To this end, the Participants created a website to update the public on the progress of the CAT NMS Plan, published a request for comment on multiple issues related to the Plan, held multiple public events to inform the industry of the progress of the CAT and to address inquiries, and formed, and later expanded, a DAG to solicit more input from a representative industry group.¹⁶⁰

The DAG included representatives of Participants and Industry Members and conducted meetings to discuss, among other things, technical and operational aspects the Participants were considering for the Plan. The Participants issued press releases soliciting participants for the DAG, and a wide spectrum of firms was deliberately chosen to provide insight from various industry segments affected by CAT. The DAG meetings included discussions of topics such as option market maker quote reporting, requirements for capturing Customer IDs, timestamps and clock synchronization, reporting requirements for order handling scenarios, costs and funding, error handling and corrections, and potential elimination of systems made redundant by the CAT. From the inception of the DAG through September 2014, the DAG participated in 36 meetings, as well as a variety of DAG subcommittee meetings.

(iv) Request for Exemption From Certain Requirements Under Rule 613

Following multiple discussions between the Participants and both the DAG and the bidders, as well as among the Participants themselves, the Participants recognized that some provisions of Rule 613 would not permit certain solutions to be included in the Plan that the Participants, in coordination with the DAG, determined advisable to effectuate the most efficient and cost-effective CAT. Specifically, “the SROs reached the conclusion that additional flexibility in certain of the minimum requirements specified in Rule 613 would allow them to propose a more efficient and cost-effective approach without adversely affecting the reliability or accuracy of CAT Data,

or its security and confidentiality.”¹⁶¹ Consequently, the Participants submitted a request for exemptive relief from certain provisions of Rule 613 regarding: (1) options market maker quotes; (2) Customer-IDs; (3) CAT-Reporter-IDs; (4) CAT-Order-IDs on allocation reports; and (5) timestamp granularity.¹⁶² The Participants filed two supplements to the request for exemptive relief.¹⁶³

After reviewing the exemptive request, the Commission determined that it was appropriate in the public interest and consistent with the protection of investors to grant the requested exemptive relief.¹⁶⁴ In granting the exemptive relief, the Commission stated:

[T]he Commission is persuaded to provide flexibility in the discrete areas discussed in the Exemption Request so that the alternative approaches can be included in the CAT NMS Plan and subject to notice and comment. Doing so could allow for more efficient and cost-effective approaches than otherwise would be permitted. The Commission at this stage is not deciding whether the proposed approaches detailed below are more efficient or effective than those in Rule 613. However, the Commission believes the proposed approaches should be within the permissible range of alternatives available to the SROs.¹⁶⁵

The Commission further stated that the requested exemptive relief is consistent with the protection of investors. The Commission noted that:

Doing so will provide the public an opportunity to consider and comment on whether these proposed alternative approaches would indeed be more efficient and cost-effective than those otherwise required by Rule 613, and whether such approaches would adversely affect the reliability or accuracy of CAT Data or otherwise undermine the goals of Rule 613. Moreover, if—as the SROs represent—efficiency gains and cost savings would result from including the proposed approaches in the CAT NMS Plan without adverse effects, then the resultant benefits could potentially flow to investors (e.g., lower broker-dealer

reporting costs resulting in fewer costs passed on to Customers).¹⁶⁶

The Participants incorporated the exemptive relief into the proposed CAT NMS Plan, which was noticed for comment, and the Commission ultimately approved the CAT NMS Plan with the more efficient and cost-effective alternative approaches described in the exemptive relief. Accordingly, the Participants believe that the costs incurred in developing the exemptive request were critical to the creation of a better CAT than was originally contemplated by Rule 613, and therefore should be recoverable as part of Historical CAT Assessment 1A.

(v) Request for Extensions for Filing the CAT NMS Plan

Rule 613(a)(1) under Regulation NMS required the Participants to jointly file the CAT NMS Plan on or before April 28, 2013, less than a year after the adoption of Rule 613. In recognition of the complexity of the project to create the CAT NMS Plan as well as industry interest in limiting or eliminating certain requirements of Rule 613 (e.g., addressing the reporting of options market maker quotes), the Participants requested two extensions of the deadline to file the CAT NMS Plan. The Participants described the need for additional time as follows:

The SROs stated in their Request Letter that they do not believe that the 270-day time period provided for in Rule 613(a)(1) provides sufficient time for the development of the RFP, formulation and submission of bids, and review and evaluation of such bids. The SROs also stated that they believe additional time beyond the 270 days provided for in Rule 613(a)(1) is necessary in order to provide sufficient time for effective consultation with and input from the industry and the public on the proposed solution chosen by the SROs for the creation of the consolidated audit trail at the conclusion of the RFP process and the NMS plan itself.¹⁶⁷

In recognition of the need for additional time to refine the technical description of and requirements for the CAT and to allow for additional evaluation of the proposed cost and funding considerations, the SEC granted two extensions of this deadline.¹⁶⁸ The SEC determined that both extensions

¹⁶¹ Securities Exchange Rel. No. 77265 (Mar. 1, 2016), 81 FR 11856 (Mar. 7, 2016) (“2016 Exemptive Order”).

¹⁶² Letter from Robert Colby, FINRA, on behalf of the SROs, to Brent J. Fields, Secretary, Commission (Jan. 30, 2015).

¹⁶³ See Letter from Robert Colby, FINRA, on behalf of the SROs, to Brent J. Fields, Secretary, Commission (Apr. 3, 2015); Letter from the SROs to Brent J. Fields, Secretary, Commission (Sept. 2, 2015).

¹⁶⁴ See 2016 Exemptive Order.

¹⁶⁵ *Id.* at 11857.

¹⁶⁶ *Id.*

¹⁶⁷ Securities Exchange Act Rel. No. 69060 (Mar. 7, 2013), 78 FR 15771, 15772 (Mar. 12, 2013) (“March 2013 Exemptive Order”).

¹⁶⁸ See March 2013 Exemptive Order; Securities Exchange Act Rel. No. 71018 (Dec. 6, 2013), 78 FR 75669 (Dec. 12, 2013) (“December 2013 Exemptive Order”).

¹⁶⁰ See Section D(11) of Appendix C of the CAT NMS Plan.

were appropriate, in the public interest, and consistent with the protection of investors.¹⁶⁹ In reaching this conclusion, the Commission stated that “it understands that the creation of a consolidated audit trail is a significant undertaking and that a proposed NMS plan must include detailed information and discussion about many things.”¹⁷⁰ The SEC also noted the following:

This additional time to complete the RFP process should allow the SROs to engage in a more thoughtful and comprehensive process for the development of an NMS plan. In this regard, the Commission notes that the additional time to solicit comment from the industry and the public at certain key points in the development of the NMS plan could identify issues that can be resolved earlier in the development of the consolidated audit trail and prior to filing the NMS plan with the Commission.¹⁷¹

Given the Commission’s recognition of the reasonableness and value of the extension of the deadline to file the CAT NMS Plan, the Participants believe that the costs incurred in developing the extension request were important to the process of developing the CAT NMS Plan, and therefore should be recoverable as part of Historical CAT Assessment 1A.

(vi) Submission and Approval of the CAT NMS Plan

After extensive analyses and discussions with the DAG, bidders, market participants and the SEC staff, the Participants finalized the draft of the CAT NMS Plan and filed the CAT NMS Plan with the SEC on September 30, 2014. Following additional discussions, the Participants filed several amendments to the CAT NMS Plan during 2015 and 2016. With these additional changes, the SEC published the CAT NMS Plan for notice and comment in May 2016.¹⁷² Following the comment period, the SEC approved the Plan in November 2016.¹⁷³

(vii) Legal Costs Incurred Prior to the Effective Date of the CAT NMS Plan

The Pre-Formation Costs include legal costs of \$3,196,434. The legal services were performed by WilmerHale. The selection considerations and fees for WilmerHale were described in detail above. Prior to the creation of CAT LLC, WilmerHale was engaged to represent

the consortium of SROs, not the individual Participants. For administrative purposes, FINRA agreed to receive such legal bills, although such costs were shared among the Participants. Therefore, the legal costs incurred with respect to WilmerHale do not include legal costs incurred by the individual Participants. These pre-formation legal costs are described in detail above and are further described below:

- Analyzed various legal matters associated with the Selection Plan and drafted an amendment to Selection Plan;
- Assisted with the RFP and bidding process for the CAT Plan Processor;
- Analyzed legal matters related to the DAG;
- Drafted the CAT NMS Plan, analyzed various items related to the CAT NMS Plan, and responded to comment letters on the CAT NMS Plan;
- Provided legal support for the formation of the legal entity, the governance of the CAT, including governance support prior to the adoption of the CAT NMS Plan, which involved support for the full committee of exchanges and FINRA as well as subcommittees of this group (e.g., Joint Subcommittee Group, Technical, Industry Outreach, Cost and Funding, and Other Products) and the DAG, and governance support during the transition to the new governance structure under the CAT NMS Plan;
- Drafted exemptive requests;
- Provided interpretations related to the CAT NMS Plan;
- Provided support with regard to discussions among the exchanges, FINRA and other third parties, such as Deloitte;
- Provided tax advice with regard to CAT’s status as a tax-exempt organization; and
- Provided support with regard to discussions with the SEC and its staff, including with respect to addressing interpretive and implementation issues.

(viii) Consulting Costs Incurred Prior to the Effective Date of the CAT NMS Plan

The Pre-Formation Costs include consulting costs of \$10,589,273. The consulting services were performed by Deloitte. The selection considerations and fees for Deloitte were described in detail above. Prior to the creation of CAT LLC, for administrative purposes, Deloitte was engaged by FINRA to provide consulting services related to CAT, but the costs were shared by the consortium of SROs per agreement. Therefore, the consulting costs incurred with respect to Deloitte do not include consulting costs incurred by the

individual Participants. The pre-formation consulting costs include the following:

- Established and implemented program operations for the CAT project, including the program management office and workstream design;
- Assisted with the Plan Processor selection process, including but not limited to, the development of the RFP and the bidder evaluation process, and facilitation and consolidation of the Participants’ independent reviews;
- Assisted with the development and drafting of the CAT NMS Plan, including conducting cost-benefit studies, reviewing technical requirements of other NMS plans, analyzing OATS and CAT requirements, and drafting appendices to the Plan;
- Provided governance support to the CAT, including governance support prior to the adoption of the CAT NMS Plan, which involved support for the full committee of exchanges and FINRA as well as subcommittees of this group (e.g., Joint Subcommittee Group, Technical, Industry Outreach, Cost and Funding, and Other Products) and the DAG;
- Provided support for updating the SEC on the progress of the development of the CAT;
- Provided support for industry outreach sessions, including with regard to program design and agenda development, program support and logistics and coordination; and
- Provided support in fact finding, drafting content and meeting coordination for WilmerHale with regard to the CAT and the development of the CAT NMS Plan.

Such Pre-Formation Costs did not include costs related to the Chair of the CAT NMS Plan Operating Committee, as the CAT NMS Plan had not yet been adopted.

(ix) Public Relations Costs Incurred Prior to the Effective Date of the CAT NMS Plan

The Pre-Formation Costs include public relations costs of \$57,174. The public relations services were performed by Peppercomm. The selection considerations and fees for Peppercomm are described in detail above. The costs related to Peppercomm were shared among the SROs. Therefore, the public relations costs do not include public relations costs incurred by the individual Participants. The pre-formation public relations costs include services related to communications with the public regarding the CAT, including monitoring developments related to the CAT (e.g., congressional efforts, public comments and reaction to proposals,

¹⁶⁹ March 2013 Exemptive Order at 15772; December 2013 Exemptive Order at 75670.

¹⁷⁰ March 2013 Exemptive Order at 15772.

¹⁷¹ *Id.* at 15773.

¹⁷² See Securities Exchange Act Rel. No. 77724 (Apr. 27, 2016), 81 FR 30614 (May 17, 2016).

¹⁷³ See CAT NMS Plan Approval Order.

press coverage of the CAT), reporting such developments to CAT LLC, and drafting and disseminating communications to the public regarding such developments as well as reporting on developments related to the CAT.

(B) Cloud Hosting Services

In approving the CAT Funding Model, the Commission recognized that it is appropriate to recover reasonable costs related to cloud hosting services as a part of Historical CAT Assessments. CAT LLC believes that the costs related to cloud hosting services described in detail above are reasonable and appropriate given the strict data processing timelines and storage requirements imposed by the Commission-approved CAT NMS Plan and should be recoverable as a part of Historical CAT Assessment 1A.

(i) Reasonableness of AWS Costs Given the Requirements of the CAT NMS Plan

CAT LLC believes that the costs for the cloud hosting services are reasonable, both in terms of the level of the fees paid by CAT LLC for cloud hosting services provided by AWS and the scope of the services performed by AWS for CAT LLC. CAT LLC believes that both the scope and amount of the costs for cloud hosting services are reasonable given the current requirements of the CAT NMS Plan adopted pursuant to Rule 613, including the strict data processing timeline, storage and other technical requirements under the Commission-approved CAT NMS Plan.

CAT LLC believes that the level of fees for the cloud hosting services is reasonable, taking into consideration a variety of factors, including the expected volume of data and the breadth of services provided and market rates for similar services.

CAT LLC also believes that the scope of services provided by AWS for the CAT are appropriate given the current requirements of the Commission-approved CAT NMS Plan. As described above, the cloud hosting services costs reflect a variety of factors including, among other things:

- *Breadth of Cloud Activities.* AWS was engaged by FCAT, the Plan Processor, to provide a broad range of services to the CAT, including data ingestion, data management, and analytic tools. Services provided by AWS necessary to the CAT include storage services, databases, compute services, and other services (such as networking, management tools and development operations (“DevOps”) tools). AWS also was engaged to provide the various environments for CAT, such

as the development, performance testing, test and production environments, which are required by the CAT NMS Plan.

- *High Data Volume.* The cost for AWS services for the CAT is a function of the volume of CAT Data. While it is not linear, the greater the amount of CAT Data, the greater the cost of AWS services to the CAT. The data volume handled by AWS now far exceeds the original volume estimates for the CAT.

- *Plan Requirements.* The cost for AWS services also reflects the technical requirements necessary to meet the stringent performance and other requirements for processing CAT Data. These Plan-dictated processing timelines, storage, testing, security and other technical requirements are significant drivers of AWS costs.

- *Cost Avoidance Efforts.* CAT LLC and FCAT have engaged in ongoing efforts to seek to avoid and minimize AWS costs where permissible under the Plan. Accordingly, these cost avoidance efforts have limited the extent of AWS costs.

In addition, various requirements of the CAT NMS Plan adopted pursuant to Rule 613 contribute to the significant cloud hosting services costs, and that various Plan requirements could be amended or removed without affecting the regulatory purpose of the CAT. Indeed, CAT LLC has repeatedly sought exemptive relief and filed amendments to the CAT NMS Plan, and has even filed suit against the Commission, to seek to revise or eliminate certain costly requirements related to the CAT. However, despite these efforts, absent the Commission granting exemptive relief or approving cost savings amendments to the CAT NMS Plan, CAT LLC, the Participants and Industry Members are all required to comply with such requirements.

(ii) Effect of CAT Design on CAT Costs

(a) Efficient CAT Design

CAT is reasonably designed to efficiently and effectively utilize cloud computing and storage services, given the requirements of the Commission-approved CAT NMS Plan, including requirements related to security, operational reliance and quality assurance, and maintainability.

The Plan Processor uses state-of-the-art software that meets the strict security standards of the CAT NMS Plan. CAT utilizes a big data processing framework that is extensively used by large data processing companies, such as Apple, Meta, Netflix, IBM and Google. As such, it has substantial commercial support and support in the open-source

community. It is also well suited for use with regard to iterative types of algorithms and query functions and analytics that the CAT requires, and it provides the heightened security necessary for the CAT.

The development and implementation of the design of CAT is not and has not been static. CAT LLC and the Plan Processor are always evaluating new innovations and service offerings from AWS and other providers to seek to maximize efficiency and cost avoidance while still satisfying the requirements of the CAT NMS Plan. These efforts have led to substantial savings to date. The cloud hosting costs for 2023 were less than the cloud hosting costs for 2022 by \$8 million despite processing seven trillion more events in 2023 due to the efficiency and cost avoidance efforts for cloud hosting services. For example, when AWS introduced new storage options, FCAT adopted the cost-efficient new storage option after establishing that the new offering would satisfy the security and other standards of the CAT NMS Plan. This change led to millions of dollars of savings in storage costs. Similarly, when AWS introduced a new compute processor, FCAT adopted this new compute processor, which led to millions of dollars in savings in compute costs. However, in other cases, new cloud technology developments could not be implemented in CAT because they would not satisfy the security or other requirements of the CAT NMS Plan.

When evaluating the design of the CAT, it must be kept in mind that the CAT is not a typical commercial technology project. The ability to make use of technology approaches that may lead to cost avoidance is also subject to the restrictive requirements of the CAT NMS Plan, such as processing timeframes, requirements for retention of data versions, query requirements, and security standards. Because such requirements are set forth in the CAT NMS Plan, any modification of such requirements are subject to the time-consuming process of amending the CAT NMS Plan or seeking an exemption from the relevant requirement. For example, CAT LLC recently has filed an amendment to address several of these expensive Plan requirements.¹⁷⁴

¹⁷⁴ See, e.g., Securities Exchange Act Rel. No. 99938 (Apr. 10, 2024), 89 FR 26983 (Apr. 16, 2024); Letter from Brandon Becker, CAT NMS Plan Operating Committee Chair, to Vanessa Countryman, Secretary, Commission (Mar. 27, 2024) (proposing amendments to the CAT NMS Plan for \$23 million in annual savings).

(b) CAT Was Designed To Minimize Industry Member Effort

The CAT System also was designed to minimize the extent to which Industry Members would need to alter their systems to report to CAT. During the design process, Industry Member groups argued that it would make more sense financially for the CAT to accommodate differences in industry systems, than for all Industry Members to change their systems. Moreover, such design choices would facilitate consistency, uniformity and accuracy in reporting. Requiring the CAT to make such accommodations may increase CAT costs while accommodating CAT Reporters.

Based on the requirements in the CAT NMS Plan and/or in response to industry requests for functionality to be embedded with the Plan Processor to streamline or limit Industry Member system changes, the CAT has been designed to limit the effect on Industry Members. The following provides examples of such accommodations:

- *Industry Member Reporting.* In light of the complexity of Industry Member market activity, the CAT's order reporting and linkage scenarios document for Industry Members is over 800 pages in length, addressing nearly 200 scenarios.¹⁷⁵ The Industry Member Technical Specifications allow for dozens of specific event types, which drive complexity for the Plan Processor, but streamline reporting for Industry Members. Furthermore, the Plan Processor greatly expanded Industry Member linkage requirements to support, among other things, child events and supplemental events, allowing for "stateless as-you-go" and "batch end-of-day" reporting when all data is available. Accordingly, CAT takes on the significant cost and effort of providing the required linkages between CAT events; correspondingly, Industry Members are not required to perform this costly task.

- *File Submission Process.* The CAT was designed to accommodate the varying needs of CAT Reporters with regard to the file submission process. For example, in a 2018 letter, FIF stated that "[t]he SFTP-based submission process is cumbersome, exposes industry members to unnecessary complexity, and puts the burden of support on the CAT Reporter rather than imbedding more functionality into the Plan Processor."¹⁷⁶ Currently, FCAT provides two mechanisms for submitting files: SFTP via a private

network, and the Web via Reporter Web Portal.

- *Error Corrections.* The industry also emphasized the need for the CAT to provide error correction tools and functionalities to identify, rectify and re-submit corrections within the required timeframe. For example, FIF stated in a 2018 letter the following:

To be clear, if OATS-like error correction tools are not made available on Day 1, hundreds of firms will be required to create and test their own tools or obtain vendor alternatives prior to the CAT Go-Live Date. Proprietary tools will require additional system builds, access to and ingestion of CAT data to perform system validation, and testing which will further stress the limited number of subject matter experts ("SMEs") dedicated to the implementation of CAT reporting. Should this occur, inevitably firms (especially small firms who lack the necessary IT staff to write code and develop proprietary systems), may be put in the position of passing onto investors the cost required to build hundreds of redundant systems.¹⁷⁷

CAT provides various tools to help Industry Members identify and rectify errors.

- *Data Ingestion Format.* The industry also recommended that CAT adopt a flexible input format that provides an option for Industry Members to submit data in formats that are already in use to reduce costs and potential reporting errors. For example, FIF argued the following:

FIF CAT WG is not proposing a specific format; rather, we are proposing flexibility of input formats which includes support of existing formats (e.g., OATS, FIX) as well as a baseline specification where all fields are defined, and normalized. The input formats must be clearly and thoroughly defined in Technical Specifications, including FAQs. Mandating a uniform format for reporting data to the CAT simplifies the task for the Central Repository of consolidating/storing data, but it puts the burden on each CAT Reporter to accurately translate their current (e.g., OATS) reporting information into a uniform CAT interface. However, that is likely to yield more errors because it is very dependent on accurate, complete and timely information (Technical Specifications, FAQs, meta-data, competent CAT help desk) available to CAT Reporters, availability of sophisticated CAT test tools to validate interface protocols, and the skill levels

of the estimated 300+ unique CAT Reporters/Submitters during Phase 1 of CAT. Concentrating the responsibility of data conversions with the Central Repository is a reasonable trade-off that should yield fewer errors, and greater accuracy.¹⁷⁸

CAT provides such a flexible input format.

(c) Effect of Initial Plan Processor Design

The costs for cloud hosting services are appropriate and have not been adversely affected by the original design and approaches of the Initial Plan Processor. FCAT's design costs are the result of the requirements of the Commission-approved CAT NMS Plan.

When FCAT took over as the Plan Processor from Thesys, it utilized certain aspects of the technical specifications created by Thesys in its design. However, FCAT has not maintained aspects of the original design that would not be appropriate for the CAT. FCAT revised and enhanced the original technical specifications of the CAT System to increase its efficiency and efficacy, and to ensure its compliance with the CAT NMS Plan. For example, the Initial Plan Processor's approach utilized many more fields than FCAT's approach, which relies on additional linkages. With the additional linkages, the CAT System takes on more of the CAT-related burdens than the Industry Members. Such an approach serves to facilitate consistency, uniformity and accuracy in reporting.

Moreover, FCAT did not utilize the system built by the Initial Plan Processor; it rebuilt the CAT System based on revised technical specifications. For example, the Initial Plan Processor used an on-premises processing approach which was not geared toward the huge amounts of data stored in the CAT, while FCAT adopted a cloud-based solution in response to such data demands.

Furthermore, given the very short timeframe to develop the CAT System and the prior optimization of certain query tools (e.g., Diver) for regulatory use with significant amounts of data, FCAT determined to rely upon certain existing FINRA tools and adapt them for use with the CAT.

(iii) Consideration of AWS Alternatives

CAT LLC continues to support the selection of AWS as the cloud hosting services provider for CAT given the compliance, operational, and security requirements of the CAT. Independent

¹⁷⁵ See CAT Industry Member Reporting Scenarios v.4.10 (Oct. 21, 2022).

¹⁷⁶ Letter from Janet Early, FIF, to Thesys CAT (Mar. 29, 2018).

¹⁷⁷ Letter from Christopher Bok, FIF, to Jay Clayton, Chair, Commission at 4 (Dec. 11, 2018).

¹⁷⁸ Letter from Mary Lou Von Kaenel, Managing Director, FIF, to Brent Fields, Secretary, Commission at 92 (July 18, 2016), <https://www.sec.gov/comments/4-698/4698-13.pdf>.

analyses confirm these conclusions, noting that “AWS is an excellent choice for either strategic or tactical use and recommends considering AWS for almost all cloud IaaS or IaaS+PaaS scenarios.”¹⁷⁹ AWS provides the following benefits to CAT, among others:

- *Broad Suitability.* AWS has a long track record of successfully serving cloud customers with mission-critical projects.

- *Proven Scalability.* AWS has demonstrated that it is capable of building and delivering services on a large scale.

- *Track Record of Innovation.* AWS continues to rapidly innovate, both in terms of new domains of capability and at a fundamental level, thereby facilitating innovation for its customers.

- *Resiliency/Dependability.* Another benefit of AWS is its resiliency; it has a strong track record of stable services. As noted in a review of cloud service providers, “[c]ustomers like to have a broad set of options for resilience and for their cloud providers to have a strong track record of stable services (continuously available, without operational quirks). Only AWS fulfills both desires.”¹⁸⁰

- *Technical and Customer Support.* AWS consistently provides high-quality technical and customer support and engagement. Given the size, scope and regulatory importance of CAT, customer support and engagement that CAT has with the highest levels of AWS are very important to the success of the CAT.

- *Scale.* AWS is capable of supporting large-scale solutions, which is critical given the size and magnitude of the CAT.

- *Security.* AWS provides the security features necessary for the CAT.

In addition, the nature of the CAT, including the amount of data it must process and the size of its data footprint, does not allow for a multi-cloud solution as this would be cost prohibitive and greatly increase the security boundary and associated risk profile of the CAT. For example, a multi-cloud hosting option would increase costs, complexity, and risk for operations with regard to, for example, DevOps, production support, and networking. Similarly, with regard to security, a multi-cloud solution would increase risk, including with regard to the need for data transfers between cloud providers and the expansion of

the security boundary. With regard to labor, a multi-cloud solution would lose economies of scale due to the need to support unique cloud requirements. Accordingly, the use of a single-cloud solution continues to provide advantages with regard to cost, complexity, and risk. Indeed, “[t]he best practice is to focus on a single primary strategic provider.”¹⁸¹

Furthermore, if another cloud service provider were determined to be a better match for the CAT at some future date, switching cloud service providers would be a very significant, expensive and time-consuming effort. Such an effort would likely be a 10-to-15-year commitment at a substantial expense. Such a move would require the replication or redesign of the underlying cloud environments (e.g., organizational setup, identify management, accounts, environments, DevOps tooling like release management/config management/network management), as the new provider likely would not have the same infrastructure and software. Once that process has been completed, an exabyte of CAT data would need to be securely migrated to the new platform.

(C) Funding Model Filings

CAT LLC believes that the recovery of costs related to the development of the funding model is appropriate, and that the amount and scope of such costs, as described above, are reasonable.

Funding the CAT is a critical aspect of Rule 613 and the CAT NMS Plan. Article XI of the CAT NMS Plan describes in detail the requirements for funding the CAT, and the Participants are required to comply with and enforce compliance with the funding requirements of the CAT NMS Plan, just as with other aspects of the Plan. Accordingly, the development and implementation of a funding model for the CAT is as much a part of the requirements of the CAT NMS Plan as the development and operation of the CAT System. CAT LLC sees no reason to distinguish the efforts to develop a funding model from, for example, efforts to develop the CAT System, in seeking to recover reasonable CAT costs.

Moreover, in approving the CAT Funding Model, the Commission recognized that it is appropriate to recover reasonable costs for legal services as a part of Historical CAT Assessments. As approved by the SEC, the CAT NMS Plan states that “the reasonably budgeted CAT costs shall include . . . legal costs.”¹⁸² In addition,

the CAT NMS Plan also requires Participants to include in their fee filings “a brief description of the amount and type of the Historical CAT Costs, including . . . legal . . . costs.”¹⁸³ In keeping with these provisions, this filing provides a brief description of reasonably budgeted legal costs above. These legal costs include costs related to the development of the CAT Funding Model.

In addition, the legal costs incurred for the assistance in developing the CAT Funding Model are reasonable in both amount and scope and should be recoverable as a part of Historical CAT Assessment 1A. As described above, the specialized services were performed by experienced counsel at negotiated rates for such services that reflect both the extent of the services and market rates. Moreover, the scope of the legal costs associated with the development of the funding model reflect the complexity of the task in satisfying the detailed requirements of the CAT NMS Plan, the standards of the Exchange Act, and the many perspectives of the different market constituents potentially affected by or interested in the funding model, including Industry Members, Participants and investors. The many and varied comments by market participants on CAT funding over the years demonstrate the complexity of the task.

(D) Costs Related to Litigation With the SEC

CAT LLC believes that the recovery of legal costs related to the litigation with the SEC regarding the CAT NMS Plan is appropriate, and that the amount and scope of such costs, as described above, are reasonable.

As a preliminary matter, as discussed above, the Commission recognized that it is appropriate to recover reasonable costs for legal services as a part of Historical CAT Assessments.¹⁸⁴ Moreover, CAT LLC initiated such litigation, and incurred the related legal costs, because it was critical to address the Commission’s interpretations of the CAT NMS Plan. Among other things, such interpretations threatened to impose unnecessary costs on the CAT, which would be borne by the Participants and Industry Members. Indeed, in response to the litigation, the Commission provided exemptive relief that allowed alternative, more cost-effective approaches to the implementation of the CAT.

¹⁷⁹ See, e.g., Lydia Leong and Adrian Wong, Solution Comparison for Strategic Cloud Integrated IaaS and PaaS Providers (July 28, 2023) (“Strategic Cloud Assessment Article”).

¹⁸⁰ Strategic Cloud Assessment Article.

¹⁸¹ *Id.*

¹⁸² Section 11.1(a)(i) of the CAT NMS Plan.

¹⁸³ Section 11.3(b)(iii)(B)(II) of the CAT NMS Plan.

¹⁸⁴ See Sections 11.1(a)(i) and 11.3(b)(iii)(B)(II) of the CAT NMS Plan.

Specifically, in the 2023 exemptive order, the Commission stated:

The conditional exemptive relief in this Order allows for the implementation of alternative regulatory solutions that continue to advance the regulatory goals that Rule 613 and the CAT NMS Plan were intended to promote, while reducing the implementation and operational costs, burdens, and/or difficulties that would otherwise be incurred by the Participants and Industry Members that must fund the CAT.¹⁸⁵

CAT LLC believes it is reasonable and appropriate to incur costs to limit the need to incur even greater costs due to certain interpretations of the Plan.

In addition, the legal costs incurred during the litigation are reasonable in both amount and scope and should be recoverable as a part of Historical CAT Assessment 1A. As described above, the specialized services were performed by experienced counsel at market rates for such services. As such, the legal costs related to this litigation incurred during the period covered by Historical CAT Assessment 1A were reasonable.

Finally, Industry Members will directly benefit from the result of the litigation because it has addressed CAT NMS Plan requirements that would have imposed significantly greater costs on the CAT. Accordingly, it is reasonable and appropriate that the costs of such litigation be included in Historical CAT Costs 1.

(E) Costs Related to the Initial Plan Processor

CAT LLC believes that it is appropriate to recover costs related to the services performed by the Initial Plan Processor prior to November 15, 2017, which was the date by which Participants were required to begin reporting to the CAT, due to the delay in the commencement of reporting to the CAT. As discussed above, the Participants determined to exclude all CAT costs incurred from November 15, 2017 through November 15, 2018, which includes \$37,852,083 in Thesys costs incurred from November 15, 2017 through November 15, 2018 (as well as other CAT costs during this period). The remaining Thesys costs incurred after November 15, 2018 are the \$19,628,791 in capitalized developed technology costs for the period from November 16, 2018 through February 2019 incurred in the development of the CAT by the Initial Plan Processor, as well as a transition fee for the transition from the Initial Plan Processor to the successor Plan Processor. The Participants would

remain responsible for 100% of these \$19,628,791 in costs.

CAT LLC believes that it is appropriate to recover costs related to the services performed by the Initial Plan Processor prior to November 15, 2017. CAT LLC notes that the development and implementation of the CAT System, while unprecedented in scope and design, is like any other large and innovative technology project in that, inevitably, there were adjustments and refinements in the technical approach as the project developed, even with substantial planning efforts and oversight prior to the build. This is even more likely when the project faces a very tight implementation schedule, such as the one imposed by the Commission in Rule 613 and the CAT NMS Plan. However, an adjusted approach does not mean that the funds were not valid expenditures and should not be recovered.

The reasonableness of Thesys costs should be evaluated by the Commission as of the time they were incurred, not in hindsight. As detailed above, the Commission concluded in 2016 that “the competitive bidding process to select the Plan Processor is a reasonable and effective way to choose a Plan Processor,” and that “the process set forth in the Selection Plan should be permitted to continue.”¹⁸⁶ Following this process, the Participants notified the Commission of the selection of Thesys as the Initial Plan Processor on January 17, 2017.¹⁸⁷ At the time, neither the Commission nor the industry argued that the selection of the Initial Plan Processor was unreasonable or otherwise inconsistent with the CAT NMS Plan, nor did they predict the selection would result in unanticipated delays in the implementation of the CAT System. On the contrary, on April 4, 2017, the President of SIFMA wrote that “SIFMA looks forward to commencing work with the SROs and Thesys.”¹⁸⁸

As noted in the CAT Funding Model Approval Order, the Commission recognized that “[t]he CAT NMS Plan contemplates that the costs of the CAT are to be allocated between the Participants and Industry Members.”¹⁸⁹ If the CAT Funding Model had existed

on Day 1, the risk of any unanticipated costs or challenges associated with the Initial Plan Processor would have been fairly and reasonably shared among the Participants and Industry Members on an ongoing basis. Given that the Commission concluded in 2012 that the costs of the CAT would be shared by the Participants and Industry Members, it is not fair or reasonable to determine in hindsight that all of the risk involved in developing the CAT should be allocated entirely to the Participants.

(F) CAIS Implementation Costs

CAT LLC believes that the recovery of CAIS-related costs is appropriate, and that the amount and scope of such costs, as described above, are reasonable, and that the reasonableness of historical costs should be evaluated by the Commission as of the time they were incurred, not in hindsight.

In approving the CAT Funding Model, the Commission recognized that it is appropriate to recover reasonable CAIS operating costs as a part of Historical CAT Assessments. As approved by the SEC, the CAT NMS Plan states that “the reasonably budgeted CAT costs shall include . . . CAIS operating fees.”¹⁹⁰ In addition, the CAT NMS Plan also requires Participants to include in their fee filings “a brief description of the amount and type of the Historical CAT Costs, including . . . CAIS operating fees.”¹⁹¹ In keeping with these provisions, this filing provides a brief description of reasonably budgeted CAIS operating fees.

In addition, CAT LLC determined that the CAIS operating fees described above are reasonable in both amount and scope and should be recoverable as a part of Historical CAT Assessment 1A. The “CAIS Operating Costs” for Historical CAT Costs 1 total \$9,480,587, with Pre-FAM costs of \$2,072,908, FAM 1 costs of \$254,998, FAM 2 costs of \$1,590,298, and FAM 3 costs of \$5,562,383. As described above, the CAIS operating fees were incurred with regard to two categories of CAIS-related efforts: (1) the acceleration of the reporting of LTIDs; and (2) the development of the CAIS Technical Specifications and the building of CAIS. These two categories of costs are discussed in more detail below.

(i) LTID Reporting

During the period covered by Historical CAT Assessment 1A, the CAIS operating costs included costs related to the acceleration of the

¹⁸⁶ CAT NMS Plan Approval Order at 84737.

¹⁸⁷ Letter from the Participants to Brent J. Fields, Secretary, SEC (Jan. 18, 2017), <https://www.sec.gov/divisions/marketreg/rule613-info-notice-of-plan-processor-selection.pdf>.

¹⁸⁸ Letter from Kenneth E. Bentsen, Jr., SIFMA, to Participants re: Selection of Thesys as CAT Processor (Apr. 4, 2017), <https://www.sifma.org/wp-content/uploads/2017/05/SIFMA-Submits-Comment-Letter-to-SRO-on-the-selection-of-Thesys-as-the-CAT-Processor.pdf>.

¹⁸⁹ CAT Funding Model Approval Order at 13421.

¹⁹⁰ Section 11.1(a)(i) of the CAT NMS Plan.

¹⁹¹ Section 11.3(b)(iii)(B)(II) of the CAT NMS Plan.

¹⁸⁵ Settlement Exemptive Order at 77129–30.

reporting of LTIDs earlier than originally contemplated during this period at the request of the SEC and in accordance with exemptive relief granted by the SEC.¹⁹² As the SEC approved in this exemptive relief, the Participants proposed “to require the reporting of LTIDs to the CAT in Phases 2c and 2d, instead of with the rest of Customer Account Information in Phase 2e, which potentially could result in an earlier elimination of broker-dealer recordkeeping, reporting and monitoring requirements of the Large Trader Rule.”¹⁹³ To implement the reporting of LTIDs to the CAT, the following steps were taken during the period covered by Historical CAT Assessment 1A:

- After FCAT developed the LTID Technical Specifications, the LTID Technical Specifications were published on January 31, 2020, with additional updates provided to the LTID Technical Specifications through April 2021.¹⁹⁴
- The LTID account information testing environment opened on August 24, 2020.
- The LTID account information reporting production environment opened on December 14, 2020. CAT Reporters were required to request their production readiness certification for account information related to LTIDs by the deadline of April 9, 2021.
- The LTID account information reporting for Phases 2a, 2b and 2c for Large Industry Members went live on April 26, 2021.
- The LTID account information reporting for Phases 2d for Large Industry Members went live on December 13, 2021.
- The LTID account information reporting for Phases 2a, 2b, 2c and 2d for Small Industry Members went live on April 26, 2021.

Throughout this project, FCAT and CAT LLC worked closely with the industry on LTID and CAIS reporting. Between December 2019 and December 2021, at least 57 checkpoint calls, webinars, and technical working group meetings with industry representatives were hosted to address issues and to educate CAT Reporters regarding LTID and CAIS reporting.¹⁹⁵

The LTID reporting project was successfully completed in a timely fashion, and the fees related to the project were reasonable. Accordingly, CAT LLC appropriately seeks to recover such costs via Historical CAT Assessment 1A.

(ii) CAIS Reporting

During the period covered by Historical CAT Assessment 1A, FCAT began the development of the full CAIS Technical Specifications and the building of CAIS. The CAIS Technical Specifications were developed during this period as follows:

- Iterative drafts of the CAIS Technical Specifications were published on June 30, 2020, December 1, 2020, and January 1, 2021.¹⁹⁶
- The full, final CAIS Technical Specifications were published on January 29, 2021.
- Updated versions of the CAIS Technical Specifications were published throughout 2021.¹⁹⁷

As discussed above, FCAT and CAT LLC frequently engaged with the industry regarding the development of CAIS, hosting regular checkpoint calls, webinars, and technical working group meetings with industry representatives to address any issues, including addressing the interplay between Industry Members’ existing customer systems and CAIS, and to educate CAT Reporters regarding LTID and CAIS reporting. Such engagement was critical to the CAIS development process as the CAIS project was unprecedented in terms of its content, scope and complexity.

During this period, FCAT also commenced the building of the CAIS system in accordance with the CAIS Technical Specifications during the period covered by Historical CAT Assessment 1A. The CAIS system was ready for industry testing shortly after the end of this period in January 2022.

The CAIS Technical Specifications and the CAIS system, as developed during this period, continue to be used. Industry Members have been required to report, and have continuously reported, required data to CAIS on a daily basis since November 7, 2022, consistent with interim reporting obligations. The CAIS system accepts and validates the CAIS data submitted by Industry Members and provides Industry Members with

initial feedback on data errors. In light of the unprecedented nature of the CAIS system, certain changes to the system, such as changes related to error corrections and the CAIS regulatory portal, were necessary to finalize CAIS reporting. FCAT worked to address these remaining issues,¹⁹⁸ and, as of May 31, 2024, FCAT indicated that it had achieved the final CAIS reporting milestone. Accordingly, CAT LLC appropriately seeks to recover CAIS operating costs via Historical CAT Assessment 1A.

(G) Public Relations Costs

CAT LLC believes that the recovery of public relations costs is appropriate and that the amount and scope of such costs, as described above, are reasonable.

The Commission has long recognized that external public relations costs are reasonably associated with creating, implementing and maintaining the CAT. In the CAT NMS Plan Approval Order, the Commission estimated that the Participants had collectively spent approximately \$2,400,000 in preparation of the CAT NMS Plan on external public relations, legal, and consulting costs, and estimated that the Participants would continue to incur external public relations costs associated with maintaining the CAT upon approval of the CAT NMS Plan.¹⁹⁹

In approving the CAT Funding Model, the Commission recognized that it is appropriate to recover reasonable costs for public relations services as a part of Historical CAT Assessments. As approved by the SEC, the CAT NMS Plan states that “the reasonably budgeted CAT costs shall include . . . public relations costs.”²⁰⁰ In addition, the CAT NMS Plan also requires Participants to include in their fee filings “a brief description of the amount and type of the Historical CAT Costs, including . . . public relations costs.”²⁰¹ In keeping with these provisions, a brief description of reasonable public relations costs are described above.

In addition, CAT LLC determined that the public relations costs described above are reasonable in both amount and scope and should be recoverable as a part of Historical CAT Assessment 1A. The services performed by the public relations firms through 2021 were limited in scope to assist CAT LLC,

¹⁹² See Phased Reporting Exemptive Relief Order at 23079–80.

¹⁹³ *Id.* at 23078–79, n.70.

¹⁹⁴ The LTID Technical Specifications, including original drafts and updated versions, are available on the Industry Member Specifications page of the CAT website (<https://www.catnmsplan.com/specifications/im>).

¹⁹⁵ Such contact points with the industry are described in detail on the Events web page of the CAT website (<https://www.catnmsplan.com/events>).

¹⁹⁶ The CAIS Technical Specifications, including original drafts and updated versions, are available on the Industry Member Specifications page of the CAT website (<https://www.catnmsplan.com/specifications/im>).

¹⁹⁷ Six updated versions of the CAIS Technical Specifications were published during 2021, in March, May, June, August, October and December.

¹⁹⁸ See, e.g., CAT Q4 2023 Quarterly Progress Report (Jan. 30, 2024) (<https://www.catnmsplan.com/sites/default/files/2024-01/CAT-Q4-2023-QPR.pdf>).

¹⁹⁹ CAT NMS Plan Approval Order at 84917–18.

²⁰⁰ Section 11.1(a)(i) of the CAT NMS Plan.

²⁰¹ Section 11.3(b)(iii)(B)(II) of the CAT NMS Plan.

which has no employees of its own, to be better positioned to understand and address CAT matters to the benefit of all market participants and to communicate on important CAT topics with the public. In addition, the costs for these services were appropriately limited. During the 10-year period covered by Historical CAT Assessment 1A, the average cost per year for these services was approximately \$36,000.

(H) Legal Costs Related to the Limitation of Liability Provision in CAT Reporter Agreements

CAT LLC believes that the recovery of legal costs related to the limitation of liability provision, including costs related to the proceedings before the SEC and costs related to the proposed amendment to the Consolidated Audit Trail Reporter Agreement and the Consolidated Audit Trail Reporting Agent Agreement (the “Reporting Agreements”) is appropriate and that the amount and scope of such costs as described above are reasonable.

As a preliminary matter, as discussed above, the Commission recognized that it is appropriate to recover reasonable costs for legal services as a part of Historical CAT Assessments.²⁰² In addition, CAT LLC determined that the legal costs incurred for the assistance with regard to the limitation of liability provisions are reasonable in both amount and scope and should be recoverable as a part of Historical CAT Assessment 1A.

Moreover, it is critical that CAT LLC, which has no employees of its own, have the ability to fund a legal defense in litigation and other legal proceedings against it. In response to CAT LLC requiring Industry Members to agree to the limitation of liability provision to submit data to the CAT, SIFMA filed an application for review of actions taken by CAT LLC and the Participants pursuant to Sections 19(d) and 19(f) of the Exchange Act. Contemporaneously with the filing of this proceeding, SIFMA moved for a stay of the requirement that Industry Members sign a Reporter Agreement, or in the alternative, asked the Commission to further delay the launch of CAT reporting on June 22, 2020. CAT LLC must have the resources to defend itself from litigious actions by others, like these.

Although a limitation of liability provision ultimately was not adopted as proposed, it was a reasonable provision to propose for the CAT Reporter Agreements, given that such provisions

are in accordance with industry norms. Limitations of liability are ubiquitous within the securities industry and have long governed the economic relationships between self-regulatory organizations and the entities that they regulate. For example, U.S. securities exchanges have adopted rules to limit their liability for losses that Industry Members incur through their use of exchange facilities.²⁰³ Similarly, FINRA’s former order audit trail, OATS, which has functioned as an integrated audit trail of order, quote, and trade data for equity securities, required FINRA members to acknowledge an agreement that includes a limitation of liability provision.²⁰⁴ In addition, such a provision was intended to ensure the financial stability of the CAT. Accordingly, it was reasonable for CAT LLC to propose the use of such a provision.²⁰⁵

Furthermore, as described above, the specialized services were performed by experienced counsel at market rates for such services. Accordingly, the legal costs for the efforts related to the limitation of liability provision were reasonable.

(I) Costs for the Chair of the CAT Operating Committee

CAT LLC believes that the recovery of consulting costs related to the Chair of the CAT Operating Committee is appropriate and that the amount and scope of such costs are reasonable.

As a preliminary matter, the selection of the Chair of the Operating Committee complies with the requirements of Section 4.2 of the CAT NMS Plan. The initial Chair that served during the period covered by Historical CAT Assessment 1A was designated by a Participant as the Participant’s alternate voting member. Accordingly, the Chair is a representative of the Participants, as required by the CAT NMS Plan.

In addition, in approving the CAT Funding Model, the Commission recognized that it is appropriate to recover reasonable costs for consulting as a part of Historical CAT Assessments. As approved by the SEC, the CAT NMS Plan states that “the reasonably

budgeted CAT costs shall include . . . consulting . . .” costs.²⁰⁶ In addition, the CAT NMS Plan also requires Participants to include in their fee filings “a brief description of the amount and type of the Historical CAT Costs, including . . . consulting”²⁰⁷ costs. In keeping with these provisions, a brief description of reasonable consulting costs is included in this filing, and such reasonable consulting costs include the costs related to the Chair position.

The Participants determined that the position of the Chair was a critical role for the implementation of the CAT, and an independent Chair would appropriately consider and address the views of each of the Participants. The Participants also determined that it was important to have a Chair with a strong background regarding issues related to the regulatory obligations of self-regulatory organizations, including their obligations under national market system plans. The compensation paid to the Chair is appropriate for a person with such background and skills. The average annual amount paid to the Chair from 2017 through the end of FAM 3 was \$292,733.30. Separate from the Chair, CAT LLC relies upon a Leadership Team of representatives of the SROs to oversee the day-to-day implementation of the CAT NMS Plan. CAT LLC does not compensate any member of the Leadership Team.

(11) Fee Implementation Assistance for Industry Members

(A) Reconciliation of CAT Invoices

(i) Reconciliation of CAT Invoices to Underlying Trades Provided by CAT

CAT LLC understands that there are three types of reconciliation processes related to the invoices:

- *Reconciliation of CAT Invoices to Underlying Trades:* Reconciling the CAT invoice amount to the underlying trades provided by CAT;
- *Matching Trades to Books and Records:* Providing the means to match the underlying trades provided by CAT with CAT invoices to other books and records independently maintained by individual CAT Reporters (e.g., exchange trade journals/ acknowledgements) and data sources of self-regulatory organizations independent of CAT; and
- *Order Originator Identification:* Providing the ability to identify the order originator for the underlying trades provided by CAT with CAT

²⁰³ See, e.g., NASDAQ Equities Rule 4626.

²⁰⁴ FINRA Rule 1013(a)(1)(R) requires all applicants for FINRA Membership to acknowledge the FINRA Entitlement Program Agreement and Terms of Use, which applies to OATS. Industry Members click to indicate that they agree to its terms—including its limitation of liability provision—every time they access FINRA’s OATS system to report trade information (i.e., repeatedly over the course of a trading day for many Industry Members).

²⁰⁵ See Letter from Michael Simon, Chair, CAT Operating Committee, to Vanessa Countryman, Secretary, Commission (Dec. 18, 2020).

²⁰⁶ Section 11.1(a)(i) of the CAT NMS Plan.

²⁰⁷ Section 11.3(b)(iii)(B)(II) of the CAT NMS Plan.

²⁰² See Sections 11.1(a)(i) and 11.3(b)(iii)(B)(II) of the CAT NMS Plan.

invoices, which would facilitate firms' ability to pass through CAT Fees to their customers.

As discussed further below, CAT LLC only considers the first type of process to be a "reconciliation" and the only type of process that is required under the CAT NMS Plan. CAT LLC provides the means to reconcile the CAT invoice amount to the underlying trades provided by CAT.

The CAT NMS Plan does not require CAT LLC to facilitate the second type of process: matching underlying trades for a CAT invoice with a firm's internal books and records. CAT LLC has access only to the underlying trades provided by CAT; it does not have access to a firm's internal books and records. Although beyond the requirements of the CAT NMS Plan and involving firm specific considerations, CAT LLC voluntarily has provided guidance and processes to assist CAT Reporters in their efforts to match the underlying trades with their own books and records.

The CAT NMS Plan also does not require CAT LLC to provide the ability to identify the order originator for the underlying trades for the CAT invoices. Accordingly, the billing guidance and processes do not provide CAT Reporters with the ability to identify the order originator for the underlying trades provided by CAT with CAT invoices. CAT LLC has been working closely with CAT Reporters to explain its billing approach and to address any outstanding billing questions. But, it should not be lost that CAT LLC provides information sufficient to allow CAT Reporters to reconcile CAT invoice amounts with the underlying trades provided by CAT LLC.

(ii) Match the Underlying Trades Provided by CAT With CAT Invoices to Firms' Internal Books and Records Independent of CAT

The CAT NMS Plan does not require CAT LLC to facilitate the matching of underlying trades for a CAT invoice with a firm's internal books and records, which may consist of trading data from various sources external to CAT. Although beyond the requirements of the CAT NMS Plan and involving firm specific considerations, CAT LLC voluntarily has provided guidance and processes to assist CAT Reporters in their efforts to match the underlying trades with their own books and records.

In this regard, it is important to recognize that CAT LLC has developed a billing approach that greatly improves upon existing billing practices for similar regulatory fees (e.g., fees related

to Section 31). Accordingly, with the additional information voluntarily provided by CAT LLC, CAT Reporters generally will have sufficient information to match their underlying trades provided by CAT with their own internal books and records that are independent of CAT or to SRO data that is independent of CAT data. However, CAT LLC emphasizes that providing such additional information is not required by the CAT NMS Plan.

To facilitate the introduction of CAT fees, CAT LLC has worked with FCAT to develop an approach to CAT billing that is consistent with existing billing constructs used with regard to Section 31-related sales values fees, subject to certain enhancements. Under this billing approach, FCAT is providing additional linkage elements, not necessarily provided in the Section 31-sales value fee context, to facilitate CAT Reporters' ability to match the underlying trades provided by CAT with their internal books and records and to reduce the complexity of that process. Specifically, FCAT is providing various key elements of the trade itself, such as the tradeID and branch sequence,²⁰⁸ to CAT Reporters in the trade billing details provided with their CAT invoices ("Additional Trade Details"). As a result, CAT Reporters now have numerous alternative methods for matching a trade with their internal books and records where they previously did not have such matching methods in other fee contexts.

With the Additional Trade Details, CAT LLC and FCAT believe that the overwhelming majority of underlying trades provided by CAT bills can be matched with a CAT Reporter's internal books and records. CAT LLC recognizes that there may be certain cases in which such matching is more difficult given various firm-specific considerations, but believes that such instances are significantly more limited than with regard to the SRO fees charged in relation to Section 31.²⁰⁹ By providing

²⁰⁸ See CAT Technical Specifications for Billing Trade Details; Trade Details Schema (<https://catnmsplan.com/sites/default/files/2024-02/02.05.24-Billing-Trade-Details-Schema.json>); CAT Billing Scenarios, Version 1.0 (Nov. 30, 2023) (<https://www.catnmsplan.com/sites/default/files/2024-01/01.12.2024-CAT-Billing-Scenarios-v1.0.pdf>).

²⁰⁹ For years, broker-dealers have faced similar reconciliation issues with regard to SRO fees related to Section 31. Broker-dealers have responded to this issue in the Section 31 context by exercising their discretion as to whether and the manner and extent to which they pass on those fees (e.g., by rounding up its fees to the nearest cent, or decide to charge for, or not charge for, certain transactions, or assess a specific fee or incorporate the costs into other fee programs). See, e.g., Securities Exchange Act Rel. No. 49928 (June 28, 2004), 69 FR 41060, 41072 (July

Additional Trade Details that are not available in other fee contexts, FCAT enhances the Industry Members' ability to match the underlying trades provided with CAT invoices with books and records and SRO data, both of which are independent of CAT data.

(iii) CAT LLC Is Not Required To Facilitate CAT Reporters' Ability To Pass Through Fees to Their Customers

Similar to other regulatory fees, the CAT NMS Plan does not address the manner or extent to which CAT Executing Brokers may seek to pass any CAT fees on to their customers, nor does it impose any obligation on CAT LLC or the Plan Processor to facilitate firms' ability to do so. Accordingly, Historical CAT Assessment 1A does not address the process by which any CAT Reporters may pass through the fee to their customers. Likewise, the CAT billing approach provided by the Plan Processor is designed to address the needs of CAT Reporters with regard to the reconciliation of CAT invoices with the underlying trades provided by CAT LLC with the invoices; they are not designed to address issues related to any pass-through fees. Accordingly, facilitating CAT Reporters' ability to pass through fees to their clients is outside the scope of this fee filing. Nevertheless, as described below, CAT LLC and the Plan Processor have expended significant efforts to provide technical assistance to Industry Members regarding the implementation of Historical CAT Assessment 1A, including providing Additional Trade Details that provide significant details about each underlying trade.

(a) Originating Brokers Versus Executing Brokers

In its approval of the CAT Funding Model, the Commission approved charging CAT fees to the CAT Executing Broker, rather than the originating broker. This fee filing must comply with the requirements of the CAT Funding Model, and, therefore, charges the Historical CAT Assessment 1A to CAT Executing Brokers.

Moreover, charging originating brokers would introduce significant complexity to the billing process from the CAT's perspective, and would increase the costs of implementing CAT fees. Charging the CAT Executing Broker is simple and straightforward, and leverages a one-to-one relationship between billable events (trades) and billable parties, similar to other

7, 2004) (noting that broker-dealers may "over-collect" Section 31-related fees charged to their clients due to rounding practices, and double-counting with regard to certain transactions).

transaction-based fees. In contrast, for a single trade event, there may be many originating brokers, and each trade must be broken down on a pro-rata basis, to account for one or more layers of aggregation, disaggregation, and representation of the underlying orders. While CAT is indeed designed to capture and unwind complex aggregation scenarios, the data and linkages are structured to facilitate regulatory use, and not a billing mechanism that assesses fees on a distinct set of executed trades; it is not simply a matter of using existing CAT linkages. Furthermore, charging originating brokers would implicate issues related to lifecycle linkage rates, and issues related to corrections, cancellations and allocations, while charging CAT Executing Brokers would avoid such issues.

(b) Identification of Order Originator for Underlying Trades

As noted, the CAT NMS Plan does not address the manner or extent to which CAT Executing Brokers may seek to pass any CAT Fees on to their customers, nor does it impose any obligation on CAT LLC or the Plan Processor to facilitate firms' ability to do so. Nevertheless, the Additional Trade Details provided with regard to the underlying trades on CAT invoices may assist with this process. Like with Section 31-related sales value fees, however, it is not always possible to trace every fee on a transaction back to the originating party. Industry Members have faced these issues under Section 31-related sales values fees for many years.²¹⁰ However, with the Additional Trade Details provided under the CAT billing approach, in many cases, CAT Reporters will be able to identify the order originator for the underlying trades provided by CAT with CAT invoices. In some cases, CAT LLC believes that certain issues related to certain types of market activity may implicate CAT Reporters' ability to identify the order originator for a limited set of underlying trades for the CAT invoices. Although CAT LLC does not believe that it is required to address these issues, CAT LLC and FCAT have

been carefully researching and analyzing these types of issues as they are identified, and have been working voluntarily to assist CAT Reporters with these issues as necessary and when possible. In addition, CAT LLC intends to continue to provide CAT Reporters with billing guidance through FAQs, CAT Alerts and Helpdesk responses to address outstanding billing questions.

(B) Significant Technical Assistance

CAT LLC has worked with FCAT to provide significant technical assistance to Industry Members to allow the Industry Members to understand how Historical CAT Assessments will be implemented and billed, including webinars, CAT alerts, mock invoices, and responses to questions posed to the FCAT Help Desk.

- *Technical Specifications and Scenarios.* CAT LLC has provided detailed technical documentation for CAT billing, including (1) technical specifications, which describe the CAT Billing Trade Details Files associated with monthly CAT invoices, including detailed information about data elements and file formats as well as access instructions, network and transport options;²¹¹ (2) trade details schemas;²¹² and (3) CAT billing scenarios.²¹³

- *Industry Webinars.* CAT LLC has hosted two industry webinars specifically dedicated to CAT billing. The first webinar, hosted on September 28, 2023, discussed the operational implementation of the CAT Reporter billing process.²¹⁴ The second webinar, hosted on November 7, 2023, provided (1) a demonstration of the CAT Reporter Portal and how to access CAT billing documents, including CAT invoices; and (2) additional information on underlying trade details in relation to the CAT Reporter billing process and an overview of the CAT Contact Management System.²¹⁵ 485 participants and 394 participants attended the two webinars, respectively.

²¹¹ CAT Technical Specifications for Billing Trade Details, Version 1.0 r1 (Dec. 8, 2023) (https://catnmsplan.com/sites/default/files/2023-12/12.07.2023-CAT-Technical-Specifications-for-Billing-Trade-Details-v1.0r1_CLEAN.pdf).

²¹² Trade Details Schema (<https://catnmsplan.com/sites/default/files/2024-02/02.05.24-Billing-Trade-Details-Schema.json>).

²¹³ CAT Billing Scenarios, Version 1.0 (Nov. 30, 2023) (<https://www.catnmsplan.com/sites/default/files/2024-01/01.12.2024-CAT-Billing-Scenarios-v1.0.pdf>).

²¹⁴ CAT Billing Webinar, Part 1 (Sept. 28, 2023) (<https://www.catnmsplan.com/events/part-1-cat-billing-webinar>).

²¹⁵ CAT Billing Webinar, Part 2 (Nov. 7, 2023) (<https://www.catnmsplan.com/events/part-2-cat-billing-webinar>).

- *CAT Alert.* CAT LLC has published a detailed CAT Alert that describes how FCAT, as the Plan Processor acting on behalf of CAT LLC, will calculate applicable fees, issue invoices to and collect payment from CAT Executing Brokers.²¹⁶

- *Frequently Asked Questions (FAQs).* CAT LLC also has continued to engage with the industry on billing issues by making responses to billing FAQs available on the CAT website. The FAQs address a broad range of frequently asked questions, including, for example, which Industry Members will receive invoices, how fees are calculated, when and how fees are required to be paid, how to access invoices, and how to update the billing contact. To date, responses to 31 FAQs are available on the CAT website, and CAT LLC will provide additional responses to FAQs as warranted.²¹⁷

- *Substantial Past Experience with CAT Billing Processes.* To date, CAT LLC, via FCAT, has billed Industry Members for Historical CAT Assessment 1 and certain Prospective CAT Fees. Industry Members will be billed for Historical CAT Assessment 1A via the same processes established for Historical CAT Assessment 1 and the Prospective CAT Fees. Accordingly, Industry Members have substantial experience with the CAT billing processes.

- *Help Desk Assistance.* CAT LLC also provides detailed, individualized assistance to Industry Members regarding CAT fees and the billing process through the FCAT Help Desk.²¹⁸ For example, the Help Desk assisted with 406 cases related to the billing of CAT fees from July 2023 through March 2024.

By providing such detailed and sustained assistance to Industry Members regarding CAT fees and billing, CAT LLC has successfully addressed questions raised by Industry Members regarding the CAT fees and billing processes.

(C) Notice to Industry Members

In keeping with past practice, CAT LLC provided notice of the proposed

²¹⁶ See CAT Alert 2023-02 (Oct. 12, 2023) (<https://www.catnmsplan.com/sites/default/files/2023-10/10.12.23-CAT-Alert-2023-02.pdf>).

²¹⁷ See CAT Billing FAQs, Section V of CAT FAQs (https://www.catnmsplan.com/faq?search_api_fulltext=&field_topics=271&sort_by=field_faq_number).

²¹⁸ The CAT NMS Plan requires that the Plan Processor "staff a CAT help desk, as described in Appendix D, CAT Help Desk, to provide technical expertise." Section 6.10(c)(vi) of the CAT NMS Plan. See also Section 10.3 of Appendix D of the CAT NMS Plan for a description of the Plan requirements for the CAT Help Desk.

²¹⁰ "FINRA charges a Regulatory Transaction Fee ('RTF') to industry members to reimburse FINRA for the Section 31 fees that FINRA pays to the Commission. FINRA does not currently provide industry members with the data that industry members require for proper reconciliation of RTF fees. This has been a major problem for the industry for many years." Letter from Howard Meyerson, Managing Director, FIF, to Robert Cook, Chief Executive Officer, FINRA at 2 (Dec. 15, 2023) (<https://fif.com/index.php/working-groups/category/271-comment-letters?download=2820:fif-letter-to-finra-on-pass-through-of-finra-cat-fees&view=category>).

Historical CAT Assessment 1A via CAT Fee Alert on April 1, 2026,²¹⁹ one month prior to the effective date of Historical CAT Assessment 1A on May 1, 2026. Such notice provides Industry Members with sufficient time to address any technological or other requirements necessary for implementing Historical CAT Assessment 1A.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the requirements of the Exchange Act. The Exchange believes that the proposed rule change is consistent with Section 6(b)(5) of the Act,²²⁰ which requires, among other things, that the Exchange's rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest, and not designed to permit unfair discrimination between customers, issuers, brokers and dealers. The Exchange also believes that the proposed rule change is consistent with the provisions of Section 6(b)(4) of the Act,²²¹ because it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers. The Exchange further believes that the proposed rule change is consistent with Section 6(b)(8) of the Act,²²² which requires that the Exchange's rules not impose any burden on competition that is not necessary or appropriate in furtherance of the purpose of the Exchange Act. These provisions also require that the Exchange be "so organized and [have] the capacity to be able to carry out the purposes" of the Act and "to comply, and . . . to enforce compliance by its members and persons associated with its members," with the provisions of the Exchange Act.²²³ Accordingly, a reasonable reading of the Act indicates that it intended that regulatory funding be sufficient to permit an exchange to fulfill its statutory responsibility under the Act, and contemplated that such funding would be achieved through equitable assessments on the members, issuers, and other users of an exchange's facilities.

(1) Implementation of CAT Funding Model in CAT NMS Plan

Section 11.1(b) of the CAT NMS Plan states that "[t]he Participants shall file with the SEC under Section 19(b) of the Exchange Act any such fees on Industry Members that the Operating Committee approves." Per Section 11.1(b) of the CAT NMS Plan, the Exchange has filed this fee filing to implement the Industry Member CAT fees included in the CAT Funding Model. The Exchange believes that this proposal is consistent with the Exchange Act because it is consistent with, and implements, the CAT Funding Model in the CAT NMS Plan, and is designed to assist the Exchange and its Industry Members in meeting regulatory obligations pursuant to the CAT NMS Plan. In approving the CAT NMS Plan, the SEC noted that the Plan "is necessary and appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanism of a national market system, or is otherwise in furtherance of the purposes of the Act."²²⁴ Similarly, in approving the CAT Funding Model, the SEC concluded that the CAT Funding Model met this standard.²²⁵ As this proposal implements the Plan and the CAT Funding Model described therein, and applies specific requirements to Industry Members in compliance with the Plan, the Exchange believes that this proposal furthers the objectives of the Plan, as identified by the SEC, and is therefore consistent with the Exchange Act.

(2) Calculation of Fee Rate for Historical CAT Assessment 1A Is Reasonable

The SEC has determined that the CAT Funding Model is reasonable and satisfies the requirements of the Exchange Act. Specifically, the SEC has concluded that the method for determining Historical CAT Assessments as set forth in Section 11.3 of the CAT NMS Plan, including the formula for calculating the Historical Fee Rate, the identification of the parties responsible for payment and the transactions subject to the fee rate for the Historical CAT Assessment, is reasonable and satisfies the Exchange Act.²²⁶ In each respect, as discussed above, Historical CAT Assessment 1A is calculated, and would be applied, in accordance with the requirements applicable to Historical CAT Assessments as set forth in the CAT NMS Plan. Furthermore, as discussed

below, the Exchange believes that each of the figures for the variables in the SEC-approved formula for calculating the fee rate for Historical CAT Assessment 1A is reasonable and consistent with the Exchange Act. Calculation of the fee rate for Historical CAT Assessment 1A requires the figures for the Historical CAT Costs 1, the executed equivalent share volume for the prior twelve months, the determination of Historical Recovery Period 1A, and the projection of the executed equivalent share volume for Historical Recovery Period 1A. Each of these variables is reasonable and satisfies the Exchange Act, as discussed throughout this filing.

(A) Historical CAT Costs 1

The formula for calculating a Historical Fee Rate requires the amount of Historical CAT Costs to be recovered. Specifically, Section 11.3(b)(iii)(B)(II) of the CAT NMS Plan requires a fee filing to provide:

a brief description of the amount and type of the Historical CAT Costs, including (1) the technology line items of cloud hosting services, operating fees, CAIS operating fees, change request fees, and capitalized developed technology costs, (2) legal, (3) consulting, (4) insurance, (5) professional and administration and (6) public relations costs.

In accordance with this requirement, the Exchange has set forth the amount and type of Historical CAT Costs 1 for each of these categories of costs above.

Section 11.3(b)(iii)(B)(II) of the CAT NMS Plan also requires that the fee filing provide "sufficient detail to demonstrate that the Historical CAT Costs are reasonable and appropriate." As discussed below, the Exchange believes that the amounts set forth in this filing for each of these cost categories is "reasonable and appropriate." Each of the costs included in Historical CAT Costs 1 are reasonable and appropriate because the costs are consistent with standard industry practice, based on the need to comply with the requirements of the CAT NMS Plan, incurred subject to negotiations performed on an arm's length basis, and/or are consistent with the needs of any legal entity, particularly one with no employees.

(i) Technology: Cloud Hosting Services

In approving the CAT Funding Model, the Commission recognized that it is appropriate to recover costs related to cloud hosting services as a part of Historical CAT Assessments.²²⁷ CAT LLC determined that the costs related to

²¹⁹ CAT Fee Alert 2026-1 (Apr. 1, 2026) (<https://www.catnmsplan.com/sites/default/files/2026-04/04.01.26-CAT-Fee-Alert-2026-1.pdf>).

²²⁰ 15 U.S.C. 78f(b)(6).

²²¹ 15 U.S.C. 78f(b)(4).

²²² 15 U.S.C. 78f(b)(8).

²²³ See Section 6(b)(1) of the Exchange Act.

²²⁴ CAT NMS Plan Approval Order at 84696.

²²⁵ CAT Funding Model Approval Order at 13481.

²²⁶ *Id.*

²²⁷ Section 11.3(b)(iii)(B)(II)(B)(1) of the CAT NMS Plan.

cloud hosting services described in this filing are reasonable and should be included as a part of Historical CAT Costs 1. As described above, the cloud hosting services costs reflect, among other things, the breadth of the CAT cloud activities, data volume far in excess of the original volume estimates, the need for specialized cloud services given the volume and unique nature of the CAT, the processing time requirements of the Plan, and regular efforts to seek to minimize costs where permissible under the Plan. CAT LLC determined that use of cloud hosting services is necessary for implementation of the CAT, particularly given the substantial data volumes associated with the CAT, and that the fees for cloud hosting services negotiated by FCAT were reasonable, taking into consideration a variety of factors, including the expected volume of data and the breadth of services provided and market rates for similar services.²²⁸ Indeed, the actual costs of the CAT are far in excess of the original estimated costs of the CAT due to various factors, including the higher volumes and greater complexity of the CAT than anticipated when Rule 613 was originally adopted.

To comply with the requirements of the Plan, the breadth of the cloud activities related to the CAT is substantial. The cloud services not only include the production environment for the CAT, but they also include two industry testing environments, support environments for quality assurance and stress testing and disaster recovery capabilities. Moreover, the cloud storage costs are driven by the requirements of the Plan, which requires the storage of multiple versions of the data, from the original submitted version of the data through various processing steps, to the final version of the data.

Data volume is a significant driver of costs for cloud hosting services. When the Commission adopted the CAT NMS Plan in 2016, it estimated that the CAT would need to receive 58 billion records per day²²⁹ and that annual operating costs for the CAT would range from \$36.5 million to \$55 million.²³⁰ Through 2021, the actual data volumes have been five times that original estimate. The data volumes for each period are set forth in detail above.²³¹

²²⁸ For a discussion of the amount and type of cloud hosting services fees, see Sections 3(a)(2)(B)(i)(a)(I), 3(a)(2)(B)(i)(b)(I), 3(a)(2)(B)(i)(c)(I) and 3(a)(2)(B)(i)(d)(I) above.

²²⁹ Appendix D-4 of the CAT NMS Plan at n.262.

²³⁰ CAT NMS Plan Approval Order at 84801.

²³¹ See Sections 3(a)(2)(B)(i)(a)(I), 3(a)(2)(B)(i)(b)(I), 3(a)(2)(B)(i)(c)(I) and 3(a)(2)(B)(i)(d)(I) above.

In addition to the effect of the data volume on the cloud hosting costs, the processing timelines set forth in the Plan contribute to the cloud hosting costs. Although CAT LLC has proactively sought to manage cloud hosting costs while complying with the Plan, including through requests to the Commission for exemptive relief and an amendment to the CAT NMS Plan, stringent CAT NMS Plan requirements do not allow for any material flexibility in cloud architecture design choices, processing timelines (e.g., the use of non-peak processing windows), or lower-cost storage tiers. As a result, the required CAT processing timelines contribute to the cloud hosting costs of the CAT.

The costs for cloud hosting services also reflect the need for specialized cloud hosting services given the data volume and unique processing needs of the CAT. The data volume as well as the data processing needs of the CAT necessitate the use of cloud hosting services. The equipment, power and services required for an on-premises data model, the alternative to cloud hosting services, would be cost prohibitive. Moreover, as CAT was being developed, there were limited cloud hosting providers that could satisfy all the necessary CAT requirements, including the operational and security criteria. Over time more providers offering cloud hosting services that would satisfy these criteria have entered the market. CAT LLC will continue to evaluate alternative cloud hosting services, recognizing that the time and cost to move to an alternative cloud provider would be substantial.

The reasonableness of the cloud hosting services costs is further supported by key cost discipline mechanisms for the CAT—a cost-based funding structure, cost transparency, cost management efforts (including regular efforts to lower compute and storage costs where permitted by the Plan) and oversight. Together, these mechanisms help ensure the ongoing reasonableness of the CAT's costs and the level of fees assessed to support those costs.²³²

(ii) Technology: Operating Fees

In approving the CAT Funding Model, the SEC recognized that it is appropriate to recover costs related to operating fees as a part of Historical CAT Assessments.²³³ CAT LLC determined

²³² See Securities Exchange Act Rel. No. 97151 (Mar. 15, 2023), 88 FR 17086, 17117 (Mar. 21, 2023) (describing key cost discipline mechanisms for the CAT).

²³³ Section 11.3(b)(iii)(B)(II)(B)(1) of the CAT NMS Plan.

that the costs related to operating fees described in this filing are reasonable and should be included as a part of Historical CAT Costs 1. The operating fees include the negotiated fees paid by CAT LLC to the Plan Processor to operate and maintain the system for order-related information and to perform business operations related to the system, including compliance, security, testing, training, communications with the industry (e.g., management of the FINRA CAT Helpdesk, FAQs, website and webinars) and program management. CAT LLC determined that the selection of FCAT as the Plan Processor was reasonable and appropriate given its expertise with securities regulatory reporting, after a process of considering other potential candidates.²³⁴ CAT LLC also determined that the fixed price contract, negotiated on an arm's length basis with the goals of managing costs and receiving services required to comply with the CAT NMS Plan and Rule 613, was reasonable and appropriate, taking into consideration a variety of factors, including the breadth of services provided and market rates for similar types of activity.²³⁵ The services performed by FCAT for each period and the costs related to such services are described above.²³⁶

(iii) Technology: CAIS Operating Fees

In approving the CAT Funding Model, the SEC recognized that it is appropriate to recover costs related to CAIS operating fees as a part of Historical CAT Assessments.²³⁷ CAT LLC determined that the costs related to CAIS operating fees described in this filing are reasonable and should be included as a part of Historical CAT Costs 1. The CAIS operating fees include the fees paid to the Plan Processor to operate and maintain CAIS and to perform the business operations related to the system, including compliance, security, testing, training, communications with the industry (e.g., management of the FINRA CAT Helpdesk, FAQs, website and webinars) and program management. CAT LLC determined that the FCAT-negotiated fees for Kingland's CAIS-related services, negotiated on an arm's length basis with the goals of managing costs and receiving services required to comply with the CAT NMS Plan, taking into consideration a variety of factors,

²³⁴ See Section 3(a)(2)(B)(i)(a)(II) above.

²³⁵ See Sections 3(a)(2)(B)(i)(a)(II), 3(a)(2)(B)(i)(b)(II), 3(a)(2)(B)(i)(c)(II) and 3(a)(2)(B)(i)(d)(II) above.

²³⁶ *Id.*

²³⁷ Section 11.3(b)(iii)(B)(II)(B)(1) of the CAT NMS Plan.

including the services to be provided and market rates for similar types of activity, were reasonable and appropriate.²³⁸ The services performed by Kingland for each period and the costs for each period are described above.²³⁹

(iv) Technology: Change Request Fees

In approving the CAT Funding Model, the SEC recognized that it is appropriate to recover costs related to change request fees as a part of Historical CAT Assessments.²⁴⁰ CAT LLC determined that the costs related to change request fees described in this filing are reasonable and should be included as a part of Historical CAT Costs 1. It is common practice to utilize a change request process to address evolving needs in technology projects. This is particularly true for a project like CAT that is the first of its kind, both in substance and in scale. The substance and costs of each of the change requests are evaluated by the Operating Committee, and approved in accordance with the requirements for Operating Committee meetings. In each case, CAT LLC determined that the change requests were necessary to implement the CAT. As described above, the change requests cover various technology changes, including, for example, changes related to CAT reporting, data feeds and exchange functionality. CAT LLC also determined that the costs for each change request were appropriate for the relevant technology change. A description of the change requests for each FAM Period and their total costs is described above.²⁴¹ As noted above, the total costs for change requests through FAM Period 3 represent a small percentage of Historical CAT Costs 1—that is, 0.25% of Historical CAT Costs 1.

(v) Capitalized Developed Technology Costs

In approving the CAT Funding Model, the SEC recognized that it is appropriate to recover costs related to capitalized developed technology costs as a part of Historical CAT Assessments.²⁴² Capitalized developed technology costs include costs related to certain development costs, costs related to certain modifications, upgrades and

other changes to the CAT, CAIS implementation fees and license fees. The amount and type of costs for each period are described in more detail above.²⁴³ CAT LLC determined that these costs are reasonable and should be included as a part of Historical CAT Costs 1.

These costs involve the activity of both the Initial Plan Processor and FCAT, as the successor Plan Processor.²⁴⁴ With regard to the Initial Plan Processor, the Participants utilized an RFP to seek proposals to build and operate the CAT, receiving a number of proposals in response to the RFP. The Participants carefully reviewed and considered each of the proposals, including holding in-person meetings with each of the Bidders. After several rounds of review, the Participants selected the Initial Plan Processor in accordance with the CAT NMS Plan. CAT LLC entered into an agreement with the Initial Plan Processor in which CAT LLC would pay the Initial Plan Processor a negotiated, fixed price fee.²⁴⁵ In addition, as described above, CAT LLC determined that it was appropriate to enter into an agreement with FCAT as the successor Plan Processor.²⁴⁶

(vi) Legal

In approving the CAT Funding Model, the SEC recognized that it is appropriate to recover costs related to legal fees as a part of Historical CAT Assessments.²⁴⁷ CAT LLC determined that the legal costs described in this filing are reasonable and should be included as a part of Historical CAT Costs 1. Given the unique nature of the CAT, the number of parties involved with the CAT (including, for example, the SEC, Participants, Industry Members, and vendors) and the many regulatory issues associated with the CAT, the scope of the necessary legal services is substantial. CAT LLC determined that the scope of the legal services is necessary to implement and maintain the CAT and that the legal rates reflect the specialized services necessary for such a project. When hiring each law firm for a CAT project, CAT LLC interviewed multiple firms, and determined to hire each firm based on a variety of factors, including the relevant expertise and fees. In each case, CAT LLC determined that the hourly fee

rates were in line with market rates for the specialized legal expertise. In addition, CAT LLC determined that the total costs incurred for each CAT project were appropriate given the breadth of services provided. The services performed by each law firm for each period and the costs related to such services are described above.²⁴⁸

(vii) Consulting

In approving the CAT Funding Model, the SEC recognized that it is appropriate to recover consulting costs as a part of Historical CAT Assessments.²⁴⁹ CAT LLC determined that the consulting costs described in this filing are reasonable and should be included as a part of Historical CAT Costs 1. Because there are no CAT employees²⁵⁰ and because of the significant number of issues associated with the CAT, the consultants provided assistance in the management of various CAT matters and the processes related to such matters.²⁵¹ CAT LLC considered a variety of factors in choosing a consulting firm and determined to select Deloitte after an interview process.²⁵² CAT LLC also determined that the consulting services were provided at reasonable market rates, as the fees were negotiated annually and comparable to the rates charged by other consulting firms for similar work.²⁵³ Moreover, the total costs for such consulting services were appropriate in light of the breadth of services provided by Deloitte. The services performed by Deloitte and the costs related to such services are described above.²⁵⁴

(viii) Insurance

In approving the CAT Funding Model, the SEC recognized that it is appropriate to recover insurance costs as a part of Historical CAT Assessments.²⁵⁵ CAT LLC determined that the insurance costs described in this filing are reasonable and should be included as a part of Historical CAT Costs 1. CAT LLC

²⁴⁸ See Sections 3(a)(2)(B)(i)(a)(VII), 3(a)(2)(B)(i)(b)(VI), 3(a)(2)(B)(i)(c)(VI) and 3(a)(2)(B)(i)(d)(VI) above.

²⁴⁹ Section 11.3(b)(iii)(B)(II)(B)(3) of the CAT NMS Plan.

²⁵⁰ As stated in the filing of the proposed CAT NMS Plan, “[i]t is the intent of the Participants that the Company have no employees.” Securities Exchange Act Rel. No. 77724 (Apr. 27, 2016), 81 FR 30614, 30621 (May 17, 2016).

²⁵¹ CAT LLC uses certain third parties to perform tasks that may be performed by administrators for other NMS Plans. See, e.g., CTA Plan and CQ Plan.

²⁵² See Section 3(a)(2)(B)(i)(a)(VII) above.

²⁵³ See Sections 3(a)(2)(B)(i)(a)(VII), 3(a)(2)(B)(i)(b)(VII), 3(a)(2)(B)(i)(c)(VII) and 3(a)(2)(B)(i)(d)(VII) above.

²⁵⁴ *Id.*

²⁵⁵ Section 11.3(b)(iii)(B)(II)(B)(4) of the CAT NMS Plan.

²³⁸ See Sections 3(a)(2)(B)(i)(a)(III), 3(a)(2)(B)(i)(b)(III), 3(a)(2)(B)(i)(c)(III) and 3(a)(2)(B)(i)(d)(III) above.

²³⁹ *Id.*

²⁴⁰ Section 11.3(b)(iii)(B)(II)(B)(1) of the CAT NMS Plan.

²⁴¹ See Sections 3(a)(2)(B)(i)(a)(IV), 3(a)(2)(B)(i)(b)(IV), 3(a)(2)(B)(i)(c)(IV) and 3(a)(2)(B)(i)(d)(IV) above.

²⁴² Section 11.3(b)(iii)(B)(II)(B)(1) of the CAT NMS Plan.

²⁴³ See Sections 3(a)(2)(B)(i)(a)(V), 3(a)(2)(B)(i)(b)(V), 3(a)(2)(B)(i)(c)(V) and 3(a)(2)(B)(i)(d)(V) above.

²⁴⁴ *Id.*

²⁴⁵ See Section 3(a)(2)(B)(i)(a)(V) above.

²⁴⁶ See Section 3(a)(2)(B)(i)(a)(II) above.

²⁴⁷ Section 11.3(b)(iii)(B)(II)(B)(2) of the CAT NMS Plan.

determined that it is common practice to have directors' and officers' liability insurance, and errors and omissions liability insurance. CAT LLC further determined that it was important to have cyber security insurance given the nature of the CAT, and such a decision is consistent with the CAT NMS Plan, which states that the cyber incident response plan may include "[i]nsurance against security breaches."²⁵⁶ In selecting the insurance providers for these policies, CAT LLC engaged in an evaluation of alternative insurers, including a comparison of the pricing offered by the alternative insurers.²⁵⁷ Based on this analysis, CAT LLC determined that the selected insurance policies provided appropriate coverage at reasonable market rates.²⁵⁸

(ix) Professional and Administration

In approving the CAT Funding Model, the SEC recognized that it is appropriate to recover professional and administration costs as a part of Historical CAT Assessments.²⁵⁹ CAT LLC determined that the professional and administration costs described in this filing are reasonable and should be included as a part of Historical CAT Costs 1. Because there are no CAT employees, all required accounting, financial, tax, cash management and treasury functions for CAT LLC have been outsourced at market rates. In addition, the required annual financial statement audit of CAT LLC is included in professional and administration costs, which costs are also at market rates.

CAT LLC determined to hire a financial advisory firm, Anchin, to assist with financial matters for the CAT. CAT LLC interviewed Anchin as well as other potential financial advisory firms to assist with the CAT project, considering a variety of factors in its analysis, including the firm's relevant expertise and fees.²⁶⁰ The hourly fee rates for this firm were in line with market rates for the financial advisory services provided.²⁶¹ Moreover, the total costs for such financial advisory services was appropriate in light of the breadth of services provided by Anchin. The services performed by Anchin and the

costs related to such services are described above.²⁶²

CAT LLC also determined to engage an independent accounting firm, Grant Thornton, to complete the audit of CAT LLC's financial statements, in accordance with the requirements of the CAT NMS Plan. CAT LLC interviewed this firm as well as another potential accounting firm to audit CAT LLC's financial statements, considering a variety of factors in its analysis, including the relevant expertise and fees of each of the firms. CAT LLC determined that Grant Thornton was well-qualified for the role given the balance of these considerations.²⁶³ Grant Thornton's fixed fee rate compensation arrangement was reasonable and appropriate, and in line with the market rates charged for these types of accounting services.²⁶⁴ Moreover, the total costs for such financial advisory services was appropriate in light of the breadth of services provided by Grant Thornton. The services performed by Grant Thornton and the costs related to such services are described above.²⁶⁵

The professional and administrative costs also include costs related to the receipt of certain market data from Exegy. After performing an analysis of the available market data vendors to confirm that the data provided met the SIP Data requirements of the CAT NMS Plan and comparing the costs of the vendors providing the required SIP Data, CAT LLC determined to purchase market data from Exegy. Exegy provided the data elements required by the CAT NMS Plan, and the fees were reasonable and in line with market rates for the market data received.²⁶⁶

The professional and administrative costs also include costs related to a third party security assessment of the CAT performed by RSM. The assessment was designed to verify and validate the effective design, implementation and operation of the controls specified by NIST Special Publication 800-53, Revision 4 and related standards and guidelines. Such a security assessment is in line with industry practice and important given the data included in the CAT. CAT LLC determined to engage RSM to perform the security assessment, after considering a variety of factors in its analysis, including the firm's relevant expertise and fees. The fees

were reasonable and in line with market rates for such an assessment.²⁶⁷

(x) Public Relations Costs

In approving the CAT Funding Model, the SEC recognized that it is appropriate to recover public relations costs as a part of Historical CAT Assessments.²⁶⁸ CAT LLC determined that the public relations costs described in this filing are reasonable and should be included as a part of Historical CAT Costs 1. CAT LLC determined that the types of public relations services utilized were beneficial to the CAT and market participants more generally. Public relations services were important for various reasons, including monitoring comments made by market participants about CAT and understanding issues related to the CAT discussed on the public record.²⁶⁹ By engaging a public relations firm, CAT LLC was better positioned to understand and address CAT issues to the benefit of all market participants.²⁷⁰ Moreover, CAT LLC determined that the rates charged for such services were in line with market rates.²⁷¹ As noted above, the total public relations costs through FAM Period 3 represent a small percentage of Historical CAT Costs 1—that is, 0.1% of Historical CAT Costs 1.

(B) Total Executed Equivalent Share Volume for the Prior 12 Months

The total executed equivalent share volume of transactions in Eligible Securities for the 12-month period from March 2025 through February 2026 was 5,980,937,549,360.49 executed equivalent shares. CAT LLC determined the total executed equivalent share volume for the prior twelve months by counting executed equivalent shares in the same manner as it will count executed equivalent shares for CAT billing purposes.

(C) Historical Recovery Period 1A

CAT LLC has determined to establish a Historical Recovery Period of 24 months for Historical CAT Assessment 1A and that such length is reasonable. CAT LLC determined that the length of Historical Recovery Period 1A appropriately weighs the need for a reasonable fee rate for Historical CAT Assessment 1A that spreads the Historical CAT Costs over an appropriate amount of time and the

²⁵⁶ Section 4.1.5 of Appendix D of the CAT NMS Plan.

²⁵⁷ See Sections 3(a)(2)(B)(i)(a)(VIII), 3(a)(2)(B)(i)(b)(VIII), 3(a)(2)(B)(i)(c)(VIII) and 3(a)(2)(B)(i)(d)(VIII) above.

²⁵⁸ *Id.*

²⁵⁹ Section 11.3(b)(iii)(B)(II)(B)(5) of the CAT NMS Plan.

²⁶⁰ See Section 3(a)(2)(B)(i)(a)(IX) above.

²⁶¹ See Sections 3(a)(2)(B)(i)(a)(IX), 3(a)(2)(B)(i)(b)(IX), 3(a)(2)(B)(i)(c)(IX) and 3(a)(2)(B)(i)(d)(IX) above.

²⁶² *Id.*

²⁶³ See Section 3(a)(2)(B)(i)(a)(IX) above.

²⁶⁴ See Sections 3(a)(2)(B)(i)(a)(IX), 3(a)(2)(B)(i)(b)(IX), 3(a)(2)(B)(i)(c)(IX) and 3(a)(2)(B)(i)(d)(IX) above.

²⁶⁵ *Id.*

²⁶⁶ See Section 3(a)(2)(B)(i)(a)(IX) above.

²⁶⁷ *Id.*

²⁶⁸ Section 11.3(b)(iii)(B)(II)(B)(6) of the CAT NMS Plan.

²⁶⁹ See Section 3(a)(2)(B)(i)(a)(X) above.

²⁷⁰ See Sections 3(a)(2)(B)(i)(a)(X), 3(a)(2)(B)(i)(b)(X), 3(a)(2)(B)(i)(c)(X) and 3(a)(2)(B)(i)(d)(X) above.

²⁷¹ *Id.*

need to repay the loans notes to the Participants in a timely fashion. CAT LLC determined that 24 months for Historical Recovery Period 1A would establish a fee rate that is lower than other transaction-based fees, including fees assessed pursuant to Section 31.²⁷² In addition, in establishing a Historical Recovery Period of 24 months, CAT LLC recognized that the total cost for Historical CAT Assessment 1A was less than the total costs for 2022 and 2023, and therefore it would be appropriate to recover those costs in two years.

(D) Projected Executed Equivalent Share Volume for Historical Recovery Period 1A

CAT LLC has determined to calculate the projected total executed equivalent share volume for the 24 months of Historical Recovery Period 1A by doubling the executed equivalent share volume for the prior 12 months. The Operating Committee determined that such an approach was reasonable as the CAT's annual executed equivalent share volume has increased from prior years (e.g., the executed equivalent share volume for 2024 was 4,295,884,600,069.4) and the Operating Committee believes that it is reasonable to conclude that the annual executed equivalent share volume will remain at the higher level. Accordingly, the projected total executed equivalent share volume for Historical Recovery Period 1A is projected to be 11,961,875,098,720.98 executed equivalent shares.²⁷³

(E) Actual Fee Rate for Historical CAT Assessment 1A

(i) Decimal Places

As noted in the Plan amendment for the CAT Funding Model, as a practical matter, the fee filing for a Historical CAT Assessment would provide the exact fee per executed equivalent share to be paid for each Historical CAT Assessment, and describe the relevant number of decimal places for the fee rate.²⁷⁴ Accordingly, proposed paragraph (a)(2)(B) of the fee schedule would set forth a fee rate of \$0.000002 per executed equivalent share. CAT LLC determined that the use of six decimal places is reasonable as it balances the accuracy of the calculation with the potential systems and other

impracticalities of using additional decimal places in the calculation.

(ii) Reasonable Fee Level

The Exchange believes that imposing Historical CAT Assessment 1A with a fee rate of \$0.000002 per executed equivalent share is reasonable because it provides for a revenue stream for the Company that is aligned with the remaining Historical CAT Costs 1 and such costs would be spread out over an appropriate recovery period, as discussed above. Moreover, the Exchange believes that the level of the fee rate is reasonable, as it is comparable to other transaction-based fees. Indeed, Historical CAT Assessment 1A is significantly lower than fees assessed pursuant to Section 31 (e.g., \$0.00007 per share to \$0.00072 per share),²⁷⁵ and, as a result, the magnitude of Historical CAT Assessment 1A is small, and therefore will mitigate any potential adverse economic effects or inefficiencies. Furthermore, the reasonable fee rate for Historical CAT Assessment 1A further supports CAT LLC's decision to seek to recover the costs described herein.

(3) Historical CAT Assessment 1A Provides for an Equitable Allocation of Fees

Historical CAT Assessment 1A provides for an equitable allocation of fees, as it equitably allocates CAT costs between and among the Participants and Industry Members. The SEC approved the CAT Funding Model, finding that each aspect of the CAT Funding Model satisfied the requirements of the Exchange Act, including the formula for calculating Historical CAT Assessments as well as the Industry Members to be charged the Historical CAT Assessments.²⁷⁶ In approving the CAT Funding Model, the SEC stated that "[t]he Participants have sufficiently demonstrated that the proposed allocation of fees is appropriate."²⁷⁷ Accordingly, the CAT Funding Model sets forth the requirements for allocating fees related to Historical CAT Costs among Participants and Industry Members, and the fee filings for Historical CAT Assessments must comply with those requirements.

Historical CAT Assessment 1A provides for an equitable allocation of fees as it complies with the requirements regarding the calculation of Historical CAT Assessments as set forth in the CAT NMS Plan. For example, as described above, the

calculation of Historical CAT Assessment 1A complies with the formula set forth in Section 11.3(b) of the CAT NMS Plan. In addition, Historical CAT Assessment 1A would be charged to CEBBs and CEBBs in accordance with Section 11.3(b) of the CAT NMS Plan. Furthermore, the Participants would continue to remain responsible for their designated share of Past CAT Costs through the cancellation of loans made by the Participants to CAT LLC.

In addition, as discussed above, each of the inputs into the calculation of Historical CAT Assessment 1A—Historical CAT Costs 1 (including Excluded Costs) and the exclusion of costs previously invoiced via Historical CAT Assessment 1, the count for the executed equivalent share volume for the prior 12 months, the length of the Historical Recovery Period, and the projected executed equivalent share volume for the Historical Recovery Period—are reasonable. Moreover, these inputs lead to a reasonable fee rate for Historical CAT Assessment 1A that is lower than other fee rates for transaction-based fees. A reasonable fee rate allocated in accordance with the requirements of the CAT Funding Model provides for an equitable allocation of fees.

(4) Historical CAT Assessment 1A Is Not Unfairly Discriminatory

Historical CAT Assessment 1A is not an unfairly discriminatory fee. The SEC approved the CAT Funding Model, finding that each aspect of the CAT Funding Model satisfied the requirements of the Exchange Act. In reaching this conclusion, the SEC analyzed the potential effect of Historical CAT Assessments calculated pursuant to the CAT Funding Model on affected categories of market participants, including Participants (including exchanges and FINRA), Industry Members (including subcategories of Industry Members, such as alternative trading systems, CAT Executing Brokers and market makers), and investors generally, and considered market effects related to equities and options, among other things. Historical CAT Assessment 1A complies with the requirements regarding the calculation of Historical CAT Assessments as set forth in the CAT NMS Plan. In addition, as discussed above, each of the inputs into the calculation of Historical CAT Assessment 1A and the resulting fee rate for Historical CAT Assessment 1A is reasonable. Therefore, Historical CAT Assessment 1A does not impose an unfairly discriminatory fee on Industry Members.

²⁷² As the SEC noted in the CAT Funding Model Approval Order, recent Section 31 fees ranged from \$0.00007 per share to \$0.00072 per share. CAT Funding Model Approval Order at 13469.

²⁷³ This projection was calculated by multiplying 5,980,937,549,360.49 executed equivalent shares by two.

²⁷⁴ CAT Funding Model Approval Order at 13445, n.677.

²⁷⁵ *Id.* at 13469.

²⁷⁶ See Section 11.3(b) of the CAT NMS Plan.

²⁷⁷ CAT Funding Model Approval Order at 13412.

Finally, the Exchange believes the proposed fees established pursuant to the CAT Funding Model promote just and equitable principles of trade, and, in general, protect investors and the public interest, and are provided in a transparent manner and specificity in the fee schedule. The Exchange also believes that the proposed fees are reasonable because they would provide ease of calculation, ease of billing and other administrative functions, and predictability of a fee based on fixed rate per executed equivalent share. Such factors are crucial to estimating a reliable revenue stream for CAT LLC and for permitting Exchange members to reasonably predict their payment obligations for budgeting purposes.

B. Self-Regulatory Organization's Statement on Burden on Competition

Section 6(b)(8) of the Act²⁷⁸ requires that the Exchange's rules not impose any burden on competition that is not necessary or appropriate in furtherance of the purpose of the Exchange Act. The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange notes that Historical CAT Assessment 1A implements provisions of the CAT NMS Plan that were approved by the Commission and is designed to assist the Exchange in meeting its regulatory obligations pursuant to the Plan.

In addition, all Participants (including exchanges and FINRA) are proposing to introduce Historical CAT Assessment 1A on behalf of CAT LLC to implement the requirements of the CAT NMS Plan. Therefore, this is not a competitive fee filing, and, therefore, it does not raise competition issues between and among the Participants.

Furthermore, in approving the CAT Funding Model, the SEC analyzed the potential competitive impact of the CAT Funding Model, including competitive issues related to market services, trading services and regulatory services, efficiency concerns, and capital

formation.²⁷⁹ The SEC also analyzed the potential effect of CAT fees calculated pursuant to the CAT Funding Model on affected categories of market participants, including Participants (including exchanges and FINRA), Industry Members (including subcategories of Industry Members, such as alternative trading systems, CAT Executing Brokers and market makers), and investors generally, and considered market effects related to equities and options, among other things. Based on this analysis, the SEC approved the CAT Funding Model as compliant with the Exchange Act. Historical CAT Assessment 1A is calculated and implemented in accordance with the CAT Funding Model as approved by the SEC.

As discussed above, each of the inputs into the calculation of Historical CAT Assessment 1A is reasonable and the resulting fee rate for Historical CAT Assessment 1A calculated in accordance with the CAT Funding Model is reasonable. Therefore, Historical CAT Assessment 1A would not impose any burden on competition that is not necessary or appropriate in furtherance of the purpose of the Exchange Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Not applicable.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act²⁸⁰ and paragraph (f) of Rule 19b-4²⁸¹ thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will

institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-CboeBYX-2026-017 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.

All submissions should refer to file number SR-CboeBYX-2026-017. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<https://www.sec.gov/rules/sro.shtml>). Copies of 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-CboeBYX-2026-017 and should be submitted on or before June 4, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁸²

J. Matthew DeLesDernier,
Deputy Secretary.

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BILLING CODE 8011-01-P

²⁷⁹ CAT Funding Model Approval Order at 13479-13481.

²⁸⁰ 15 U.S.C. 78s(b)(3)(A).

²⁸¹ 17 CFR 240.19b-4(f).

²⁸² 17 CFR 200.30-3(a)(12).

²⁷⁸ 15 U.S.C. 78f(b)(8).



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Self-Regulatory Organizations; Cboe EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Fee Schedule Entitled "Consolidated Audit Trail Funding Fees"; Notice

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–105434; File No. SR-CboeEDGX–2026–031]

Self-Regulatory Organizations; Cboe EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Fee Schedule Entitled “Consolidated Audit Trail Funding Fees”

May 11, 2026.

Pursuant to Section 19(b)(1) under the Securities Exchange Act of 1934 (“Act”),¹ and Rule 19b–4 thereunder,² notice is hereby given that on April 27, 2026, Cboe EDGX Exchange, Inc. (the “Exchange” or “EDGX”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of the Substance of the Proposed Rule Change

Cboe EDGX Exchange, Inc. (the “Exchange” or “EDGX”) proposes to amend its fee schedule entitled “Consolidated Audit Trail Funding Fees”³ to establish fees for Industry Members⁴ related to certain historical costs of the National Market System Plan Governing the Consolidated Audit Trail (the “CAT NMS Plan” or “Plan”) incurred prior to January 1, 2022 that were not previously invoiced via Historical CAT Assessment 1. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Commission’s website (<https://www.sec.gov/rules/sro.shtml>), the Exchange’s website (https://www.cboe.com/us/equities/regulation/rule_filings/bzx/), and at the principal office of the Exchange.

II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On July 11, 2012, the Commission adopted Rule 613 of Regulation NMS, which required the self-regulatory organizations (“SROs”) to submit a national market system (“NMS”) plan to create, implement and maintain a consolidated audit trail that would capture customer and order event information for orders in NMS securities across all markets, from the time of order inception through routing, cancellation, modification or execution.⁵ On November 15, 2016, the Commission approved the CAT NMS Plan.⁶ Under the CAT NMS Plan, the Operating Committee has the discretion to establish funding for CAT LLC to operate the CAT, including establishing fees for Industry Members to be assessed by CAT LLC that would be implemented on behalf of CAT LLC by the Participants.⁷ On September 5, 2025, CAT LLC proposed a revised funding model to fund the CAT (“CAT Funding Model”).⁸ On March 16, 2026, the Commission approved the CAT Funding Model, after concluding that the model satisfied the requirements of Section 11A of the Exchange Act and Rule 608 thereunder.⁹

The CAT Funding Model provides a framework for the recovery of the costs to create, develop and maintain the CAT, including providing a method for allocating costs to fund the CAT among Participants and Industry Members. The CAT Funding Model establishes two categories of fees: (1) CAT fees assessed by CAT LLC and payable by certain Industry Members to recover a portion of historical CAT costs previously paid by the Participants (“Historical CAT Assessment” fees); and (2) CAT fees assessed by CAT LLC and payable by Participants and Industry Members to fund prospective CAT costs (“Prospective CAT Costs” fees).¹⁰

Under the CAT Funding Model, “[t]he Operating Committee will establish one or more fees (each a ‘Historical CAT Assessment’) to be payable by Industry Members with regard to CAT costs previously paid by the Participants (‘Past CAT Costs’).”¹¹ In establishing a Historical CAT Assessment, the Operating Committee will determine a “Historical Recovery Period” and calculate a “Historical Fee Rate” for that Historical Recovery Period. Then, for each month in which a Historical CAT Assessment is in effect, each CEBB and CEBS would be required to pay the fee—the Historical CAT Assessment—for each transaction in Eligible Securities executed by the CEBB or CEBS from the prior month as set forth in CAT Data, where the Historical CAT Assessment for each transaction will be calculated by multiplying the number of executed equivalent shares in the transaction by one-third and by the Historical Fee Rate.¹²

Each Historical CAT Assessment to be paid by CEBBs and CEBSs is designed to contribute toward the recovery of two-thirds of the Historical CAT Costs. Because the Participants previously have paid Past CAT Costs via loans to the Company, the Participants would not be required to pay any Historical

¹⁰ Under the CAT Funding Model, the Operating Committee may establish one or more Historical CAT Assessments. Section 11.3(b) of the CAT NMS Plan. This filing only establishes Historical CAT Assessment 1A related to certain Historical CAT Costs as described herein; it does not address any other potential Historical CAT Assessment related to other Historical CAT Costs. In addition, under the CAT Funding Model, the Operating Committee also may establish CAT Fees related to CAT costs going forward. Section 11.3(a) of the CAT NMS Plan. This filing does not address any potential CAT Fees related to CAT costs going forward. Any such other fee for any other Historical CAT Assessment or CAT Fee for Prospective CAT Costs will be subject to a separate fee filing.

¹¹ Section 11.3(b) of the CAT NMS Plan.

¹² In approving the CAT Funding Model, the Commission stated that, “[i]n the Commission’s view, the proposed recovery of the Past CAT Costs via the Historical CAT Assessment is appropriate.” CAT Funding Model Approval Order at 13450.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

³ The Exchange and each of its affiliated exchanges (Cboe BYX Exchange, Inc., Cboe BZX Exchange, Inc., Cboe C2 Exchange, Inc., Cboe Exchange, Inc., and Cboe EDGA Exchange, Inc.) are filing to adopt the same amendment to this fee schedule.

⁴ An “Industry Member” is defined as “a member of a national securities exchange or a member of a national securities association.” See Exchange Rule 4.5(u); see also Section 1.1 of the CAT NMS Plan. Unless otherwise specified, capitalized terms used in this rule filing are defined as set forth in the CAT NMS Plan and/or the CAT Compliance Rule. See Rule 4.5–4.17.

⁵ Securities Exchange Act Rel. No. 67457 (July 18, 2012), 77 FR 45721 (Aug. 1, 2012) (“Rule 613 Adopting Release”).

⁶ Securities Exchange Act Rel. No. 79318 (Nov. 15, 2016), 81 FR 84696 (Nov. 23, 2016) (“CAT NMS Plan Approval Order”).

⁷ Section 11.1(b) of the CAT NMS Plan.

⁸ Securities Exchange Act Rel. No. 103960 (Sept. 12, 2025), 90 FR 44910 (Sept. 17, 2025).

⁹ Securities Exchange Act Rel. No. 105003 (Mar. 16, 2026), 91 FR 13410 (Mar. 29, 2026) (“CAT Funding Model Approval Order”). This CAT Funding Model replaced the prior funding model that was approved by the Commission on September 6, 2023. Securities Exchange Act Rel. No. 98290 (Sept. 6, 2023), 88 FR 62628 (Sept. 12, 2023).

CAT Assessment. In lieu of a Historical CAT Assessment, the Participants' one-third share of Historical CAT Costs will be paid by the cancellation of loans made by the Participants to the Company on a pro rata basis based on the outstanding loan amounts due under the loans, instead of through the payment of a CAT fee.¹³ In addition, the Participants also will be 100% responsible for certain Excluded Costs (as discussed below).

CAT LLC proposes to charge CEBBs and CEBs (as described in more detail below) Historical CAT Assessment 1A to recover certain historical CAT costs incurred prior to January 1, 2022, in accordance with the CAT Funding Model. To implement this fee on behalf of CAT LLC, the CAT NMS Plan requires the Participants to "file with the SEC under Section 19(b) of the Exchange Act any such fees on Industry Members that the Operating Committee approves, and such fees shall be labeled as 'Consolidated Audit Trail Funding Fees.'" ¹⁴ The Plan further states that "Participants will be required to file with the SEC pursuant to Section 19(b) of the Exchange Act a filing for each Historical CAT Assessment."¹⁵ Accordingly, the purpose of this filing is to implement a Historical CAT Assessment on behalf of CAT LLC for Industry Members, referred to as Historical CAT Assessment 1A, in accordance with the CAT NMS Plan.¹⁶

The Exchange, along with the other Participants in the CAT, previously filed a fee filing to implement Historical CAT Assessment 1.¹⁷ Based on the fee filing for Historical CAT Assessment 1, Historical CAT Assessment 1 was expected to be in effect from the first invoice in November 2024 until \$212,039,879.34 (two-thirds of Historical CAT Costs 1) was invoiced to CAT Executing Brokers collectively.¹⁸ However, Historical CAT Assessment 1 ceased before the entire amount was invoiced.¹⁹ The last invoice for Historical CAT Assessment 1 was provided on December 2025, after only \$173,075,024 of the total \$212,039,879.34 had been invoiced to Industry Members.²⁰ Accordingly, \$38,964,855.34 of Historical CAT Costs 1 has not been invoiced. Historical CAT Assessment 1A would seek to recover this outstanding amount of Historical CAT Costs 1 that has not been invoiced.

(1) CAT Executing Brokers

Historical CAT Assessment 1A will be charged to each CEBB and CEBs for each applicable transaction in Eligible Securities.²¹ The CAT NMS Plan defines a "CAT Executing Broker" to mean:

(a) with respect to a transaction in an Eligible Security that is executed on an exchange, the Industry Member identified as the Industry Member responsible for the order on the buy-side of the transaction and the Industry

Member responsible for the sell-side of the transaction in the equity order trade event and option trade event in the CAT Data submitted to the CAT by the relevant exchange pursuant to the Participant Technical Specifications; and (b) with respect to a transaction in an Eligible Security that is executed otherwise than on an exchange and required to be reported to an equity trade reporting facility of a registered national securities association, the Industry Member identified as the executing broker and the Industry Member identified as the contra-side executing broker in the TRF/ORF/ADF transaction data event in the CAT Data submitted to the CAT by FINRA pursuant to the Participant Technical Specifications; provided, however, in those circumstances where there is a non-Industry Member identified as the contra-side executing broker in the TRF/ORF/ADF transaction data event or no contra-side executing broker is identified in the TRF/ORF/ADF transaction data event, then the Industry Member identified as the executing broker in the TRF/ORF/ADF transaction data event would be treated as CAT Executing Broker for the Buyer and for the Seller.²²

The following fields of the Participant Technical Specifications indicate the CAT Executing Brokers for the transactions executed on an exchange.

EQUITY ORDER TRADE (EOT)²³

No.	Field name	Data type	Description	Include key
12.n.8/13.n.8	member	Member Alias	The identifier for the member firm that is responsible for the order on this side of the trade. Not required if there is no order for the side as indicated by the NOBUYID/NOSELLID instruction. This must be provided if orderID is provided ...	C

¹³ Section 11.3(b)(ii) of the CAT NMS Plan.

¹⁴ Section 11.1(b) of the CAT NMS Plan.

¹⁵ Section 11.3(b)(iii)(B)(I) of the CAT NMS Plan.

¹⁶ Note that there may be one or more Historical CAT Assessments. Section 11.3(b) of the CAT NMS Plan.

¹⁷ Securities Exchange Act Release No. 100943 (September 5, 2024), 89 FR 74480 (September 11, 2024) (SR-CboeEDGX-2024-054) ("Historical CAT Assessment 1 Filing").

¹⁸ See Consolidated Audit Trail Funding Fees (a)(1).

¹⁹ In response to the Eleventh Circuit's decision vacating the prior CAT NMS Plan funding model, the last invoices for Historical CAT Assessment 1 were sent in December 2025 based on November 2025 transactions. See *American Securities*

Association v. SEC, No. 23-13396 (11th Cir. July 25, 2025).

²⁰ CAT Fee Alert 2025-4 (Nov. 25, 2025).

²¹ In its approval order for the CAT Funding Model, the Commission determined that charging CAT fees to CAT Executing Brokers was appropriate. In reaching this conclusion the Commission noted that the use of CAT Executing Brokers is appropriate because the CAT Funding Model is based upon the calculation of *executed* equivalent shares, and, therefore, charging CAT Executing Brokers would reflect their executing role in each transaction. Furthermore, the Commission noted that, because CAT Executing Brokers are already identified in transaction reports from the exchanges and FINRA's equity trade reporting facilities recorded in CAT Data, charging CAT

Executing Brokers could streamline the billing process. CAT Funding Model Approval Order at 13413.

²² Section 1.1 of the CAT NMS Plan. In its approval order for the CAT Funding Model, the Commission "recognize[d] that Industry Members may pass-through CAT fees for customer executed volume." See CAT Funding Model Approval Order at 13424.

²³ See Table 23, Section 4.7 (Order Trade Event) of the CAT Reporting Technical Specifications for Plan Participants, Version 4.2.0-r2 (Feb. 24, 2026), https://www.catnmsplan.com/sites/default/files/2026-02/02.24.2026-CAT_Reporting_Technical_Specifications_for_Participants_4.2.0-r2.pdf ("CAT Reporting Technical Specifications for Plan Participants").

OPTION TRADE (OT)²⁴

No.	Field name	Data type	Description	Include key
16.n.13/17.n.13	member	Member Alias	The identifier for the member firm that is responsible for the order.	R

In addition, the following fields of the Participant Technical Specifications would indicate the CAT Executing

Brokers for the transactions executed otherwise than on an exchange.

TRF/ORF/ADF TRANSACTION DATA EVENT (TRF)²⁵

No.	Field name	Data type	Description	Include key
26	reportingExecutingMpid	Member Alias	MPID of the executing party	R
28	contraExecutingMpid	Member Alias	MPID of the contra-side executing party	C

(2) Calculation of Fee Rate for Historical CAT Assessment 1A

The Operating Committee determined the fee rate to be used in calculating Historical CAT Assessment 1A based on the Historical CAT Costs for Historical CAT Assessment 1A and the projected total executed share volume of all transactions in Eligible Securities for the Historical Recovery Period for Historical CAT Assessment 1A (“Historical Recovery Period 1A”), as discussed in detail below. Based on this calculation, the Operating Committee has determined that the fee rate for Historical CAT Assessment 1A would be \$0.000002, as discussed in detail below.

(A) Executed Equivalent Shares for Transactions in Eligible Securities

Under the CAT NMS Plan, for purposes of calculating each Historical CAT Assessment, executed equivalent shares in a transaction in Eligible Securities will be reasonably counted as follows: (1) each executed share for a transaction in NMS Stocks will be counted as one executed equivalent share; (2) each executed contract for a transaction in Listed Options will be counted based on the multiplier applicable to the specific Listed Options (*i.e.*, 100 executed equivalent shares or such other applicable multiplier); and (3) each executed share for a transaction in OTC Equity Securities shall be counted as 0.01 executed equivalent share.²⁶

(B) Historical CAT Costs

The CAT NMS Plan states that “[t]he Operating Committee will reasonably determine the Historical CAT Costs sought to be recovered by each Historical CAT Assessment, where the Historical CAT Costs will be Past CAT Costs minus Past CAT Costs reasonably excluded from Historical CAT Costs by the Operating Committee. Each Historical CAT Assessment will seek to recover from CAT Executing Brokers two-thirds of Historical CAT Costs incurred during the period covered by the Historical CAT Assessment.”²⁷ Historical CAT Assessment 1, the original Historical CAT Assessment, was implemented to recover \$212,039,879.34 of Historical CAT Costs 1 from CEBBs and CEBBs collectively.²⁸ As described in the fee filings for Historical CAT Assessment 1, Historical CAT Costs 1 of \$212,039,879.34 includes Past CAT Costs of \$401,312,909 minus certain Excluded Costs of \$83,253,090. As described in the filing for Historical CAT Assessment 1, Participants collectively will remain responsible for one-third of Historical CAT Costs 1 (which is \$106,019,939.67), plus the Excluded Costs of \$83,253,090. Accordingly, CEBBs collectively will be responsible for one-third of Historical CAT Costs 1 (which is \$106,019,939.67), and CEBBs collectively will be responsible for one-third of Historical CAT Costs 1 (which is \$106,019,939.67), for a total of \$212,039,879.34. CEBBs and CEBBs collectively have been invoiced for \$173,075,024 of the

\$212,039,879.34 of Historical CAT Costs 1 via Historical CAT Assessment 1. Accordingly, Historical CAT Assessment 1A would charge CEBBs and CEBBs collectively for the remaining \$38,964,855.34 of Historical CAT Costs 1 that was not invoiced to CEBBs and CEBBs via Historical CAT Assessment 1. Historical CAT Assessment 1A will be designed to recover the remaining \$38,964,855.34 of Historical CAT Costs 1 from CEBBs and CEBBs collectively, with CEBBs collectively responsible for \$19,482,427.67 and CEBBs collectively responsible for \$19,482,427.67.

(i) Historical CAT Costs 1

The following describes in detail Historical CAT Costs 1 with regard to four separate historical time periods as well as Past CAT Costs excluded from Historical CAT Costs 1 (“Excluded Costs”). The following cost details are provided in accordance with the requirement in the CAT NMS Plan to provide in the fee filing “a brief description of the amount and type of Historical CAT Costs, including (1) the technology line items of cloud hosting services, operating fees, CAIS operating fees, change request fees, and capitalized developed technology costs, (2) legal, (3) consulting, (4) insurance, (5) professional and administration and (6) public relations costs.”²⁹ Each of the costs described below are reasonable, appropriate and necessary for the creation, implementation and maintenance of CAT. These Historical

²⁴ See Table 52, Section 5.2.5.1 (Simple Option Trade Event) of the CAT Reporting Technical Specifications for Plan Participants.

²⁵ See Table 62, Section 6.1 (TRF/ORF/ADF Transaction Data Event) of the CAT Reporting Technical Specifications for Plan Participants.

²⁶ Section 11.3(a)(i)(B) and 11.3(b)(i)(B) of the CAT NMS Plan. In approving the CAT Funding Model, the Commission concluded that “in the Commission’s view, the use of executed equivalent share volume as the basis for determining and allocating CAT costs during the two-year interim period is appropriate and consistent with the

funding principles of the CAT NMS Plan.” CAT Funding Model Approval Order at 13427.

²⁷ Section 11.3(b)(i)(C) of the CAT NMS Plan.

²⁸ See Historical CAT Assessment 1 Filing at 74502.

²⁹ Section 11.3(b)(iii)(B)(II)(B) of the CAT NMS Plan.

CAT Costs 1 are the same as described in the fee filing for Historical CAT Assessment 1.³⁰

(a) Historical CAT Costs Incurred Prior to June 22, 2020 (Pre-FAM Costs)

Historical CAT Costs 1 would include costs incurred by CAT prior to June 22, 2020 ("Pre-FAM Period") and already

funded by the Participants, excluding Excluded Costs (described further below). Historical CAT Costs 1 would include costs for the Pre-FAM Period of \$124,290,730. The Participants would remain responsible for one-third of this cost (which they have previously paid) (\$41,430,243.33), and Industry Members would be responsible for the remaining

two-thirds, with CEBBs paying one-third (\$41,430,243.33) and CEBBs paying one-third (\$41,430,243.33). These costs do not include Excluded Costs, as discussed further below. The following table breaks down Historical CAT Costs 1³¹ for the Pre-FAM Period into the categories set forth in Section 11.3(b)(iii)(B)(II) of the CAT NMS Plan.

Operating expense	Historical CAT costs 1 for Pre-FAM Period (prior to June 22, 2020)
Capitalized Developed Technology Costs *	\$51,847,150
Technology Costs	33,568,579
Cloud Hosting Services	10,268,840
Operating Fees	21,085,485
CAIS Operating Fees	2,072,908
Change Request Fees	141,346
Legal	19,674,463
Consulting	17,013,414
Insurance	880,419
Professional and administration	1,082,036
Public relations	224,669
Total Operating Expenses	124,290,730

* The non-cash amortization of these capitalized developed technology costs of \$2,115,545 incurred during the period prior to June 22, 2020 have been appropriately excluded from the above table.³²

The Pre-FAM Period includes a broad range of CAT-related activity from 2012 through June 22, 2020, including the evaluation of the requirements of SEC Rule 613, the development of the CAT NMS Plan, the evaluation and selection of the initial and successor Plan Processors, the commencement of the creation and implementation of the CAT to comply with Rule 613 and the CAT NMS Plan, including technical specifications for transaction reporting and regulatory access, and related technology and the commencement of reporting to the CAT. The following describes the costs for each of the categories for the Pre-FAM Period.

(I) Technology Costs—Cloud Hosting Services

The \$10,268,840 in technology costs for cloud hosting services represent costs incurred for services provided by the cloud services provider for the CAT,

Amazon Web Services, Inc. ("AWS"), during the Pre-FAM Period.

As part of its proposal for acting as the successor Plan Processor for the CAT, FCAT selected AWS as a subcontractor to provide cloud hosting services. In 2019, after reviewing the capabilities of other cloud services providers, FCAT determined that AWS was the only cloud services provider at that time sufficiently mature and capable of providing the full suite of necessary cloud services for the CAT, including, for example, the security, resiliency and complexity necessary for the CAT computing requirements. The use of cloud hosting services is standard for this type of high-volume data activity and reasonable and necessary for implementation of the CAT, particularly given the substantial data volumes associated with the CAT.

Under the Plan Processor Agreement with FCAT, CAT LLC is required to pay FCAT the fees incurred by the Plan

Processor for cloud hosting services provided by AWS as FCAT's subcontractor on a monthly basis for the cloud hosting services, and FCAT, in turn, pays such fees to AWS. The fees for cloud hosting services were negotiated by FCAT on an arm's length basis with the goals of managing cost and receiving services required to comply with the CAT NMS Plan and Rule 613, taking into consideration a variety of factors, including the expected volume of data, the breadth of services provided and market rates for similar services. The fees for cloud hosting services during the Pre-FAM Period were paid to FCAT by CAT NMS, LLC³³ and subsequently Consolidated Audit Trail, LLC (as previously noted, both entities are referred to generally as "CAT LLC"),³⁴ and FCAT, in turn, paid AWS. CAT LLC was funded via loan contributions by the Participants.³⁵

AWS was engaged by FCAT to provide a broad array of cloud hosting

³⁰ See generally Historical CAT Assessment 1 Filing.

³¹ The costs described in this table of costs for the Pre-FAM Period were calculated based upon CAT LLC's review of applicable bills and invoices and related financial statements. CAT LLC financial statements are available on the CAT website. In addition, in accordance with Section 6.6(a)(i) of the CAT NMS Plan, in 2018 CAT LLC provided the SEC with "an independent audit of fees, costs, and expenses incurred by the Participants on behalf of the Company prior to the Effective Date of the Plan that will be publicly available." The audit is available on the CAT website.

³² With respect to certain costs that were "appropriately excluded," such excluded costs

relate to the amortization of capitalized technology costs, which are amortized over the life of the Plan Processor Agreement. As such costs have already been otherwise reflected in the filing, their inclusion would double count the capitalized technology costs. In addition, amortization is a non-cash expense.

³³ CAT NMS, LLC was formed by FINRA and the U.S. national securities exchanges to implement the requirements of SEC Rule 613 under the Exchange Act. SEC Rule 613 required the SROs to jointly submit to the SEC the CAT NMS Plan to create, implement and maintain the CAT. The SEC approved the CAT NMS Plan on November 15, 2016. CAT NMS Plan Approval Order.

³⁴ On August 29, 2019, the Participants formed a new Delaware limited liability company named Consolidated Audit Trail, LLC for the purpose of conducting activities related to the CAT from and after the effectiveness of the proposed amendment of the CAT NMS Plan to replace CAT NMS, LLC. See Securities Exchange Act Rel. No. 87149 (Sept. 27, 2019), 84 FR 52905 (Oct. 3, 2019).

³⁵ For each of the costs paid by CAT NMS, LLC and Consolidated Audit Trail, LLC as discussed throughout this filing, CAT NMS, LLC and Consolidated Audit Trail, LLC paid these costs via loan contributions by the Participants to CAT NMS, LLC and Consolidated Audit Trail, LLC, respectively.

services for the CAT, including data ingestion, data management, and analytic tools. Services provided by AWS include storage services, databases, compute services and other services (such as networking, management tools and DevOps tools). AWS also was engaged to provide various environments for CAT, such as development, performance testing, test and production environments.

The cost for AWS services for the CAT is a function of the volume of CAT Data. The greater the amount of CAT Data, the greater the cost of AWS

services to the CAT. During the Pre-FAM Period from the engagement of AWS in February 2019 through June 2020, AWS provided cloud hosting services for volumes of CAT Data far in excess of the volume predictions set forth in the CAT NMS Plan. The CAT NMS Plan states, when all CAT Reporters are submitting their data to the CAT, it “must be sized to receive[,] process and load more than 58 billion records per day,”³⁶ and that “[i]t is expected that the Central Repository will grow to more than 29 petabytes of raw, uncompressed data.”³⁷ However,

the volume of CAT Data for the Pre-FAM Period was far in excess of these predicted levels. By the end of this period, data submitted to the CAT included options and equities Participant Data,³⁸ Phase 2a and Phase 2b Industry Member Data³⁹ (including certain linkages), as well as SIP Data,⁴⁰ reference data and other types of Other Data.⁴¹ The following chart provides data regarding the average daily volume, cumulative total events, total compute hours and storage footprint of the CAT during the Pre-FAM Period.⁴²

	Date range: 3/29/19 to 4/12/20 *	Date range: 4/13/20 to 6/21/20 **
Average Daily Volume in Billions:		
Participant—Equities	5	5
Participant—Options	80	981
Industry Member—Equities		3
Industry Member—Options		0.04
SIP—Options & Equities	64	70
Average Total Daily Volume	149	166
Cumulative Total Events for the Period	3,890	4,990
Total Compute Hours for the Period	*** N/A	5,663,247
Storage Footprint at End of Period (Petabytes)	30.57	47.96

* The Participant Equities in RSA format.

** Start of Industry Member reporting on 4/13/2020

*** Note that, although there were compute hours during this period, data related to such compute hours are no longer available in current data.

(II) Technology Costs—Operating Fees

The \$21,085,485 in technology costs related to operating fees represent costs incurred with regard to activities of FCAT as the Plan Processor. Operating fees are those fees paid by CAT LLC to FCAT as the Plan Processor to operate and maintain the CAT and to perform business operations related to the system, including compliance, security, testing, training, communications with the industry (e.g., management of the FINRA CAT Helpdesk, FAQs, website and webinars) and program management as required by the CAT NMS Plan.

FCAT was selected to assume the role of the successor Plan Processor. Prior to this selection, the Participants engaged in discussions with two prior Bidders⁴³ for the successor Plan Processor role. The Operating Committee formed a Selection Subcommittee in accordance with Section 4.12 of the CAT NMS Plan to evaluate and review Bids and to make a recommendation to the Operating

Committee with respect to the selection of the successor Plan Processor. In an April 9, 2019 letter to the Commission, the Participants described the reasons for its selection of the successor Plan Processor:

The Selection Subcommittee considered factors including, but not limited to, the following, in recommending FINRA to the Operating Committee as the successor Plan Processor:

- FINRA’s specialized technical expertise and capabilities in the area of broker-dealer technology;
- The need to appoint a successor Plan Processor with specialized expertise to develop, implement, and maintain the CAT System in accordance with the CAT NMS Plan and SEC Rule 613;
- FINRA’s detailed proposal in response to CATLLC’s recent inquiries; and
- FINRA’s data query and analytics systems demonstration to the Participants.

Based on these and other factors, the Selection Subcommittee determined that FINRA was the most appropriate Bidder to become the successor Plan Processor.⁴⁴

On February 26, 2019, the Operating Committee (with FINRA recusing itself) voted to select FINRA as the successor Plan Processor pursuant to Section 6.1(t) of the CAT NMS Plan.⁴⁵ On March 29, 2019, CAT LLC and FCAT (a wholly owned subsidiary of FINRA) entered into a Plan Processor Agreement pursuant to which FCAT would perform the functions and duties of the Plan Processor contemplated by the CAT NMS Plan, including the management and operation of the CAT.

Under the Plan Processor Agreement with FCAT, CAT LLC is required to pay FCAT a negotiated monthly fixed price for the operation of the CAT. This fixed price contract was negotiated on an arm’s length basis with the goals of managing costs and receiving services required to comply with the CAT NMS

³⁶ Appendix D–4 of the CAT NMS Plan at n.262.

³⁷ Appendix D–5 of the CAT NMS Plan.

³⁸ See Section 6.3(d) of the CAT NMS Plan.

³⁹ See Securities Exchange Rel. No. 88702 (Apr. 20, 2020), 85 FR 23075 (Apr. 24, 2020) (“Phased Reporting Exemptive Relief Order”) for a description of Phase 2a and Phase 2b Industry Member Data.

⁴⁰ See Section 6.5(a)(ii) of the CAT NMS Plan.

⁴¹ See Appendix C–109 of the CAT NMS Plan.

⁴² Note that the volume data described in this table does not include CAIS data.

⁴³ The term “Bidder” is defined in Section 1.1 of the CAT NMS Plan.

⁴⁴ Letter from Michael J. Simon, Chair, CAT NMS, LLC Operating Committee, to Brent J. Fields, Secretary, SEC (Apr. 9, 2019), <https://www.sec.gov/divisions/marketreg/rule613-info-notice-of-plan-processor-selection-040919.pdf>.

⁴⁵ *Id.*

Plan and Rule 613, taking into consideration a variety of factors, including the breadth of services provided and market rates for similar types of activity. The operating fees during the Pre-FAM Period were paid to FCAT by CAT LLC.

From March 29, 2019 (the commencement of the Plan Processor Agreement with FCAT) through June 22, 2020 (the end of the Pre-FAM Period), the Plan Processor's activities with respect to the CAT included the following:

- Commenced user acceptance testing with market data provided by Exegy Incorporated ("Exegy"), a market data provider;⁴⁶
- Published Technical Specifications and related reporting scenarios documents for Phase 2a, 2b and 2c reporting for Industry Members, after substantial engagement with SEC staff, Industry Members and Participants on the Technical Specifications;
- Facilitated testing for Phase 2a and 2b reporting for Industry Members;
- Began developing Technical Specifications and related reporting scenarios documents for Phase 2d reporting for Industry Members, after substantial engagement with SEC staff, Industry Members and Participants on the Technical Specifications;
- Published Central Repository Access Technical Specifications, and provided regulator access to test data from Industry Members;
- Facilitated Participant exchanges that support options market makers sending Quote Sent Time to the CAT;
- Facilitated the introduction of OPRA and Options NBBO Other Data to CAT;
- Addressed compliance items, including drafting CAT policies and procedures, and addressing requirements under Regulation SCI;
- Provided support to the Operating Committee, the Compliance Subcommittee and CAT working groups;
- Assisted with interpretive efforts and exemptive requests regarding the CAT NMS Plan;
- Oversaw the security of the CAT;
- Monitored the operation of the CAT, including with regard to Participant and Industry Member reporting;
- Provided support to subcontractors under the Plan Processor Agreement;
- Provided support in discussions with Participants, the SEC and its staff;
- Operated the FINRA CAT Helpdesk, which is the primary source for answers

to questions about CAT, including questions regarding: clock synchronization, firm reporting responsibilities, interpretive questions, technical specifications for reporting to CAT and more;

- Facilitated communications with the industry, including via FAQs, CAT Alerts, meetings, presentations and webinars;
- Administered the CAT website and all of its content;⁴⁷ and
- Provided technical support and assistance with connectivity, data access, and user support, including the use of CAT Data and query tools, for Participants and the SEC staff.

(III) Technology Costs—CAIS Operating Fees

The \$2,072,908 in technology costs related to CAIS operating fees represent the fees paid for FCAT's subcontractor charged with the development and operation of CAT's Customer and Account Information System ("CAIS"). The CAT is required under the CAT NMS Plan to capture and store Customer Identifying Information and Customer Account Information in a database separate from the transactional database and to create a CAT-Customer-ID for each Customer.

During the Pre-FAM Period, the CAIS-related services were provided by the Plan Processor through the Plan Processor's subcontractor, Kingland Systems Incorporation ("Kingland"). Kingland had experience operating in the securities regulatory technology space, and as a part of its proposal for acting as the Plan Processor for the CAT, FCAT selected Kingland as a subcontractor to provide certain CAIS-related services.

Under the Plan Processor Agreement with FCAT, CAT LLC was required to pay to the Plan Processor the fees incurred by FCAT for CAIS-related services provided by FCAT through Kingland on a monthly basis. FCAT negotiated the fees for Kingland's CAIS-related services on an arm's length basis with the goals of managing costs and receiving services required to comply with the CAT NMS Plan, taking into consideration a variety of factors, including the services to be provided and market rates for similar types of activity. The fees for CAIS-related services during the Pre-FAM Period were paid by CAT LLC to FCAT. FCAT, in turn, paid Kingland.

During the Pre-FAM Period, Kingland began development of the CAIS Technical Specifications and the

building of CAIS. In addition, Kingland also worked on the build related to the CCID Alternative, an alternative approach to customer information that was not included in the CAT NMS Plan as originally adopted.⁴⁸ Furthermore, Kingland also worked on the acceleration of the reporting of large trader identifiers ("LTID") earlier than originally contemplated during this period, in accordance with exemptive relief granted by the SEC.⁴⁹

(IV) Technology Costs—Change Request Fees

The technology costs related to change request fees include costs related to certain modifications, upgrades or other changes to the CAT. Change requests are standard practice and necessary to reflect operational changes, including changes related to new market developments, such as new market participants. In general, if CAT LLC determines that a modification, upgrade or other change to the functionality or service is necessary and appropriate, CAT LLC will submit a request for such a change to the Plan Processor. The Plan Processor will then respond to the request with a proposal for implementing the change, including the cost (if any) of such a change. CAT LLC then determines whether to approve the proposed change. The change request costs were paid by CAT LLC to FCAT. During the Pre-FAM Period, CAT LLC incurred costs of \$141,346 related to change requests implemented by FCAT. Such change requests related to a development fee regarding the OPRA and SIP data feeds, and the reprocessing of certain exchange data.⁵⁰

(V) Technology Costs—Capitalized Developed Technology Costs

This category of costs includes capitalizable application development costs incurred in the development of the CAT. The capitalized developed technology costs for the Pre-FAM Period of \$51,847,150 relate to technology provided by the Initial Plan Processor and the successor Plan Processor.

Initial Plan Processor: Thesys CAT, LLC. The capitalized developed technology costs related to the Initial Plan Processor include costs incurred with regard to testing for Participant reporting, Participant reporting to the

⁴⁶ The use of Exegy to provide market data, including the costs and market data provided, is discussed below in Section 3(a)(2)(B)(a)(IX).

⁴⁷ The CAT website is <https://www.catnmsplan.com>.

⁴⁸ For a discussion of the CCID Alternative, see Securities Exchange Act Rel. No. 88393 (Mar. 17, 2020), 85 FR 16152 (Mar. 20, 2020).

⁴⁹ Phased Reporting Exemptive Relief Order at 23079–80.

⁵⁰ Note that CAT LLC also has incurred costs related to specific Industry Members (e.g., reprocessing costs related to Industry Member reporting errors).

CAT, a security assessment of the CAT, and the development of the billing function for the CAT.

On January 17, 2017, the Selection Committee of the CAT NMS Plan selected the Initial Plan Processor, Thesys Technologies, LLC, for the CAT NMS Plan pursuant to Article V of the CAT NMS Plan.⁵¹ The Participants utilized a request for proposal (“RFP”) to seek proposals to build and operate the CAT, receiving a number of proposals in response to the RFP. The Participants carefully reviewed and considered each of the proposals, including holding in-person meetings with each of the Bidders. After several rounds of review, the Participants selected the Initial Plan Processor in accordance with the CAT NMS Plan, taking into consideration that the Initial Plan Processor had experience operating in the securities regulatory technology space, among other considerations. On April 6, 2017, CAT LLC entered into an agreement with Thesys CAT LLC (“Thesys CAT”), a Thesys affiliate, to perform the functions and duties of the Plan Processor contemplated by the CAT NMS Plan, including the management and operation of the CAT. Under the agreement, CAT LLC would pay Thesys CAT a negotiated, fixed price fee for its role as the Initial Plan Processor. Effective January 30, 2019, the Plan Processor Agreement with Thesys CAT was terminated, and FCAT was subsequently selected as the successor Plan Processor.

From January 17, 2017 through January 30, 2019, the time in which Thesys CAT was engaged for the CAT, but excluding the period from November 15, 2017 through January 30, 2019, the Initial Plan Processor engaged in various activities with respect to the CAT, including preparing iterative drafts of Participant Technical Specifications, Industry Member Technical Specifications and the Central Repository Access Technical Specifications. In addition, Thesys CAT also developed CAT technology, addressed compliance items, including drafting CAT policies and procedures, addressing Regulation SCI requirements, establishing a CAT Compliance Officer and a Chief Information Security Officer, addressed security-related matters for the CAT, and worked towards the initiation of Participant reporting per the Participant Technical Specifications.

Successor Plan Processor: FCAT. The capitalized developed technology costs related to FCAT include: (1) development costs incurred during the application development stage to meet various agreed-upon milestones regarding the CAT, including the completion of go-live functionality related to options ingestion and validation, equities regulatory services agreement query tool updates and unlinked options data query, options linkages release, Industry Member Phase 2a file submission and data integrity (including error corrections), and Industry Member testing, including reporting relationships, ATS order type management, basic reporting statistics, SFTP data integrity feedback and error correction; (2) costs related to certain modifications, upgrades, or other changes to the CAT that were not contemplated by the agreement between CAT LLC and the Plan Processor, including a one-time development fee for a secure analytics workspace, a one-time development fee for an Industry Member connectivity solution, and a one-time development fee for the acceleration of multi-factor authentication; (3) CAIS implementation fees; and (4) license fees.

(VI) Legal Costs

The legal costs of \$19,674,463 represent the fees paid for legal services provided by two law firms, Wilmer Cutler Pickering Hale and Dorr LLP (“WilmerHale”) and Pillsbury Winthrop Shaw Pittman LLP (“Pillsbury”), during the Pre-FAM Period. The legal costs exclude those costs incurred from November 15, 2017 through November 15, 2018.

Law Firm: WilmerHale. Following the adoption of Rule 613, the Participants determined it was necessary to engage external legal counsel to advise the Participants with respect to corporate and regulatory legal matters related to the CAT, including drafting and developing the CAT NMS Plan. The Participants considered a variety of factors in their analysis of prospective law firms, including (1) the firm’s qualifications, resources and expertise; (2) the firm’s relevant experience and understanding of the regulatory matters raised by the CAT and in advising on matters of similar scope; (3) the composition of the legal team; and (4) professional fees. Following a series of interviews, the Participants acting as a consortium determined that WilmerHale was well qualified given the balance of these considerations and engaged WilmerHale in February 2013.

WilmerHale’s billing rates are negotiated on an annual basis and are determined with reference to the rates charged by other leading law firms for similar work. The Participants assess WilmerHale’s performance and review prospective budgets and staffing plans submitted by WilmerHale on an annual basis. WilmerHale’s compensation arrangements are reasonable and appropriate, and in line with the rates charged by other leading law firms for similar work.

The legal costs for WilmerHale during the Pre-FAM Period included costs incurred from 2013 until June 22, 2020 to address corporate and regulatory legal matters related to the CAT. The legal fees for this law firm during the period from February 2013 until the formation of the CAT NMS, LLC on November 15, 2016 were paid directly by the exchanges and FINRA to WilmerHale. After the formation of CAT NMS LLC, the legal fees were paid by CAT LLC to WilmerHale.

After WilmerHale was engaged in 2013 through the end of the Pre-FAM Period on June 22, 2020 (excluding the legal costs from November 15, 2017 through November 15, 2018), WilmerHale provided legal assistance to the CAT on a variety of matters, including with regard to the following:

- Analyzed various legal matters associated with the Selection Plan, and drafted an amendment to the Selection Plan;
- Assisted with the RFP and bidding process for the CAT Plan Processor;
- Analyzed legal matters related to the Development Advisory Group (“DAG”);
- Drafted the CAT NMS Plan, analyzed various items related to the CAT NMS Plan, and responded to comment letters on CAT NMS Plan;
- Provided legal support for the formation of the legal entity, the governance of the CAT, including governance support prior to the adoption of the CAT NMS Plan, which involved support for the full committee of exchanges and FINRA as well as subcommittees of this group (e.g., Joint Subcommittee Group, Technical, Industry Outreach, Cost and Funding and Other Products) and the DAG, governance support during the transition to the new governance structure under the CAT NMS Plan, and governance support after the adoption of the CAT NMS Plan, which involved support for the Operating Committee, Advisory Committee, Compliance Subcommittee and CAT working groups;
- Assisted with the development of the CAT funding model and drafted

⁵¹ Letter from the Participants to Brent J. Fields, Secretary, SEC (Jan. 18, 2017), <https://www.sec.gov/divisions/marketreg/rule613-info-notice-of-plan-processor-selection.pdf>.

related amendments of the CAT NMS Plan and related filings;

- Negotiated and drafted the plan processor agreements with the Initial Plan Processor and the successor Plan Processor;
- Provided assistance with compliance with Regulation SCI;
- Assisted with clock synchronization study;
- Provided assistance with respect to the establishment of CAT security;
- Drafted exemptive requests from CAT NMS Plan requirements, including with regard to options market maker quotes, Customer IDs, CAT Reporter IDs, linking allocations to executions, CAT reporting timeline, FDIDs, customer and account information, timestamp granularity, small industry members, data facility reporting and linkage, allocation reports, SRO-assigned market participant identifiers and cancelled trade indicators, thereby seeking to implement changes that would be cost effective and benefit Industry Members and Participants;
- Assisted with the Implementation Plan required pursuant to Section 6.6(c)(i) of the CAT NMS Plan;
- Provided advice regarding CAT policies and procedures;
- Analyzed the SEC's amendment of the CAT NMS Plan regarding financial accountability;
- Provided interpretations of and related to the CAT NMS Plan;
- Provided support with regard to discussions with the SEC and its staff, including with respect to addressing interpretive and implementation issues; and
- Assisted with third-party vendor agreements.

Law Firm: Pillsbury. The legal costs for CAT during the Pre-FAM Period include costs related to the legal services performed by Pillsbury. The Participants interviewed this law firm as well as other potential law firms to provide legal assistance regarding certain liability matters. After considering a variety of factors in its analysis, including the relevant expertise and fees of the firm, CAT LLC determined to hire Pillsbury in April 2019. The hourly fee rates for this law firm were in line with market rates for specialized legal expertise. The legal fees were paid by CAT LLC to Pillsbury. The legal costs for Pillsbury during the Pre-FAM Period included costs incurred from April 2019 until June 22, 2020 to address legal matters regarding the agreements between CAT Reporters and CAT LLC concerning certain terms associated with CAT Reporting (the "Reporter Agreement"). During that period, Pillsbury advised CAT LLC

regarding applicable legal matters, participated in negotiations between the Participants and Industry Members, participated in meetings with senior SEC staff, the Chairman, and Commissioners, represented CAT LLC and the Participants in an SEC administrative proceeding, and drafted a proposed amendment to the CAT NMS Plan regarding liability matters. Liability issues related to the CAT are important matters that needed to be resolved and clarified. CAT LLC's efforts to seek such resolution and clarity work to the benefit of Participants, Industry Members and other market participants. Moreover, litigation involving CAT LLC is an expense of operating the CAT, and, therefore, is appropriately an obligation of both Participants and Industry Members under the CAT Funding Model.

(VII) Consulting Costs

The consulting costs of \$17,013,414 represent the fees paid to the consulting firm Deloitte & Touche LLP ("Deloitte") as project manager during the Pre-FAM Period, from October 2012 until June 22, 2020. These consulting costs include costs for advisory services related to the operation of the CAT, and meeting facilitation and communications coordination, vendor support and financial analyses.

To help facilitate project management given the unprecedented complexity and scope of the CAT project, the Participants determined it was necessary to engage a consulting firm to assist with the CAT project in 2012, following the adoption of Rule 613. A variety of factors were considered in the analysis of prospective consulting firms, including (1) the firm's qualifications, resources, and expertise; (2) the firm's relevant experience and understanding of the regulatory issues raised by the CAT and in coordinating matters of similar scope; (3) the composition of the consulting team; and (4) professional fees. Following a series of interviews, the exchanges and FINRA as a consortium determined that Deloitte was well qualified given the balance of these considerations and engaged Deloitte on October 1, 2012.

Deloitte's fee rates are negotiated on an annual basis and are in line with market rates for this type of specialized consulting work. CAT LLC assesses Deloitte's performance and reviews prospective budgets and staffing plans submitted by Deloitte on an annual basis. Deloitte's compensation arrangements are reasonable and appropriate, and in line with the rates charged by other leading consulting firms for similar work.

The consulting costs for CAT during the period from 2012 until the formation of the CAT NMS, LLC were paid directly by the Participants to Deloitte. After the formation of CAT NMS, LLC, the consulting fees were paid by CAT LLC to Deloitte. CAT LLC reviewed the consulting fees each month and approved the invoices.

After Deloitte was hired in 2012 through the end of the Pre-FAM Period on June 22, 2020 (excluding the consulting costs from November 15, 2017 through November 15, 2018), Deloitte provided a variety of consulting services, including the following:

- Established and implemented program operations for the CAT project, including the program management office and workflow design;
- Assisted with the Plan Processor selection process, including but not limited to, the development of the RFP and the bidder evaluation process, and facilitation and consolidation of the Participant's independent reviews;
- Assisted with the development and drafting of the CAT NMS Plan, including conducting cost-benefit studies, analyzing OATS and CAT requirements, and drafting appendices to the Plan;
- Assisted with cost and funding-related activities for the CAT, including the development of the CAT funding model and assistance with loans and the CAT bank account for CAT funding;
- Provided governance support to the CAT, including governance support prior to the adoption of the CAT NMS Plan, which involved support for the full committee of exchanges and FINRA as well as subcommittees of this group (e.g., Joint Subcommittee Group, Technical, Industry Outreach, Cost and Funding and Other Products) and the DAG, governance support during the transition to the new governance structure under the CAT NMS Plan and governance support after the adoption of the CAT NMS Plan, which involved support for the Operating Committee, Advisory Committee, Compliance Subcommittee and CAT working groups;
- Provided support to the Operating Committee, the Chair of the Operating Committee and the Leadership Team, including project management support, coordination and planning for meetings and communications, and interfacing with law firms and the SEC;
- Assisted with industry outreach and communications regarding the CAT, including assistance with industry outreach events, the development of the CAT website, frequently asked questions, and coordinating with the CAT LLC's public relations firm;

- Provided support for updating the SEC on the progress of the development of the CAT;

- Provided active planning and coordination with and support for the Initial Plan Processor with regard to the development of the CAT, and reported to the Participants on the progress;

- Coordinated efforts regarding the selection of the successor Plan Processor;

- Assisted with the transition from the Initial Plan Processor to the successor Plan Processor, including support for the Operating Committee and successor Plan Processor for the new role; and

- Provided support for third-party vendors for the CAT, including FCAT, Anchin and the law firms engaged by CAT LLC.

(VIII) Insurance

The insurance costs of \$880,419 represent the cost incurred for insurance for CAT during the Pre-FAM Period. Commencing in 2020, CAT LLC performed an evaluation of various potential alternatives for CAT insurance policies, which included engaging in discussions with different insurance companies and conducting cost comparisons of various alternative approaches to insurance. Based on an analysis of a variety of factors, including coverage and premiums, CAT LLC determined to purchase cyber security liability insurance, directors' and officers' liability insurance, and errors and omissions liability insurance from USI Insurance Services LLC ("USI"). Such policies are standard for corporate entities, and cyber security liability insurance is important for the CAT System. The annual premiums for these policies were competitive for the coverage provided. The annual premiums were paid by CAT LLC to USI.

(IX) Professional and Administration Costs

In adopting the CAT NMS Plan, the Commission amended the Plan to add a requirement that CAT LLC's financial statements be prepared in compliance with GAAP, audited by an independent public accounting firm, and made publicly available.⁵² The professional and administration costs include costs related to accounting and accounting advisory services to support the operating and financial functions of CAT, financial statement audit services

by an independent accounting firm, preparation of tax returns, and various cash management and treasury functions. In addition, professional and administration costs for the Pre-FAM Period include costs related to the receipt of market data and a security assessment. The costs for these professional and administration services were \$1,082,036 for the Pre-FAM Period.

Financial Advisory Firm: Anchin Accountants & Advisors ("Anchin"). CAT LLC determined to hire a financial advisory firm, Anchin, to assist with financial matters for the CAT in April 2018. CAT LLC interviewed Anchin as well as other potential financial advisory firms to assist with the CAT project, considering a variety of factors in its analysis, including the firm's relevant expertise and fees. The hourly fee rates for this firm were in line with market rates for these financial advisory services. The fees for these services were paid by CAT LLC to Anchin.

After Anchin was hired in April 2018 through the end of the Pre-FAM Period on June 22, 2020 (excluding the period from April 2018 through November 15, 2018), Anchin provided a variety of services, including the following:

- Developed, updated and maintained internal controls;
- Provided cash management and treasury functions;
- Facilitated bill payments;
- Provided monthly bookkeeping;
- Reviewed vendor invoices and documentation in support of cash disbursements;
- Provided accounting research and consultations on various accounting, financial reporting and tax matters;
- Addressed not-for-profit tax and accounting considerations;
- Prepared tax returns;
- Addressed various accounting, financial and operating inquiries from Participants;
- Developed and maintained quarterly and annual operating and financial budgets, including budget to actual fluctuation analyses;
- Addressed accounting and financial reporting matters relating to the transition from CAT NMS, LLC to Consolidated Audit Trail, LLC, including supporting the dissolution of CAT NMS, LLC;
- Supported compliance with the CAT NMS Plan;
- Worked with and provided support to the Operating Committee and various CAT working groups;
- Prepared monthly, quarterly and annual financial statements;

- Supported the annual financial statement audits by an independent auditor;

- Reviewed historical costs from inception; and

- Provided accounting and financial information in support of SEC filings.

Accounting Firm: Grant Thornton LLP ("Grant Thornton"). In February 2020, CAT LLC determined to engage an independent accounting firm, Grant Thornton, to complete the audit of CAT LLC's financial statements, in accordance with the requirements of the CAT NMS Plan. CAT LLC interviewed this firm as well as another potential accounting firm to audit CAT LLC's financial statements, considering a variety of factors in its analysis, including the relevant expertise and fees of each of the firms. CAT LLC determined that Grant Thornton was well-qualified for the proposed role given the balance of these considerations. Grant Thornton's fixed fee rate compensation arrangement was reasonable and appropriate, and in line with the market rates charged for these types of accounting services. The fees for these services were paid by CAT LLC to Grant Thornton.

Market Data Provider: Exegy. The professional and administrative costs for the Pre-FAM Period included costs related to the receipt of certain market data for the CAT pursuant to an agreement with the CAT LLC, and then with FCAT. Exegy provided SIP Data required by the CAT NMS Plan.

After performing an analysis of the available market data vendors to confirm that the data provided met the SIP Data requirements of the CAT NMS Plan and comparing the costs of the vendors providing the required SIP Data, CAT LLC determined to purchase market data from Exegy from July 2018 through March 2019. CAT LLC determined that, unlike certain other vendors, Exegy provided market data that included all data elements required by the CAT NMS Plan.⁵³ In addition, the fees were reasonable and in line with market rates for the market data received. Accordingly, the professional and administrative costs for the Pre-FAM Period include the Exegy costs from November 2018 through March 2019. The cost of the market data was reasonable for the market data received. The fees for the market data were paid directly by CAT LLC to Exegy.

⁵² Section 9.2 of the CAT NMS Plan.

⁵³ See Section 6.5(a)(ii) of the CAT NMS Plan.

Upon the termination of the contract between CAT LLC and Exegy, FCAT entered into a contract with Exegy to purchase the required market data from Exegy in July 2019. All costs under the contract were treated as a direct pass through cost to CAT LLC. Therefore, the fees for the market data were paid by CAT LLC to FCAT, who, in turn, paid Exegy for the market data.

Security Assessment: RSM US LLP (“RSM”). The operating costs for the Pre-FAM Period include costs related to a third party security assessment of the CAT performed by RSM. The assessment was designed to verify and validate the effective design, implementation, and operation of the controls specified by NIST Special Publication 800–53, Revision 4 and related standards and guidelines. Such a security assessment is in line with industry practice and important given the data included in the CAT. CAT LLC determined to engage RSM to perform the security assessment, after considering a variety of factors in its analysis, including the firm’s relevant expertise and fees. The fees were reasonable and in line with market rates for such an assessment. RSM performed the assessment from October 2018 through December 2018. Accordingly, the costs for the Pre-FAM Period include the costs incurred in November and December 2018. The cost for the security assessment were paid directly to RSM by CAT LLC.

(X) Public Relations Costs

The public relations costs of \$224,669 represent the fees paid to public relations firms during the Pre-FAM Period for professional communications services to CAT, including media relations consulting, strategy and execution. By engaging a public relations firm, CAT LLC was better positioned to understand and address CAT matters to the benefit of all market

participants. Specifically, the public relations firms provided services related to communications with the public regarding the CAT, including monitoring developments related to the CAT (e.g., congressional efforts, public comments and reaction to proposals, press coverage of the CAT), reporting such developments to CAT LLC, and drafting and disseminating communications to the public regarding such developments as well as reporting on developments related to the CAT (e.g., amendments to the CAT NMS Plan). Public relations services were important for various reasons, including monitoring comments made by market participants about CAT and understanding issues related to the CAT discussed on the public record.

The services performed by each of the public relations firms were comparable. The fees for such services were reasonable and in line with market rates. Only one public relations firm was engaged at a time; the three firms were engaged sequentially as the primary public relations contact moved among the three firms during this time period.

Public Relations Firm: Peppercomm, Inc. (“Peppercomm”). The national securities exchanges and FINRA, acting as a consortium, determined to hire the public relations firm Peppercomm in October 2014 and continued to engage this firm through September 2017. The exchanges and FINRA made this engagement decision after considering a variety of factors in its analysis, including the firm’s relevant expertise and fees. The fee rates for this public relations firm were negotiated on an arm’s length basis and were in line with market rates for these types of services. The public relations costs during the period from October 2014 until the formation of the CAT NMS, LLC were paid directly by the exchanges and FINRA to the public relations firm. After

the formation of CAT NMS, LLC, the consulting fees were paid by CAT LLC.

Public Relations Firm: Sloane & Company (“Sloane”). CAT LLC determined to hire a new public relations firm, Sloane, in March 2018, based on, among other things, their expertise and the primary contact’s history with the project. The fee rates for this public relations firm were in line with market rates for these types of services. The fees during the Pre-FAM Period were paid by CAT LLC to Sloane. CAT LLC continued the engagement with Sloane until February 2020.

Public Relations Firm: Peak Strategies. CAT LLC determined to hire a new public relations firm, Peak Strategies, in March 2020, based on, among other things, their expertise and the primary contact’s history with the project. The fee rates for this public relations firm were in line with market rates for these types of services. The fees during the Pre-FAM Period were paid by CAT LLC to Peak Strategies.

(b) Historical CAT Costs Incurred in Financial Accountability Milestone Period 1

Historical CAT Costs 1 would include costs incurred by CAT and already funded by the Participants during Period 1 of the Financial Accountability Milestones (“FAM Period 1”),⁵⁴ which covers the period from June 22, 2020–July 31, 2020. Historical CAT Costs 1 would include costs for FAM Period 1 of \$6,377,343. The Participants would remain responsible for one-third of this cost (which they have previously paid) (\$2,125,781), and Industry Members would be responsible for the remaining two-thirds, with CEBBs paying one-third (\$2,125,781) and CEBBs paying one-third (\$2,125,781). The following table breaks down Historical CAT Costs 1 for FAM Period 1⁵⁵ into the categories set forth in Section 11.3(b)(iii)(B)(II) of the CAT NMS Plan.

Operating expense	Historical CAT costs for FAM Period 1
Capitalized Developed Technology Costs *	\$1,684,870
Technology Costs	3,996,800
Cloud Hosting Services	2,642,122
Operating Fees	1,099,680
CAIS Operating Fees	254,998
Change Request Fees .....	.....
Legal	481,687
Consulting	137,209
Insurance .....	.....
Professional and administration	69,077
Public relations	7,700

⁵⁴ Section 11.6(a)(i)(A) of the CAT NMS Plan.

⁵⁵ The costs described in this table of costs for FAM Period 1 were calculated based upon CAT LLC’s review of applicable bills and invoices and

related financial statements. CAT LLC financial statements are available on the CAT website.

Operating expense	Historical CAT costs for FAM Period 1
Total Operating Expenses	6,377,343

* The non-cash amortization of these capitalized developed technology costs of \$362,121 incurred during FAM Period 1 have been appropriately excluded from the above table.⁵⁶

By the completion of FAM Period 1, CAT LLC was required to implement the reporting by Industry Members (excluding Small Industry Members that are not OATS reporters) of equities transaction data and options transaction data, excluding Customer Account Information, Customer-ID and Customer Identifying Information.⁵⁷ CAT LLC completed the requirements of FAM Period 1 by July 31, 2020. The following describes the costs for each of the categories for FAM Period 1.

(I) Technology Costs—Cloud Hosting Services

CAT LLC continued to utilize AWS in FAM Period 1 to provide a broad array of cloud hosting services for the CAT, including data ingestion, data management, and analytic tools. AWS

continued to provide storage services, databases, compute services and other services (such as networking, management tools and DevOps tools), as well as various environments for CAT, such as development, performance testing, test, and production environments, during the FAM 1 Period. Accordingly, the \$2,642,122 in technology costs for cloud hosting services represent costs incurred for services provided by AWS, as the cloud services provider, during FAM Period 1. The fee arrangement for AWS described above with regard to the Pre-FAM Period continued in place during FAM Period 1 pursuant to the Plan Processor Agreement. Moreover, CAT LLC continued to believe that AWS's maturity in the cloud services space as well as the significant cost and time

necessary to move the CAT to a different cloud services provider supported the continued engagement of AWS.

The cost for AWS cloud services for the CAT continued to be a function of the volume of CAT Data. During the FAM 1 Period, the volume of CAT Data continued to far exceed the original predictions for the CAT as set forth in the CAT NMS Plan. During this period, data submitted to the CAT included options and equities Participant Data, Phase 2a and Phase 2b Industry Member Data (including certain linkages) as well as SIP Data, reference data and other types of Other Data. The following chart provides data regarding the average daily volume, cumulative total events, total compute hours and storage footprint of the CAT during FAM Period 1.⁵⁸

	Date range: 6/22/20–7/31/20
Average Daily Volume in Billions:	
Participant—Equities	6
Participant—Options	103
Industry Member—Equities	7
Industry Member—Options	0.31
SIP—Options & Equities	74
Average Total Daily Volume	185
Cumulative Total Events for the Period	5,190
Total Compute Hours for the Period	2,612,082
Storage Footprint at End of Period (Petabytes)	57.47

(II) Technology Costs—Operating Fees

Pursuant to the Plan Processor Agreement discussed above, FCAT continued in its role as the Plan Processor for the CAT during FAM Period 1. Accordingly, the \$1,099,680 in technology costs for operating fees represent costs incurred for the services provided by FCAT under the Plan Processor Agreement during FAM Period 1. The fee arrangement for FCAT described above with regard to the Pre-FAM Period continued in place during FAM Period 1 pursuant to the Plan Processor Agreement. During FAM Period 1, FCAT's activities with respect to the CAT included the following:

- Published iterative drafts of draft Technical Specifications for Phase 2d, after substantial engagement with SEC staff, Industry Members and Participants on the Technical Specifications;
- Published iterative drafts of CAIS Technical Specifications, after substantial engagement with SEC staff, Industry Members and Participants on the Technical Specifications;
- Facilitated Industry Member reporting of Quote Sent Time on Options Market Maker quotes;
- Addressed compliance items, including drafting CAT policies and procedures, and addressing Regulation SCI requirements;

- Provided support to the Operating Committee, the Compliance Subcommittee and CAT working groups;
- Assisted with interpretive efforts and exemptive requests regarding the CAT NMS Plan;
- Oversaw the security of the CAT;
- Monitored the operation of the CAT, including with regard to Participant and Industry Member reporting;
- Provided support to subcontractors under the Plan Processor Agreement;
- Provided support in discussions with Participants and the SEC and its staff;
- Operated the FINRA CAT Helpdesk;

⁵⁶ As discussed above, with respect to certain costs that were "appropriately excluded," such excluded costs relate to the amortization of capitalized technology costs, which are amortized over the life of the Plan Processor Agreement. As

such costs have already been otherwise reflected in the filing, their inclusion would double count the capitalized technology costs. In addition, amortization is a non-cash expense.

⁵⁷ See definition of "Initial Industry Member Core Equity and Options Reporting" in Section 1.1 of the CAT NMS Plan.

⁵⁸ Note that the volume data described in this table does not include CAIS data.

- Facilitated communications with the industry, including via FAQs, CAT Alerts, meetings, presentations and webinars;

- Administered the CAT website and all of its content; and
- Provided technical support and assistance with connectivity, data access, and user support, including the use of CAT Data and query tools, for Participants and the SEC staff.

(III) Technology Costs—CAIS Operating Fees

Pursuant to the Plan Processor Agreement discussed above, Kingland continued in its role as a subcontractor for the development and implementation of CAIS during FAM Period 1. Accordingly, the \$254,998 in technology costs for CAIS operating fees represent costs incurred for services provided by Kingland during FAM Period 1. The fee arrangement for Kingland described above with regard to the Pre-FAM Period continued in place during FAM Period 1 pursuant to the Plan Processor Agreement. During FAM Period 1, Kingland continued the development of the CAIS Technical Specifications and building of CAIS. In addition, Kingland continued to work on the CAIS Technical Specifications and build related to CCID Alternative, as well as the acceleration of the reporting of LTIDs.

(IV) Technology Costs—Change Request Fees

CAT LLC did not incur costs related to change requests during FAM Period 1.

(V) Technology Costs—Capitalized Developed Technology Costs

Capitalized developed technology costs for FAM Period 1 of \$1,684,870 include capitalizable application development costs incurred in the development of the CAT by FCAT. Such costs include: (1) costs related to certain modifications, upgrades, or other changes to the CAT that were not contemplated by the agreement between CAT LLC and the Plan Processor, including separate production and industry test entitlements, and reprocessing of exchange event timestamps; (2) implementation fees; and (3) license fees.

(VI) Legal Costs

The legal costs of \$481,687 represent the fees paid for legal services provided by two law firms, WilmerHale and Pillsbury during FAM Period 1.

Law Firm: WilmerHale. CAT LLC continued to employ WilmerHale during FAM Period 1 based on, among

other things, their expertise and long history with the project. The hourly fee rates for this law firm were in line with market rates for specialized legal expertise. The legal fees during FAM Period 1 were paid by CAT LLC to WilmerHale. During FAM Period 1, WilmerHale provided legal assistance to the CAT including with regard to the following:

- Assisted with the development of the CAT funding model and drafted related amendments and fee filings;
- Drafted exemptive requests from CAT NMS Plan requirements regarding, for example, verbal activity, options market maker quote sent time, TRF linkages, and allocations;
- Provided interpretations related to CAT NMS Plan requirements, including the Financial Accountability Milestone amendment;
- Assisted with compliance with Regulation SCI;
- Provided support for the Operating Committee, Compliance Subcommittee, working groups and Leadership Team, including with regard to meetings with the SEC staff;
- Assisted with the drafting of the Implementation Plan required pursuant to Section 6.6(c)(i) of the CAT NMS Plan;
- Assisted with communications and presentations for the industry regarding CAIS;
- Drafted SRO rule filings related to the CAT Compliance Rule;
- Provided support for Compliance Subcommittee, including with regard to responses to OCIE examinations and the annual assessment;
- Provided guidance regarding CAT technical specifications;
- Assisted with third-party vendor agreements; and
- Provided support with regard to discussions with the SEC and its staff, including with respect to addressing interpretive and implementation issues.

Law Firm: Pillsbury. CAT LLC continued to employ Pillsbury during FAM Period 1 based on, among other things, their expertise and history with the project. The hourly fee rates for this law firm were in line with market rates for specialized legal expertise. The legal fees during FAM Period 1 were paid by CAT LLC to Pillsbury. During FAM Period 1, Pillsbury provided legal assistance to the CAT regarding the CAT Reporter Agreement. During that period, Pillsbury advised CAT LLC regarding applicable legal matters and drafted a proposed amendment to the CAT NMS Plan regarding liability matters. Liability issues related to the CAT are important matters that needed to be resolved and clarified. CAT LLC's efforts to seek such

resolution and clarity work to the benefit of Participants, Industry Members and other market participants.

(VII) Consulting Costs

The consulting costs of \$137,209 represent the fees paid to Deloitte as project manager during FAM Period 1. CAT LLC continued to employ Deloitte during FAM Period 1 based on, among other things, their expertise and cumulative experience with the CAT. The fee rates for Deloitte during FAM Period 1 were negotiated and in line with market rates for this type of specialized consulting work. The consulting fees during FAM Period 1 were paid by CAT LLC to the consulting firm. CAT LLC reviewed the consulting fees each month and approved the invoices. During FAM Period 1, Deloitte's CAT-related activities included the following:

- Implemented program operations for the CAT project;
- Provided support to the Operating Committee, the Chair of the Operating Committee and the Leadership Team, including project management support, coordination and planning for meetings and communications, and interfacing with law firms and the SEC;
- Assisted with cost and funding matters for the CAT, including the development of the CAT funding model and assistance with loans and the CAT bank account for CAT funding;
- Provided support for updating the SEC on the progress of the development of the CAT;
- Assisted with the transition from the Initial Plan Processor to the successor Plan Processor; and
- Provided support for third-party vendors for the CAT, including FCAT, Anchin and the law firms engaged by CAT LLC.

(VIII) Insurance

Although insurance was in effect during FAM Period 1, CAT LLC did not incur costs related to insurance during FAM Period 1.

(IX) Professional and Administration Costs

Financial Advisory Firm: Anchin. The professional and administration costs of \$69,077 represent the fees paid to Anchin during FAM Period 1. CAT LLC continued to employ Anchin during FAM Period 1 based on, among other things, their expertise and history with the project. The hourly fee rates for this firm were in line with market rates for these type of financial advisory services. The fees for these services during FAM Period 1 were paid by CAT LLC to Anchin. During FAM Period 1, Anchin

provided a variety of services, including the following:

- Maintained internal controls;
- Provided cash management and treasury functions;
- Facilitated bill payments;
- Provided monthly bookkeeping;
- Reviewed vendor invoices and documentation in support of cash disbursements;
- Provided accounting research and consultations on various accounting, financial reporting and tax matters;
- Addressed various accounting, financial reporting and operating inquiries from Participants;
- Developed and maintained quarterly and annual operating and financial budgets, including budget to actual fluctuation analyses;
- Supported compliance with the CAT NMS Plan;
- Worked with and provided support to the Operating Committee and various CAT working groups; and
- Prepared monthly and quarterly financial statements.

(X) Public Relations Costs

The public relations costs of \$7,700 represent the fees paid to Peak Strategies during FAM Period 1. CAT

LLC continued to employ Peak Strategies during FAM Period 1 based on, among other things, their expertise and history with the project. The fee rates for this firm were reasonable and in line with market rates for these types of services. The fees for these services during FAM Period 1 were paid by CAT LLC to Peak Strategies. During FAM Period 1, Peak Strategies continued to provide professional communications services to CAT LLC, including media relations consulting, strategy and execution. Specifically, the public relations firm provided services related to communications with the public regarding the CAT, including monitoring developments related to the CAT (e.g., congressional efforts, public comments and reaction to proposals, press coverage of the CAT), reporting such developments to CAT LLC, and drafting and disseminating communications to the public regarding such developments as well as reporting on developments related to the CAT (e.g., amendments to the CAT NMS Plan). As discussed above, such public relations services were important for various reasons, including monitoring comments made by market participants about the CAT and understanding issues

related to the CAT discussed on the public record. By engaging a public relations firm, CAT LLC was better positioned to understand and address CAT matters to the benefit of all market participants.

(c) Historical CAT Costs Incurred in Financial Accountability Milestone Period 2

Historical CAT Costs 1 would include costs incurred by CAT LLC and already funded by Participants during Period 2 of the Financial Accountability Milestones ("FAM Period 2"),⁵⁹ which covers the period from August 1, 2020–December 31, 2020. Historical CAT Costs 1 would include costs for FAM Period 2 of \$42,976,478. The Participants would remain responsible for one-third of this cost (which they have previously paid) (\$14,325,493), and Industry Members would be responsible for the remaining two-thirds, with CEBBs paying one-third (\$14,325,493) and CEBBs paying one-third (\$14,325,493). The following table breaks down Historical CAT Costs 1 for FAM Period 2⁶⁰ into the categories set forth in Section 11.3(b)(iii)(B)(II) of the CAT NMS Plan.

Operating expense	Historical CAT costs for FAM Period 2
Capitalized Developed Technology Costs *	\$6,761,094
Technology Costs	31,460,033
Cloud Hosting Services	20,709,212
Operating Fees	9,108,700
CAIS Operating Fees	1,590,298
Change Request Fees	51,823
Legal	2,766,644
Consulting	532,146
Insurance	976,098
Professional and administration	438,523
Public relations	41,940
Total Operating Expenses	42,976,478

* The non-cash amortization of these capitalized developed technology costs of \$1,892,505 incurred during FAM Period 2 have been appropriately excluded from the above table.⁶¹

By the completion of FAM Period 2, CAT LLC was required to implement the following with regard to the CAT:

(a) Industry Member reporting (excluding reporting by Small Industry Members that are not OATS reporters) for equities transactions, excluding Customer Account Information, CustomerID, and Customer Identifying Information, is developed, tested, and implemented at a 5% Error Rate or less

and with sufficient intra-firm linkage, inter-firm linkage, national securities exchange linkage, and trade reporting facilities linkage to permit the Participants and the Commission to analyze the full lifecycle of an order across the national market system, excluding linkage of representative orders, from order origination through order execution or order cancellation; and (b) the query tool functionality

required by Section 6.10(c)(i)(A) and Appendix D, Sections 8.1.1–8.1.3 and Section 8.2.1 incorporates the Industry Member equities transaction data described in condition (a) and is available to the Participants and to the Commission.⁶²

CAT LLC completed the requirements of FAM Period 2 by December 31, 2020. The following describes the costs for each of the categories for FAM Period 2.

⁵⁹ Section 11.6(a)(i)(B) of the CAT NMS Plan.

⁶⁰ The costs described in this table of costs for FAM Period 2 were calculated based upon CAT LLC's review of applicable bills and invoices and related financial statements. CAT LLC financial statements are available on the CAT website.

⁶¹ As discussed above, with respect to certain costs that were "appropriately excluded," such excluded costs relate to the amortization of capitalized technology costs, which are amortized over the life of the Plan Processor Agreement. As such costs have already been otherwise reflected in

the filing, their inclusion would double count the capitalized technology costs. In addition, amortization is a non-cash expense.

⁶² See definition of "Full Implementation of Core Equity Reporting Requirements" in Section 1.1 of the CAT NMS Plan.

(I) Technology Costs—Cloud Hosting Services

CAT LLC continued to utilize AWS in FAM Period 2 to provide a broad array of cloud hosting services for the CAT, including data ingestion, data management, and analytic tools. AWS continued to provide storage services, databases, compute services and other services (such as networking, management tools and DevOps tools), as well as various environments for CAT, such as development, performance testing, test, and production environments, during the FAM 2 Period.

Accordingly, the \$20,709,212 in technology costs for cloud hosting services represent costs incurred for services provided by AWS, as the cloud services provider, during FAM Period 2. The fee arrangement for AWS described above with regard to the Pre-FAM Period and FAM Period 1 continued in place during FAM Period 2 pursuant to the Plan Processor Agreement.

The cost for AWS cloud services for the CAT continued to be a function of the volume of CAT Data. During the FAM 2 Period, the volume of CAT Data continued to far exceed the original

predictions for the CAT as set forth in the CAT NMS Plan. During this period, data submitted to the CAT included options and equities Participant Data, Phase 2a and Phase 2b Industry Member Data (including certain linkages) as well as SIP Data, and Other Data, including reference data. In addition, Industry Members began reporting LTID account information. The following chart provides data regarding the average daily volume, cumulative total events, total compute hours and storage footprint of the CAT during FAM Period 2.⁶³

	Date range: 8/1/20–12/31/20
Average Daily Volume in Billions:	
Participant—Equities	6
Participant—Options	116
Industry Member—Equities	11
Industry Member—Options	0.98
SIP—Options & Equities	80
Average Total Daily Volume	282
Cumulative Total Events for the Period	2,170
Total Compute Hours for the Period	15,660,392
Storage Footprint at End of Period (Petabytes)	114.59

(II) Technology Costs—Operating Fees

Pursuant to the Plan Processor Agreement discussed above, FCAT continued in its role as the Plan Processor for the CAT during FAM Period 2. Accordingly, the \$9,108,700 in technology costs for operating fees represent costs incurred for the services provided by FCAT under the Plan Processor Agreement during FAM Period 2. The fee arrangement for FCAT described above with regard to the Pre-FAM Period and FAM Period 1 continued in place during FAM Period 2 pursuant to the Plan Processor Agreement. During FAM Period 2, FCAT's activities with respect to the CAT included publishing the Technical Specifications for Phase 2d and overseeing the reporting of firm to firm and intrafirm linkages by Industry Members. In addition, FCAT also continued to engage in the following activities during FAM Period 2:

- Addressed compliance items, including drafting CAT policies and procedures, and addressing Regulation SCI requirements;

- Provided support to the Operating Committee, Compliance Subcommittee and CAT working groups;

- Assisted with interpretive efforts and exemptive requests regarding the CAT NMS Plan;
- Oversaw the development and implementation of the security of the CAT;
- Monitored the operation of the CAT, including with regard to Participant and Industry Member reporting;
- Provided support to subcontractors under the Plan Processor Agreement;
- Provided support in discussions with the Participants and the SEC and its staff;
- Operated the FINRA CAT Helpdesk;
- Facilitated communications with the industry, including via FAQs, CAT Alerts, meetings, presentations and webinars;
- Administered the CAT website and all of its content; and
- Provided technical support and assistance with connectivity, data access, and user support, including the use of CAT Data and query tools, for Participants and the SEC staff.

(III) Technology Costs—CAIS Operating Fees

Pursuant to the Plan Processor Agreement discussed above, Kingland continued in its role as a subcontractor for the development and

implementation of CAIS during FAM Period 2. Accordingly, the \$1,590,298 in technology costs for CAIS operating fees represent costs incurred for services provided by Kingland during FAM Period 2. The fee arrangement for Kingland described above with regard to the Pre-FAM Period and FAM Period 1 continued in place during FAM Period 2 pursuant to the Plan Processor Agreement. During FAM Period 2, Kingland continued the development of the CAIS Technical Specifications and building of CAIS. In addition, Kingland continued to work on the CAIS Technical Specifications and build related to the CCID Alternative, as well as the acceleration of the reporting of LTIDs.

(IV) Technology Costs—Change Request Fees

During FAM Period 2, CAT LLC engaged FCAT to pursue certain change requests in accordance with the Plan Processor Agreement. The change request costs were paid by CAT LLC to FCAT. Specifically, during FAM Period 2, CAT incurred costs of \$51,823 related to a change request regarding the addition of functionality for exchange Participants to report rejected messages to the CAT.

⁶³ Note that the volume data described in this table does not include CAIS data.

(V) Technology Costs—Capitalized Developed Technology Costs

Capitalized developed technology costs for FAM Period 2 of \$6,761,094 include capitalizable application development costs incurred in the development of the CAT by FCAT. Such costs include (1) development costs incurred during the application development stage to meet various agreed-upon milestones regarding the CAT, as defined in the agreement between CAT LLC and the Plan Processor; (2) costs related to certain modifications, upgrades, or other changes to the CAT that were not contemplated by the agreement between CAT LLC and the Plan Processor, including costs related to separate production and industry test entitlements, market maker reference data, and back-processing of exchange exception logic; (3) implementation fees; and (4) license fees.

(VI) Legal Costs

The legal costs of \$2,766,644 represent the fees paid for legal services provided by two law firms, WilmerHale and Pillsbury during FAM Period 2.

Law Firm: WilmerHale. CAT LLC continued to employ WilmerHale during FAM Period 2 based on, among other things, their expertise and long history with the project. The hourly fee rates for this law firm were in line with market rates for specialized legal expertise. The legal fees during FAM Period 2 were paid by CAT LLC to WilmerHale. During FAM Period 2, the legal assistance provided by WilmerHale included providing legal advice regarding the following:

- Assisted with the development of the CAT funding model and drafting related amendments and rule filings;
- Drafted exemptive requests from CAT NMS Plan requirements regarding, for example, allocations, exchange activity, OTQT, initial data validation, error corrections and recordkeeping;
- Provided interpretations related to CAT NMS Plan requirements, including with regard to the Financial Accountability Milestone amendment, FAQs and technical specifications;
- Provided support for the Operating Committee, Compliance Subcommittees, working groups and Leadership Team, including with regard to meetings with the SEC staff;
- Assisted with the Implementation Plan and Quarterly Progress Reports required pursuant to Section 6.6 of the CAT NMS Plan;
- Drafted SRO rule filings related to the CAT Compliance Rule;
- Provided support for the Compliance Subcommittee, including

with regard to responses to OCIE examinations and the annual assessment;

- Provided guidance regarding the SEC's proposed security amendments to the CAT NMS Plan;
- Provided guidance regarding SRO rule filings for the retirement of systems;
- Provided legal support for Operating Committee meetings, including drafting resolutions and other materials and voting advice;
- Assisted with third-party vendor agreements (e.g., with regard to Anchin, Grant Thornton and insurance policies);
- Assisted with change requests; and
- Provided support with regard to discussions with the SEC and its staff, including with respect to addressing interpretive and implementation issues.

Law Firm: Pillsbury. CAT LLC continued to employ Pillsbury during FAM Period 2 based on, among other things, their expertise and history with the project. The hourly fee rates for this law firm were in line with market rates for specialized legal expertise. The legal fees during FAM Period 2 were paid by CAT LLC to Pillsbury. During FAM Period 2, Pillsbury provided legal assistance to the CAT regarding the CAT Reporter Agreement. During that period, Pillsbury advised CAT LLC regarding applicable legal matters and drafted and filed a proposed amendment to the CAT NMS Plan regarding liability matters. As discussed above, liability issues related to the CAT are important matters that needed to be resolved and clarified. CAT LLC's efforts to seek such resolution and clarity work to the benefit of Participants, Industry Members and other market participants.

(VII) Consulting Costs

The consulting costs of \$532,146 represent the fees paid to Deloitte as project manager during FAM Period 2. CAT LLC continued to employ Deloitte during FAM Period 2 based on, among other things, their expertise and long history with the project. The fee rates for Deloitte during FAM Period 2 were negotiated and in line with market rates for this type of specialized consulting work. The consulting fees during FAM Period 2 were paid to Deloitte by CAT LLC. CAT LLC reviewed the consulting fees each month and approved the invoices. During FAM Period 2, Deloitte's CAT-related activities included the following:

- Implemented program operations for the CAT project;
- Provided support to the Operating Committee, the Chair of the Operating Committee and the Leadership Team, including project management support, coordination and planning for meetings

and communications, and interfacing with law firms and the SEC;

- Assisted with cost and funding matters for the CAT, including the development of the CAT funding model and assistance with loans and the CAT bank account for CAT funding;
- Provided support for updating the SEC on the progress of the development of the CAT; and
- Provided support for third-party vendors for the CAT, including FCAT, Anchin and the law firms engaged by CAT LLC.

(VIII) Insurance

The insurance costs of \$976,098 represent the fees paid for insurance during FAM Period 2. CAT LLC continued to maintain cyber security liability insurance, directors' and officers' liability insurance, and errors and omissions liability insurance offered by USI. After engaging in a process for renewing the coverage, CAT LLC determined to purchase these insurance policies from USI. The annual premiums for these policies were competitive for the coverage provided. The annual premiums were paid by CAT LLC to USI.

(IX) Professional and Administration Costs

The professional and administration costs of \$438,523 represent the fees paid to Anchin and Grant Thornton for financial services provided during FAM Period 2.

Financial Advisory Firm: Anchin. CAT LLC continued to engage Anchin during FAM Period 2 based on, among other things, their expertise and history with the project. The hourly fee rates for this firm were in line with market rates for these types of financial advisory services. The fees for these services during FAM Period 2 were paid by CAT LLC to Anchin. During FAM Period 2, Anchin provided a variety of services, including the following:

- Updated and maintained internal controls;
- Provided cash management and treasury functions;
- Facilitated bill payments;
- Provided monthly bookkeeping;
- Reviewed vendor invoices and documentation in support of cash disbursements;
- Provided accounting research and consultations on various accounting, financial reporting and tax matters;
- Addressed not-for-profit tax and accounting considerations;
- Prepared tax returns;
- Addressed various accounting, financial reporting and operating inquiries from the Participants;

- Developed and maintained quarterly and annual operating and financial budgets, including budget to actual fluctuation analyses;

- Supported compliance with the CAT NMS Plan;

- Worked with and provided support to the Operating Committee and various CAT working groups;

- Prepared monthly, quarterly and annual financial statements;

- Supported the annual financial statement audit by an independent auditor; and

- Reviewed historical costs from inception.

Accounting Firm: Grant Thornton. CAT LLC continued to employ the accounting firm Grant Thornton during FAM Period 2 based on, among other things, its expertise and cumulative knowledge of CAT LLC. CAT LLC continued to believe that Grant Thornton was well qualified for its role and its fee rates were in line with market rates for these accounting services. The fees for these services during FAM Period 2 were paid by CAT LLC to Grant Thornton. During FAM Period 2, Grant Thornton performed a financial statement audit for CAT LLC as an independent accounting firm.

(X) Public Relations Costs

The public relations costs of \$41,940 represent the fees paid to Peak Strategies during FAM Period 2. CAT LLC continued to employ Peak Strategies during FAM Period 2 based on, among other things, their expertise and history with the project. The fee rates for this firm were in line with market rates for these types of services. The fees for these services during FAM Period 2 were paid by CAT LLC to Peak Strategies. During FAM Period 2, Peak Strategies continued to provide professional communications services to CAT, including media relations consulting, strategy and execution. Specifically, the public relations firm provided services related to communications with the public regarding the CAT, including monitoring developments related to the CAT (e.g., congressional efforts, public comments and reaction to proposals, press coverage of the CAT), reporting such developments to CAT LLC, and drafting and disseminating communications to the public regarding such developments as well as reporting on developments related to the CAT (e.g., amendments to the CAT NMS Plan). As discussed above, such public relations services were important for various reasons, including monitoring

comments made by market participants about the CAT and understanding issues related to the CAT discussed on the public record. By engaging a public relations firm, CAT LLC was better positioned to understand and address CAT matters to the benefit of all market participants.

(d) Historical CAT Costs Incurred in Financial Accountability Milestone Period 3

Historical CAT Costs 1 would include costs incurred by CAT and already funded by the Participants during Period 3 of the Financial Accountability Milestones ("FAM Period 3"),⁶⁴ which covers the period from January 1, 2021–December 31, 2021. Historical CAT Costs 1 would include costs for FAM Period 3 of \$144,415,268. The Participants would remain responsible for one-third of this cost (which they have previously paid) (\$48,138,423), and Industry Members would be responsible for the remaining two-thirds, with CEBBs paying one-third (\$48,138,423) and CEBs paying one-third (\$48,138,423). The following table breaks down Historical CAT Costs 1 for FAM Period 3⁶⁵ into the categories set forth in Section 11.3(b)(iii)(B)(II) of the CAT NMS Plan.

Operating expense	Historical CAT costs for FAM Period 3
Capitalized Developed Technology Costs *	\$10,763,372
Technology Costs	123,639,402
Cloud Hosting Services	94,574,759
Operating Fees	23,106,091
CAIS Operating Fees	5,562,383
Change Request Fees	396,169
Legal	6,333,248
Consulting	1,408,209
Insurance	1,582,714
Professional and administration	595,923
Public relations	92,400
Total Operating Expenses	144,415,268

* The non-cash amortization of these capitalized developed technology costs of \$5,108,044 incurred during FAM Period 3 have been appropriately excluded from the above table.⁶⁶

By the completion of FAM Period 3, CAT LLC was required to implement the following requirements with regard to the CAT:

(a) reporting to the Order Audit Trail System ("OATS") is no longer required for new orders; (b) Industry Member reporting for equities transactions and simple electronic options transactions,

excluding Customer Account Information, Customer-ID, and Customer Identifying Information, with sufficient intra-firm linkage, inter-firm linkage, national securities exchange linkage, trade reporting facilities linkage, and representative order linkages (including any equities allocation information provided in an

Allocation Report) to permit the Participants and the Commission to analyze the full lifecycle of an order across the national market system, from order origination through order execution or order cancellation, is developed, tested, and implemented at a 5% Error Rate or less; (c) Industry Member reporting for manual options

⁶⁴ Section 11.6(a)(i)(C) of the CAT NMS Plan.

⁶⁵ The costs described in this table of costs for FAM Period 3 were calculated based upon CAT LLC's review of applicable bills and invoices and related financial statements. CAT LLC financial statements are available on the CAT website.

⁶⁶ As discussed above, with respect to certain costs that were "appropriately excluded," such excluded costs relate to the amortization of capitalized technology costs, which are amortized over the life of the Plan Processor Agreement. As such costs have already been otherwise reflected in

the filing, their inclusion would double count the capitalized technology costs. In addition, amortization is a non-cash expense.

transactions and complex options transactions, excluding Customer Account Information, Customer-ID, and Customer Identifying Information, with all required linkages to permit the Participants and the Commission to analyze the full lifecycle of an order across the national market system, from order origination through order execution or order cancellation, including any options allocation information provided in an Allocation Report, is developed, tested, and fully implemented; (d) the query tool functionality required by Section 6.10(c)(i)(A) and Appendix D, Sections 8.1.1–8.1.3, Section 8.2.1, and Section 8.5 incorporates the data described in conditions (b)–(c) and is available to the Participants and to the Commission; and (e) the requirements of Section 6.10(a) are met.⁶⁷

CAT LLC completed the requirements of FAM Period 3 by December 31, 2021.

The following describes the costs for each of the categories for FAM Period 3.

(I) Technology Costs—Cloud Hosting Services

CAT LLC continued to utilize AWS in FAM Period 3 to provide a broad array of cloud hosting services for the CAT, including data ingestion, data management, and analytic tools. AWS continued to provide storage services, databases, compute services and other services (such as networking, management tools and DevOps tools), as well as various environments for CAT, such as development, performance testing, test, and production environments, during the FAM 3 Period. Accordingly, the \$94,574,759 in technology costs for cloud hosting services represents costs incurred for services provided by AWS, as the cloud services provider, during FAM Period 3. The fee arrangement for AWS described

above for the earlier periods continued in place during FAM Period 3 pursuant to the Plan Processor Agreement.

The cost for AWS cloud services for the CAT continued to be a function of the volume of CAT Data. During FAM Period 3, the volume of CAT Data continued to far exceed the original predictions for the CAT as set forth in the CAT NMS Plan. During this period, data submitted to the CAT included options and equities Participant Data, Phase 2a, Phase 2b, Phase 2c and Phase 2d Industry Member Data (including certain linkages), SIP Data, Other Data, including reference data, and LTID account information. The following chart provides data regarding the average daily volume, cumulative total events, total compute hours and storage footprint of the CAT during FAM Period 3.⁶⁸

	Date range: 1/1/21 to 4/25/21	Date range: 4/26/21 to 12/31/21 *
Average Daily Volume in Billions:		
Participant—Equities	9	9
Participant—Options	135	136
Industry Member—Equities	20	19
Industry Member—Options	2	2
SIP—Options & Equities	129	137
Average Total Daily Volume	297	304
Cumulative Total Events for the Period	7,480	5,310
Total Compute Hours for the Period	15,860,304	33,487,318
Storage Footprint at End of Period (Petabytes)	180.22	284.62

* Start of Participant Equities in CAT format and SIP Equities on 4/26/21.

(II) Technology Costs—Operating Fees

Pursuant to the Plan Processor Agreement discussed above, FCAT continued in its role as the Plan Processor for the CAT during FAM Period 3. Accordingly, the \$23,106,091 in technology costs for operating fees represent costs incurred for the services provided by FCAT under the Plan Processor Agreement during FAM Period 3. The fee arrangement for FCAT described above with regard to the prior Periods continued in place during FAM Period 3 pursuant to the Plan Processor Agreement. During FAM Period 3, FCAT's activities with respect to the CAT included the following:

- Facilitated Phase 2c and Phase 2d testing for Industry Members;
- Oversaw creation of linkages of the lifecycle of order events based on the received data through Phase 2d;

- Addressed compliance items, including drafting CAT policies and procedures, and addressing Regulation SCI requirements;
- Provided support to the Operating Committee, the Compliance Subcommittee and CAT working groups;
- Assisted with interpretive efforts and exemptive requests regarding the CAT NMS Plan;
- Oversaw the security of the CAT;
- Monitored the operation of the CAT, including with regard to Participant and Industry Member reporting;
- Provided support to subcontractors under the Plan Processor Agreement;
- Provided support in discussions with the Participants and the SEC and its staff;
- Operated the FINRA CAT Helpdesk;
- Facilitated communications with the industry, including via FAQs, CAT

Alerts, meetings, presentations and webinars;

- Administered the CAT website and all of its content; and
- Provided technical support and assistance with connectivity, data access, and user support, including the use of CAT Data and query tools, for Participants and the SEC staff.

(III) Technology Costs—CAIS Operating Fees

Pursuant to the Plan Processor Agreement with FCAT discussed above, Kingland continued in its role as a subcontractor for the development and implementation of CAIS during FAM Period 3. Accordingly, the \$5,562,383 in technology costs for CAIS operating fees represents costs incurred for services provided by Kingland during FAM Period 3. The fee arrangement for Kingland described above with regard to the prior Periods continued in place

⁶⁷ See definition of “Full Availability and Regulatory Utilization of Transactional Database Functionality” in Section 1.1 of the CAT NMS Plan.

⁶⁸ Note that the volume data described in this table does not include CAIS data.

during FAM Period 3 pursuant to the Plan Processor Agreement. During FAM Period 3, Kingland continued the development of the CAIS Technical Specifications and building of CAIS. In addition, Kingland continued to work on the CAIS Technical Specifications and build related to the CCID Alternative, as well as the acceleration of the reporting of LTIDs. The full CAIS Technical Specifications were published during FAM Period 3.

(IV) Technology Costs—Change Request Fees

During FAM Period 3, CAT LLC engaged FCAT to pursue certain change requests in accordance with the Plan Processor Agreement. The change request costs were paid by CAT LLC to FCAT. Specifically, during FAM Period 3, CAT incurred costs of \$396,169 related to change requests, including the following: (1) the addition of functionality for exchange Participants to report rejected messages to the CAT; (2) the migration of MIRS query engine to AWS to reduce operational costs and increase resiliency; and (3) updating the Participant Technical Specifications to allow for two-sided Participant option quote reporting.

(V) Technology Costs—Capitalized Developed Technology Costs

Capitalized developed technology costs for FAM Period 3 of \$10,763,372 include capitalizable application development costs incurred in the development of the CAT by FCAT. Such costs include (1) development costs incurred during the application development stage to meet various agreed-upon milestones regarding the CAT, as defined in the agreement between CAT LLC and the Plan Processor, including the transition from equity data received by FINRA pursuant to various regulatory services agreements between FINRA and Participant exchanges to the equity CAT Data, and the completion of the Industry Member Phase 2d options manual and complex orders go-live requirements; (2) costs related to certain modifications, upgrades, or other changes to the CAT that were not contemplated by the agreement between CAT LLC and the Plan Processor, including costs related to off-exchange volume concentration, Participant 24-hour trading and an external metastore; (3) implementation fees; and (4) license fees.

(VI) Legal Costs

The legal costs of \$6,333,248 represent the fees paid for legal services provided by three law firms, WilmerHale, Pillsbury and Covington &

Burling LLP (“Covington”) during FAM Period 3.

Law Firm: WilmerHale. CAT LLC continued to employ WilmerHale during FAM Period 3 based on, among other things, their expertise and long history with the project. The hourly fee rates for this law firm were in line with market rates for specialized legal expertise. The legal fees during FAM Period 3 were paid by CAT LLC to WilmerHale. During FAM Period 3, the legal assistance provided by WilmerHale included providing legal advice regarding the following:

- Assisted with the development of the CAT funding model and drafting related amendments and rule filings;
- Drafted exemptive requests from CAT NMS Plan requirements, including, for example, verbal activity regarding Phase 2c cutover, error reports, error corrections, Phase 2d Reporting, unique Order-ID on internal route events, reporting addresses, recordkeeping, and unique CCID for foreign customers;
- Provided interpretations related to CAT NMS Plan requirements, including with regard to the Financial Accountability Milestone amendment, FAQs, CAIS requirements, ADF, and technical specifications;
- Provided support for the Operating Committee, Compliance Subcommittee, working groups and Leadership Team, including with regard to meetings with the SEC staff;
- Assisted with the Implementation Plan and Quarterly Progress Reports required pursuant to Section 6.6(c) of the CAT NMS Plan;
- Drafted SRO rule filings related to the CAT Compliance Rule;
- Provided support for the Compliance Subcommittee, including with regard to responses to OCIE examinations and the annual assessment;
- Provided guidance regarding the SEC’s proposed security amendments to the CAT NMS Plan;
- Provided guidance regarding SRO rule filings for the retirement of systems;
- Provided legal support for Operating Committee meetings, including drafting resolutions and other materials and voting advice;
- Provided assistance with change requests;
- Provided guidance and regulatory support for litigation regarding the response to the SEC’s exemptive orders;
- Assisted with communications with the industry, including CAT Alerts and presentations;
- Provided guidance regarding the confidentiality of CAT Data, including third-party information requests;
- Assisted with cost management analysis and proposals; and

- Provided support with regard to discussions with the SEC and its staff, including with respect to addressing interpretive and implementation issues.

Law Firm: Pillsbury. CAT LLC continued to employ Pillsbury during FAM Period 3 based on, among other things, their expertise and history with the project. The hourly fee rates for this law firm were in line with market rates for specialized legal expertise. The legal fees during FAM Period 3 were paid by CAT LLC to Pillsbury. During FAM Period 3, Pillsbury provided legal assistance to the CAT regarding the CAT Reporter Agreement. During this period, Pillsbury advised CAT LLC regarding applicable legal matters, reviewed and responded to comment letters regarding the proposed Plan amendment, participated in meetings with senior SEC staff, responded to comments submitted following the SEC’s April 6, 2021 order instituting proceedings,⁶⁹ and assessed legal matters regarding the SEC’s October 29, 2021 order denying the proposed Plan amendment.⁷⁰

Law Firm: Covington. CAT LLC hired Covington for litigation with the SEC regarding certain exemptive orders related to the CAT, including orders issued in December 2020.⁷¹ CAT LLC interviewed this law firm as well as other potential law firms, considering a variety of factors in its analysis for choosing legal assistance, including the relevant expertise and fees of the potential lawyers. CAT LLC approved the engagement of Covington in January 2021. The fee rates for this law firm, which were calculated based on hourly rates, were in line with market rates for specialized services. The legal fees for FAM Period 3 for this firm were paid by CAT LLC to Covington.

After Covington was hired in 2021 through the end of 2021, the firm provided legal assistance regarding the litigation with the SEC regarding the 2020 Orders. These services included researching, drafting, and filing motions to stay the 2020 orders and related materials in proceedings before the SEC, as well as researching, drafting, and filing petitions for judicial review of the 2020 Orders in proceedings before the U.S. Court of Appeals for the D.C. Circuit. Covington oversaw ongoing litigation proceedings on these matters, and also supported WilmerHale with

⁶⁹ Securities Exchange Act Rel. No. 91487 (Apr. 6, 2021), 86 FR 19054 (Apr. 12, 2021).

⁷⁰ Securities Exchange Act Rel. No. 93484 (Oct. 29, 2021), 86 FR 60933 (Nov. 4, 2021).

⁷¹ See Securities Exchange Act Rel. No. 90688 (Dec. 16, 2020), 85 FR 83634 (Dec. 22, 2020); and Securities Exchange Act Rel. No. 90689 (Dec. 16, 2020), 85 FR 83667 (Dec. 22, 2020) (collectively, the “2020 Orders”).

respect to settlement negotiations with the SEC staff regarding the 2020 Orders.

In addition to these services, CAT LLC engaged Covington in November 2021 to provide assistance with respect to the SEC's disapproval of CAT NMS Plan amendments concerning a proposed limitation on liability in the event of a data breach or similar event. Covington provided advice concerning CAT's response to the SEC's disapproval order. This work accounted for a minority of Covington's fees in 2021.⁷²

(VII) Consulting Costs

The consulting costs of \$1,408,209 represent the fees paid to Deloitte as project manager during FAM Period 3. CAT LLC continued to employ Deloitte during FAM Period 3 based on, among other things, their expertise and long history with the project. The fee rates for Deloitte during FAM Period 3 were negotiated and in line with market rates for this type of specialized consulting work. The consulting fees during FAM Period 3 were paid to Deloitte by CAT LLC. CAT LLC reviewed the consulting fees each month and approved the invoices. During FAM Period 3, Deloitte's CAT-related activities included the following:

- Implemented program operations for the CAT project;
- Provided support to the Operating Committee, the Chair of the Operating Committee and the Leadership Team, including project management support, coordination and planning for meetings and communications, and interfacing with law firms and the SEC;
- Assisted with cost and funding matters for the CAT, including the development of the CAT funding model and assistance with loans and the CAT bank account for CAT funding;
- Provided support for updating the SEC on the progress of the development of the CAT; and
- Provided support for third-party vendors for the CAT, including FCAT, Anchin and the law firms engaged by CAT LLC.

(VIII) Insurance

The insurance costs of \$1,582,714 represent the fees paid for insurance during FAM Period 3. CAT LLC continued to maintain cyber security liability insurance, directors' and officers' liability insurance, and errors

and omissions liability insurance offered by USI. After engaging in a process for renewing the coverage, CAT LLC determined to purchase these insurance policies from USI. The annual premiums for these policies were competitive for the coverage provided. The annual premiums were paid by CAT LLC to USI.

(IX) Professional and Administration Costs

The professional and administration costs of \$595,923 represent the fees paid to Anchin and Grant Thornton for financial services during FAM Period 3.

Financial Advisory Firm: Anchin. CAT LLC continued to employ Anchin during FAM Period 3 based on, among other things, their expertise and history with the project. The hourly fee rates for this firm were in line with market rates for these financial advisory services. The fees for these services during FAM Period 3 were paid by CAT LLC to Anchin. During FAM Period 3, Anchin provided a variety of services, including the following:

- Updated and maintained internal controls;
- Provided cash management and treasury functions;
- Facilitated bill payments;
- Provided monthly bookkeeping;
- Reviewed vendor invoices and documentation in support of cash disbursements;
- Provided accounting research and consultations on various accounting, financial reporting and tax matters;
- Addressed not-for-profit tax and accounting considerations;
- Prepared tax returns;
- Addressed various accounting, financial reporting and operating inquiries from Participants;
- Developed and maintained quarterly and annual operating and financial budgets, including budget to actual fluctuation analyses;
- Supported compliance with the CAT NMS Plan;
- Worked with and provided support to the Operating Committee and various CAT working groups;
- Prepared monthly, quarterly and annual financial statements;
- Supported the annual financial statement audits by an independent auditor;
- Reviewed historical costs from inception; and
- Provided accounting and financial information in support of SEC filings.

Accounting Firm: Grant Thornton. CAT LLC continued to employ the accounting firm Grant Thornton during FAM Period 3 based on, among other things, their expertise and cumulative

knowledge of CAT LLC. CAT LLC determined that Grant Thornton was well qualified for its role and that its fixed fee rates were in line with market rates for these accountant services. The fees for these services during FAM Period 3 were paid by CAT LLC to Grant Thornton. During FAM Period 3, Grant Thornton provided audited financial statements for CAT LLC.

(X) Public Relations Costs

The public relations costs of \$92,400 represent the fees paid to Peak Strategies during FAM Period 3. CAT LLC continued to employ Peak Strategies during FAM Period 3 based on, among other things, their expertise and history with the project. The fee rates for this firm were in line with market rates for these types of services. The fees for these services during FAM Period 3 were paid by CAT LLC to Peak Strategies. During FAM Period 3, Peak Strategies continued to provide professional communications services to CAT, including media relations consulting, strategy and execution. Specifically, the public relations firm provided services related to communications with the public regarding the CAT, including monitoring developments related to the CAT (e.g., congressional efforts, public comments and reaction to proposals, press coverage of the CAT), reporting such developments to CAT LLC, and drafting and disseminating communications to the public regarding such developments as well as reporting on developments related to the CAT (e.g., amendments to the CAT NMS Plan). As discussed above, such public relations services were important for various reasons, including monitoring comments made by market participants about the CAT and understanding issues related to the CAT discussed on the public record. By engaging a public relations firm, CAT LLC was better positioned to understand and address CAT matters to the benefit of all market participants.

(e) Excluded Costs

Historical CAT Costs 1 would not include three categories of CAT costs ("Excluded Costs"): (1) \$14,749,362 of costs related to the termination of the relationship with the Initial Plan Processor; (2) \$48,874,937, which are all CAT costs incurred from November 15, 2017 through November 15, 2018; and (3) \$19,628,791, which are costs paid to the Initial Plan Processor from November 16, 2018 through February 2019 when the relationship with the Initial Plan Processor was concluded. The Participants would remain

⁷² As discussed above with regard to Pillsbury's work on liability matters, liability issues related to the CAT are important matters that needed to be resolved and clarified. CAT LLC's efforts to seek such resolution and clarity work to the benefit of Participants, Industry Members and other market participants. Moreover, such activity is a necessary part of the operation of the CAT.

responsible for 100% of these costs, which total \$83,253,090. CAT LLC determined to exclude these Excluded Costs from Historical CAT Costs 1 because these costs relate to the delay in the start of reporting to the CAT and the conclusion of the relationship with the Initial Plan Processor.⁷³

(I) Costs Related to Conclusion of Relationship With Initial Plan Processor

First, Historical CAT Costs 1 would not include \$14,749,362 of costs related to the conclusion of the relationship with the Initial Plan Processor. Such

costs include costs related to the American Arbitration Association, the legal assistance of Pillsbury with regard to the arbitration with the Initial Plan Processor, and the settlement costs related to the arbitration with the Initial Plan Processor. The Participants would remain responsible for 100% of these \$14,749,362 in costs.

(II) Costs Incurred From November 15, 2017 Through November 15, 2018

Second, Historical CAT Costs 1 would not include all CAT costs incurred from November 15, 2017 through November

15, 2018. CAT LLC determined to exclude all costs during this one-year period of \$48,874,937 from fees charged to Industry Members due to the delay in the start of reporting to the CAT. The Participants would remain responsible for 100% of these \$48,874,937 in costs. The following table⁷⁴ breaks down these costs into the categories set forth in Section 11.3(b)(iii)(B)(II) of the CAT NMS Plan.

Operating expense	Excluded costs for November 15, 2017–November 15, 2018
Capitalized Developed Technology Costs	\$37,852,083
<i>Technology Costs:</i>	
Cloud Hosting Services	
Operating Fees	
CAIS Operating Fees	
Change Request Fees	
Legal	6,143,278
Consulting	4,452,106
Insurance	
Professional and administration	340,145
Public relations	87,325
Total Operating Expenses	48,874,937

The following provides additional detail regarding the Excluded Costs.

(a) Technology Costs—Cloud Hosting Services, Operating Fees, CAIS Operating Fees and Change Request Fees

CAT LLC did not incur technology costs related to the categories of cloud hosting services, operating fees, CAIS operating fees or change requests during the period from November 15, 2017 through November 15, 2018.

(b) Technology Costs—Capitalized Developed Technology Costs

Capitalized developed technology costs for the period from November 15, 2017 through November 15, 2018 include capitalizable application development costs of \$37,852,083 incurred in the development of the CAT by the Initial Plan Processor. Such costs include development costs incurred during the application development stage to meet various agreed-upon milestones regarding the CAT, as defined in the agreement between CAT LLC and the Initial Plan Processor. Such costs include costs related to Industry

Member technical specifications for orders and transactions, the system security plan, testing and production for Participant CAT reporting, third-party security assessment and response, query portal, onboarding of the Chief Information Security Officer, and ingestion of FINRA TRF data and FINRA data related to halts and corporate actions.

(c) Legal Costs

The legal costs of \$6,143,278 represent the fees paid to WilmerHale for legal services from November 15, 2017 through November 15, 2018. During this period, WilmerHale provided legal assistance to the CAT, including with regard to the following:

- Provided legal support for the governance of the CAT, including governance support for the Operating Committee, Advisory Committee, Compliance Subcommittee, and CAT working groups;

- Assisted with the development of the CAT funding model and drafted related amendments of the CAT NMS Plan;

- Provided assistance related to CAT security;

- Drafted exemptive requests, including requests related to PII;
- Assisted with the Implementation Plan required pursuant to Section 6.6(c)(i) of the CAT NMS Plan;
- Provided interpretations of and related to the CAT NMS Plan;
- Provided advice with regard to regulator access to the CAT;
- Assisted with the Plan Processor transition;
- Provided assistance regarding communications with the industry regarding the CAT;
- Provided advice regarding Customer Account Information and PII;
- Provided support for litigation related to SEC exemptive orders; and
- Provided support with regard to discussions with the SEC and its staff, including with respect to addressing interpretative and implementation issues.

(d) Consulting Costs

The consulting costs of \$4,452,106 represent the fees paid to Deloitte for their role as project manager for the CAT from November 15, 2017 through

⁷³ In approving the CAT Funding Model, the Commission states that “the proposed exclusion of the excluded costs from Past CAT Costs is appropriate in the Commission’s view because it would not require all costs incurred by the Participants to be recovered from Industry Members

through the Historical CAT Assessment, specifically excluding those costs related to the delay in the start of reporting to the CAT and costs related to the conclusion of the relationship with the Initial Plan Processor.” CAT Funding Model Approval Order at 13450.

⁷⁴ The costs described in this table of Excluded Costs were calculated based upon CAT LLC’s review of applicable bills and invoices and related financial statements. CAT LLC financial statements are available on the CAT website.

November 15, 2018. During this period, Deloitte engaged in the following activities with respect to the CAT:

- Implemented program operations for the CAT project;
- Provided governance support to the Operating Committee, including support for Subcommittees and working groups of the Operating Committee (e.g., Compliance Subcommittee, Cost and Funding Working Group, Technical Working Group, Industry Outreach Working Group, Security Working Group and Steering Committee);
- Assisted with cost and funding issues for the CAT, including the development of the CAT funding model and assistance with loans and the CAT bank account for CAT funding;
- Provided support for updating the SEC on the progress of the development of the CAT; and
- Provided active planning and coordination with and support for the Initial Plan Processor with regard to the development of the CAT, and reported to the Participants on the progress.

(e) Insurance

CAT LLC did not incur costs related to insurance during the period from November 15, 2017 through November 15, 2018.

(f) Professional and Administration Costs

The professional and administration costs of \$340,145 represent the fees paid to Anchin, Exegy and RSM from November 15, 2017 through November 15, 2018.

Financial Advisory Firm: Anchin. From the commencement of its engagement in April 2018 through November 15, 2018, Anchin engaged in the following activities with respect to the CAT:

- Developed, updated and maintained internal controls;
- Provided cash management and treasury functions;
- Facilitated bill payments;
- Provided monthly bookkeeping;
- Reviewed vendor invoices and documentation in support of cash disbursements;
- Provided accounting research and consultations on various accounting, financial reporting and tax matters;
- Addressed not-for-profit tax and accounting considerations;
- Prepared tax returns;
- Addressed various accounting, financial reporting and operating inquiries from Participants;
- Developed and maintained quarterly and annual operating and financial budgets, including budget to actual fluctuation analyses;

- Addressed accounting and financial matters relating to the transition from CAT NMS, LLC to Consolidated Audit Trail, LLC, including supporting the dissolution of CAT NMS, LLC;

- Supported compliance with the CAT NMS Plan;
- Worked with and provided support to the Operating Committee and various CAT working groups;
- Prepared monthly, quarterly and annual financial statements;
- Supported the annual financial statement audits by an independent auditor;
- Reviewed historical costs from inception; and
- Provided accounting and financial information in support of SEC filings.

Market Data Provider: Exegy. From July 2018 through November 15, 2018, CAT LLC purchased market data from Exegy (as described in more detail above).

Security Assessment: RSM. From October 2018 through November 15, 2018, CAT LLC incurred costs for RSM's performance of a security assessment (as described in more detail above).

(g) Public Relations Costs

The public relations costs of \$87,325 represent the fees paid to Sloane from November 15, 2017 through November 15, 2018. From the commencement of its engagement in March 2018 through November 15, 2018, Sloane provided professional communications services to CAT, including media relations consulting, strategy and execution. Specifically, Sloane provided services related to communications with the public regarding the CAT, including monitoring developments related to the CAT (e.g., congressional efforts, public comments and reaction to proposals, press coverage of the CAT), reporting such developments to CAT LLC, and drafting and disseminating communications to the public regarding such developments as well as reporting on developments related to the CAT (e.g., amendments to the CAT NMS Plan).

(III) Costs Paid to Initial Plan Processor From November 16, 2018 Through February 2019

Third, Historical CAT Costs 1 would not include the \$19,628,791 in costs paid to the Initial Plan Processor from November 16, 2018 through February 2019 when CAT LLC's relationship with the Initial Plan Processor concluded. CAT LLC determined that Historical CAT Costs 1 would not include any fees paid to the Initial Plan Processor after

November 15, 2017,⁷⁵ which was the date by which Participants were required to begin reporting to the CAT.⁷⁶ As discussed above, the Participants determined that Historical CAT Costs 1 would not include all CAT costs incurred from November 15, 2017 through November 15, 2018, which includes \$37,852,083 in Initial Plan Processor costs incurred from November 15, 2017 through November 15, 2018 (as well as other CAT costs during this period). The remaining Initial Plan Processor costs incurred after November 15, 2018 are the \$19,628,791 in costs for the period from November 16, 2018 through February 2019 incurred in the development of the CAT by the Initial Plan Processor, as well as a transition fee for the transition from the Initial Plan Processor to the successor Plan Processor. The Participants would remain responsible for 100% of these \$19,628,791 in costs.

(ii) Previously Invoiced Costs for Historical CAT Costs 1

CEBBs and CEBSSs collectively have been invoiced for \$173,075,024 of the \$212,039,879.34 of Historical CAT Costs 1 via Historical CAT Assessment 1, where \$86,537,512 was invoiced collectively to CEBBs and \$86,537,512 was invoiced collectively to CEBSSs. Accordingly, Historical CAT Assessment 1A would seek to recover the remaining \$38,964,855.34 of Historical CAT Costs 1 collectively from CEBBs and CEBSSs, where CEBBs collectively will be responsible for \$19,482,427.67, and CEBSSs collectively will be responsible for \$19,482,427.67.

(C) Historical Recovery Period 1A

Under the CAT NMS Plan, the Operating Committee is required to reasonably establish the length of the Historical Recovery Period used in calculating each Historical Fee Rate based upon the amount of the Historical CAT Costs to be recovered by the Historical CAT Assessment, and to describe the reasons for its length.⁷⁷ The Historical Recovery Period used in calculating the Historical Fee Rate may not be less than 24 months or more than

⁷⁵ As discussed below, CAT LLC believes that it is appropriate to recover costs related to the services performed by the Initial Plan Processor prior to November 15, 2017. See Section 3(a)(10)(E) below.

⁷⁶ The SEC approved the CAT NMS Plan on November 15, 2016, and Participant reporting was required to begin on the first anniversary of this date, November 15, 2017. See Section 6.3 of the CAT NMS Plan and CAT NMS Plan Approval Order.

⁷⁷ Section 11.3(b)(i)(D)(I) and Section 11.3(b)(iii)(B)(II) of the CAT NMS Plan.

five years.⁷⁸ The Operating Committee has determined to establish a Historical Recovery Period 1A of 24 months for Historical CAT Assessment 1A.

The Operating Committee determined that the length of Historical Recovery Period 1A appropriately weighs the need for a reasonable Historical Fee Rate 1A that spreads the Historical CAT Costs over an appropriate amount of time and the need to repay the loans to the Participants in a timely fashion. The Operating Committee determined that 24 months for Historical Recovery Period 1A would establish a fee rate that is lower than other transaction-based fees, including fees assessed pursuant to Section 31.⁷⁹ In addition, in establishing a Historical Recovery Period of 24 months, the Operating Committee recognized that the total costs for Historical CAT Assessment 1A were less than the total costs for 2022 and 2023,⁸⁰ and therefore it would be reasonable and appropriate to recover costs subject to this filing over an approximate two-year period.⁸¹

The length of the Historical Recovery Period 1A and the reasons for its length are provided in this filing in accordance with the requirement in the CAT NMS Plan to provide such information in a fee filing for a Historical CAT Assessment.⁸²

(D) Projected Total Executed Equivalent Share Volume

The calculation of the fee rate for Historical CAT Assessment 1A also requires the determination of the projected total executed equivalent share volume of transactions in Eligible Securities for Historical Recovery Period 1A. Under the CAT NMS Plan, the Operating Committee is required to “reasonably determine the projected total executed equivalent share volume of all transactions in Eligible Securities for each Historical Recovery Period based on the executed equivalent share

volume of all transactions in Eligible Securities for the prior twelve months.”⁸³ The Operating Committee is required to base its projection on the prior twelve months, but it may use its discretion to analyze the likely volume for the upcoming year. Such discretion would allow the Operating Committee to use its judgment when estimating projected total executed equivalent share volume if the volume over the prior twelve months was unusual or otherwise unfit to serve as the basis of a future volume estimate.⁸⁴

The total executed equivalent share volume of transactions in Eligible Securities for the 12-month period from March 2025 through February 2026 was 5,980,937,549,360.49 executed equivalent shares. The Operating Committee has determined to calculate the projected total executed equivalent share volume for the 24 months of Historical Recovery Period 1A by doubling the executed equivalent share volume for the prior 12 months. The Operating Committee determined that such an approach was reasonable as the CAT’s annual executed equivalent share volume has increased from prior years (e.g., the executed equivalent share volume for 2024 was 4,295,884,600,069.4), and the Operating Committee believes that it is reasonable to conclude that the annual executed equivalent share volume will remain at the higher level. Accordingly, the projected total executed equivalent share volume for Historical Recovery Period 1A is projected to be 11,961,875,098,720.98 executed equivalent shares.⁸⁵

The projected total executed equivalent share volume of all transactions in Eligible Securities for Historical Recovery Period 1A and a description of the calculation of the projection is provided in this filing in accordance with the requirement in the CAT NMS Plan to provide such information in a fee filing for a Historical CAT Assessment.⁸⁶

(E) Fee Rate for Historical CAT Assessment 1A

The fee rate for Historical CAT Assessment 1A would be calculated by dividing the total amount of costs to be recovered by Historical CAT Assessment 1A by the reasonably projected total executed equivalent share volume of all transactions in

Eligible Securities for Historical Recovery Period 1A, and dividing by 2. Specifically, the fee rate for Historical CAT Assessment 1A would be calculated by dividing \$38,964,855.34 by 11,961,875,098,720.98, and then dividing by 2, which equals \$0.00000162871017371542 per executed equivalent shares. Rounding this to six decimal places results in a fee rate of \$0.000002 per executed equivalent share.⁸⁷ This fee rate is provided in this filing in accordance with the requirement in the CAT NMS Plan to provide the Historical Fee Rate in a fee filing for a Historical CAT Assessment.⁸⁸

(3) Past CAT Costs and Participants

Participants would not be required to pay any fees associated with Historical CAT Assessment 1A as the Participants previously have paid all Past CAT Costs. The CAT NMS Plan explains that:

Because Participants previously have paid Past CAT Costs via loans to the Company, Participants would not be required to pay any Historical CAT Assessment. In lieu of a Historical CAT Assessment, the Participants’ one-third share of Historical CAT Costs and such other additional Past CAT Costs as reasonably determined by the Operating Committee will be paid by the cancellation of loans made to the Company on a pro rata basis based on the outstanding loan amounts due under the loans.⁸⁹

The CAT NMS Plan further states that “Historical CAT Assessments are designed to recover two-thirds of the Historical CAT Costs.”⁹⁰

(4) Monthly Fees

CEBBs and CEBs would be required to pay fees for Historical CAT Assessment 1A on a monthly basis for the period in which Historical CAT

⁷⁸ Section 11.3(b)(i)(D)(I) of the CAT NMS Plan. In the CAT Funding Model Approval Order, the SEC stated that “[i]n the Commission’s view, it is appropriate for the Operating Committee to establish the length of the Historical Recovery Period to be no less than 24 months and no more than five years.” CAT Funding Model Approval Order at 13451.

⁷⁹ For example, as the SEC noted in the CAT Funding Model Approval Order, recent Section 31 fees ranged from \$0.00007 per share to \$0.00072 per share. CAT Funding Model at 13469.

⁸⁰ The total CAT costs for 2022 were approximately \$186 million and the total CAT costs for 2023 were approximately \$233 million.

⁸¹ Note that the proposed 24-month recovery period also recognizes the prohibition on the collection of Historical CAT Assessments after March 31, 2028 as set forth in Section 11.3(f) of the CAT NMS Plan.

⁸² Section 11.3(b)(iii)(B)(II)(C) of the CAT NMS Plan.

⁸³ Section 11.3(b)(i)(E) of the CAT NMS Plan.

⁸⁴ CAT Funding Model Approval Order at 13452.

⁸⁵ This projection was calculated by multiplying 5,980,937,549,360.49 executed equivalent shares by two.

⁸⁶ Section 11.3(b)(iii)(B)(II)(D) of the CAT NMS Plan.

⁸⁷ As the SEC noted in approving the CAT Funding Model, the fee filing would provide the exact fee per executed equivalent share and describe the relevant number of decimal places for the fee rate. CAT Funding Model Approval Order at 13445, n.677. The Operating Committee determined to use six decimal places to balance the accuracy of the calculation with the potential systems and other impracticalities of using additional decimal places in the calculation.

⁸⁸ Section 11.3(b)(iii)(B)(II)(A) of the CAT NMS Plan.

⁸⁹ Section 11.3(b)(ii) of the CAT NMS Plan.

⁹⁰ *Id.* In approving the CAT Funding Model, the Commission stated that the proposed allocation of the Historical CAT Assessment solely to CEBs and CEBBs is appropriate. The Historical CAT Assessment will still be divided into thirds, as the Participants’ one-third share of Historical CAT Costs will be paid by the cancellation of loans made to the Company. CAT Funding Model Approval Order at 13453.

Assessment 1A is in effect.⁹¹ A CEBB or CEBS's fee for each month would be calculated based on the transactions in Eligible Securities executed by the CEBB or CEBS from the prior month.⁹² Proposed paragraph (a)(2)(A) of the fee schedule would state that each CAT Executing Broker would receive its first invoice in June 2026, and "would receive an invoice each month thereafter in which Historical CAT Assessment 1A is in effect." Proposed paragraph (a)(2)(B) of the fee schedule would state that "Consolidated Audit Trail, LLC shall provide each CAT Executing Broker with an invoice for Historical CAT Assessment 1A on a monthly basis." In addition, paragraph (b)(1) of the fee schedule states that each CEBB and CEBS is required to pay its CAT fees "each month."

(5) Actual Recovery Period for Historical CAT Assessment 1A

The CAT NMS Plan states that, "[n]otwithstanding the length of the Historical Recovery Period used in calculating the Historical Fee Rate, each Historical CAT Assessment calculated using the Historical Fee Rate will remain in effect until all Historical CAT Costs for the Historical CAT Assessment are collected."⁹³ Accordingly, Historical CAT Assessment 1A will remain in effect until the remaining \$38,964,855.34 of Historical CAT Costs 1 have been collected.⁹⁴ The actual recovery period for Historical CAT Assessment 1A may be shorter or longer than Historical Recovery Period 1A depending on the actual executed equivalent share volumes during the time that Historical CAT Assessment 1A is in effect and subject to any time limitation in the CAT NMS Plan.⁹⁵

(6) Consolidated Audit Trail Funding Fees

To implement Historical CAT Assessment 1A, a new section would be added to the Exchange's fee schedule for "Consolidated Audit Trail Funding Fees", and it would include the proposed paragraphs described below.

(A) Fee Schedule for Historical CAT Assessment 1A

The CAT NMS Plan states that: Each month in which a Historical CAT Assessment is in effect, each CEBB and each CEBS shall pay a fee for each transaction in Eligible Securities executed by the CEBB or CEBS from the prior month as set forth in CAT Data, where the Historical CAT Assessment for each transaction will be calculated by multiplying the number of executed equivalent shares in the transaction by one-third and by the Historical Fee Rate reasonably determined pursuant to paragraph (b)(i) of this Section 11.3.⁹⁶

Accordingly, based on the factors discussed above, the Exchange proposes to add paragraph (a)(2) to the Consolidated Audit Trail Funding Fees section of its fee schedule. Proposed paragraph (a)(2) would state the following:

(A) Each CAT Executing Broker shall receive its first invoice for Historical CAT Assessment 1A in June 2026, which shall set forth the Historical CAT Assessment 1A fees calculated based on transactions in May 2026, and shall receive an invoice for Historical CAT Assessment 1A for each month thereafter in which Historical CAT Assessment 1A is in effect.

(B) Consolidated Audit Trail, LLC shall provide each CAT Executing Broker with an invoice for Historical CAT Assessment 1A on a monthly basis. Each month, such invoices shall set forth a fee for each transaction in Eligible Securities executed by the CAT Executing Broker in its capacity as a CAT Executing Broker for the Buyer ("CEBB") and/or the CAT Executing Broker for the Seller ("CEBS") (as applicable) from the prior month as set forth in CAT Data. The fee for each such transaction will be calculated by multiplying the number of executed equivalent shares in the transaction by the fee rate of \$0.000002 per executed equivalent share.

(C) Historical CAT Assessment 1A will remain in effect until \$38,964,855.34 is collected from CAT Executing Brokers collectively, which is estimated to be approximately two years, but could be for a longer or shorter period of time. Consolidated Audit Trail, LLC will provide notice when Historical CAT Assessment 1A will no longer be in effect.

(D) Each CAT Executing Broker shall be required to pay each invoice for Historical CAT Assessment 1A in accordance with paragraph (b).

Proposed paragraph (a)(2)(B) of the fee schedule would set forth the fee rate of

\$0.000002 per executed equivalent share for Historical CAT Assessment 1A, which is calculated as discussed above.

The proposed language in paragraph (a)(2)(B) of the fee schedule would describe when CAT Executing Brokers would receive their first monthly invoice for Historical CAT Assessment 1A. Specifically, CAT Executing Brokers would receive their first monthly invoice for Historical CAT Assessment 1A in June 2026 and the fees set forth in that invoice would be calculated based on transactions executed in the prior month, that is, transactions executed in May 2026. The payment for the first invoice would be required within 30 days after the receipt of the first invoice (unless a longer period is indicated), as described in paragraph (b)(2) of the fee schedule.

Proposed paragraph (a)(2)(A) of the fee schedule also would describe the monthly cadence of the invoices for Historical CAT Assessment 1A. Specifically, after the first invoices are provided to CAT Executing Brokers in June 2026, invoices will be sent to CAT Executing Brokers each month thereafter while Historical CAT Assessment 1A is in effect.

Proposed paragraph (a)(2)(B) of the fee schedule would describe the invoices for Historical CAT Assessment 1A. Proposed paragraph (a)(2)(B) of the fee schedule would state that "Consolidated Audit Trail, LLC shall provide each CAT Executing Broker with an invoice for Historical CAT Assessment 1A on a monthly basis." Proposed paragraph (a)(2)(B) of the fee schedule also would describe the fees to be set forth in the invoices for Historical CAT Assessment 1A. Specifically, it would state that "[e]ach month, such invoices shall set forth a fee for each transaction in Eligible Securities executed by the CAT Executing Broker in its capacity as a CAT Executing Broker for the Buyer ("CEBB") and/or the CAT Executing Broker for the Seller ("CEBS") (as applicable) from the prior month as set forth in CAT Data. The fee for each such transaction will be calculated by multiplying the number of executed equivalent shares in the transaction by the fee rate of \$0.000002 per executed equivalent share."

Furthermore, proposed paragraph (a)(2)(C) of the fee schedule would describe how long Historical CAT Assessment 1A would remain in effect. It would state that "Historical CAT Assessment 1A will remain in effect until \$38,964,855.34 is collected from CAT Executing Brokers collectively, which is estimated to be approximately two years, but could be for a longer or

⁹¹ See Section 11.3(b)(iii)(A) of the CAT NMS Plan.

⁹² See proposed paragraph (a)(2)(B) of the fee schedule.

⁹³ Section 11.3(b)(i)(D)(II) of the CAT NMS Plan.

⁹⁴ In approving the CAT Funding Model, the Commission stated that, "[i]n the Commission's view, it is appropriate for Industry Members to be charged a Historical CAT Assessment until all Historical CAT Costs for the Historical CAT Assessment are collected." CAT Funding Model Approval Order at 13452.

⁹⁵ Section 11.3(f) of the CAT NMS Plan would prohibit the billing of Historical CAT Assessments after March 31, 2028.

⁹⁶ Section 11.3(b)(iii)(A) of the CAT NMS Plan.

shorter period of time.” This proposed paragraph would further state that “Consolidated Audit Trail, LLC will provide notice when Historical CAT Assessment 1A will no longer be in effect.”

Historical CAT Assessment 1A will be assessed for all transactions executed in each month through the end of the month in which \$38,964,855.34 is assessed, and then CAT LLC will provide notice that Historical CAT Assessment 1A is no longer in effect. Since Historical CAT Assessment 1A is a monthly fee based on transaction volume from the prior month, Historical CAT Assessment 1A may collect more than \$38,964,855.34. To the extent that occurs, any excess money collected during the final month in which Historical CAT Assessment 1A is in effect will be used to offset future fees and/or to fund the reserve for the CAT.

Finally, proposed paragraph (a)(2)(D) of the fee schedule sets forth the requirement for the CAT Executing Brokers to pay the invoices for Historical CAT Assessment 1A. It would state that “[e]ach CAT Executing Broker shall be required to pay each invoice for Historical CAT Assessment 1A in accordance with paragraph (b).”

(B) Manner of Payment

Paragraph (b)(1) of the “Consolidated Audit Trail Funding Fees” section of its fee schedule describes the manner of payment of Industry Member CAT fees. Paragraph (b)(1) states that “[e]ach CAT Executing Broker shall pay its CAT fees as required pursuant to paragraph (a) each month to the Consolidated Audit Trail, LLC in the manner prescribed by the Consolidated Audit Trail, LLC.” The CAT NMS Plan requires the Operating Committee to establish a system for the collection of CAT fees.⁹⁷ The Plan Processor has established a billing system for CAT fees.⁹⁸ Therefore, the Exchange proposes to require CAT Executing Brokers to pay Historical CAT Assessment 1A in accordance with such system.

(C) Failure To Pay CAT Fees

The CAT NMS Plan further states that:

Participants shall require each Industry Member to pay all applicable fees authorized under this Article XI

within thirty (30) days after receipt of an invoice or other notice indicating payment is due (unless a longer payment period is otherwise indicated). If an Industry Member fails to pay any such fee when due (as determined in accordance with the preceding sentence), such Industry Member shall pay interest on the outstanding balance from such due date until such fee is paid at a per annum rate equal to the lesser of: (a) the Prime Rate plus 300 basis points; or (b) the maximum rate permitted by applicable law.⁹⁹

Accordingly, the Exchange previously has added this requirement to the Exchange’s fee schedule. Specifically, paragraph (b)(2) of the fee schedule states:

Each CAT Executing Broker shall pay the CAT fees required pursuant to paragraph (a) within thirty days after receipt of an invoice or other notice indicating payment is due (unless a longer payment period is otherwise indicated). If a CAT Executing Broker fails to pay any such CAT fee when due, such CAT Executing Broker shall pay interest on the outstanding balance from such due date until such fee is paid at a per annum rate equal to the lesser of (i) the Prime Rate plus 300 basis points, or (ii) the maximum rate permitted by applicable law.

The requirements of paragraph (b)(2) would apply to Historical CAT Assessment 1A.

(7) Historical CAT Assessment Details

The CAT NMS Plan states that: Details regarding the calculation of a CAT Executing Broker’s Historical CAT Assessment will be provided upon request to such CAT Executing Broker. At a minimum, such details would include each CAT Executing Broker’s executed equivalent share volume and corresponding fee by (1) Listed Options, NMS Stocks and OTC Equity Securities, (2) by transactions executed on each exchange and transactions executed otherwise than on an exchange, and (3) by buy-side transactions and sell-side transactions.¹⁰⁰

Such information would provide CEBBs and CEBBs with the ability to understand the details regarding the calculation of their Historical CAT Assessment.¹⁰¹ CAT LLC will provide CAT Executing Brokers with these

details regarding the calculation of their Historical CAT Assessments on their monthly invoice for the Historical CAT Assessment.

In addition, CAT LLC will make certain aggregate statistics regarding Historical CAT Assessments publicly available. Specifically, the CAT NMS Plan states that, “[f]or each Historical CAT Assessment, at a minimum, CAT LLC will make publicly available the aggregate executed equivalent share volume and corresponding aggregate fee by (1) Listed Options, NMS Stocks and OTC Equity Securities, (2) by transactions executed on each exchange and transactions executed otherwise on an exchange, and (3) by buy-side transactions and sell-side transactions.”¹⁰² Such aggregate statistics will be available on the CAT website.

Furthermore, CAT LLC will make publicly available on the CAT website the total amount invoiced each month that Historical CAT Assessment 1A is in effect as well as the total amount invoiced for Historical CAT Assessment 1A for all months since its commencement. CAT LLC also will make publicly available on the CAT website the total costs to be collected from Industry Members for Historical CAT Assessment 1A. By reviewing statistics regarding how much has been invoiced and how much remains to be invoiced for Historical CAT Assessment 1A, Industry Members would have sufficient information to reasonably track how much longer Historical CAT Assessment 1A is likely to be in place.

(8) Billing Implementation

To date, CAT LLC, via FCAT, has billed Industry Members for Historical CAT Assessment 1 and certain Prospective CAT Fees. Industry Members will be billed for Historical CAT Assessment 1A via the same processes established for Historical CAT Assessment 1 and the Prospective CAT Fees. Accordingly, Industry Members have substantial experience with the CAT billing processes.

(9) Financial Accountability Milestones

The CAT NMS Plan states that “[n]o Participant will make a filing with the SEC pursuant to Section 19(b) of the Exchange Act regarding any Historical CAT Assessment until any applicable

⁹⁷ Section 11.4 of the CAT NMS Plan.

⁹⁸ The billing process and system are described in CAT Alert 2023-02 as well as the CAT FAQs related to the billing of CAT fees, the Industry Member CAT Reporter Portal User Guide, the FCAT Industry Member Onboarding Guide, the FCAT Connectivity Supplement for Industry Members and the CAT Billing Webinars (dated Sept. 28, 2023, and Nov. 7, 2023), each available on the CAT website.

⁹⁹ Section 11.4 of the CAT NMS Plan.

¹⁰⁰ Section 11.3(a)(iv)(A) of the CAT NMS Plan.

¹⁰¹ In approving the CAT Funding Model, the Commission stated that, “[i]n the Commission’s view, providing CAT Execut[ing] Brokers information regarding the calculation of their CAT Fees will aid in transparency and permit CAT Execut[ing] Brokers to confirm the accuracy of their invoices for CAT Fees.” CAT Funding Model Approval Order at 13454.

¹⁰² Section 11.3(a)(iv)(B) of the CAT NMS Plan. In approving the CAT Funding Model, the Commission stated that “[t]he publication of the aggregate executed equivalent share volume and aggregate fee is appropriate because it would allow Participants and CAT Executing Brokers a high-level validation of executed volume and fees.” CAT Funding Model Approval Order at 13454.

Financial Accountability Milestone described in Section 11.6 has been satisfied.”¹⁰³ The CAT NMS Plan further states that “in all filings submitted by the Participants to the Commission under Section 19(b) of the Exchange Act, to establish or implement Post-Amendment Industry Member Fees pursuant to this Article, . . . the Participants shall clearly indicate whether such fees are related to Post-Amendment Expenses incurred during Period 1, Period 2, Period 3, or Period 4.”¹⁰⁴ As discussed in detail below, all applicable Financial Accountability Milestones for Historical CAT Assessment 1A—that is, Period 1, Period 2 and Period 3 of the Financial Accountability Milestones—have been satisfied. Furthermore, as discussed below, this filing clearly indicates that Historical CAT Assessment 1A relates to Post-Amendment Expenses incurred during Periods 1, 2 and 3 of the Financial Accountability Milestones.

(A) Period 1 of the Financial Accountability Milestones

In accordance with Section 11.6(b) of the CAT NMS Plan, Historical CAT Assessment 1A seeks to recover costs that are related to “all fees, costs, and expenses (including legal and consulting fees, costs, and expenses) incurred by or for the Company in connection with the development, implementation and operation of the CAT from the effective date of [Section 11.6 of the CAT NMS Plan] until such time as Full Implementation of CAT NMS Plan Requirements has been achieved”¹⁰⁵ (“Post-Amendment Expenses”) incurred during FAM Period 1. FAM Period 1 began on June 22, 2020, the effective date of Section 11.6 of the CAT NMS Plan, and concluded on July 31, 2020, the date of Initial Industry Member Core Equity and Options Reporting. Section 1.1 of the CAT NMS Plan defines “Initial Industry Member Core Equity and Options Reporting” as:

The reporting by Industry Members (excluding Small Industry Members that are not OATS reporters) of both: (a) equities transaction data, excluding Customer Account Information, Customer-ID, and Customer Identifying Information; and (b) options transaction data, excluding Customer Account Information, Customer-ID and Customer Identifying Information.

Under Section 1.1 of the CAT NMS Plan, this Financial Accountability

Milestone is considered complete as of the date identified in the Participants’ Quarterly Progress Reports.¹⁰⁶ As indicated by the Participants’ Quarterly Progress Report for the third quarter of 2020,¹⁰⁷ Initial Industry Member Core Equity and Option Reporting was completed on schedule on July 22, 2020, which is prior to the July 31, 2020 deadline.

Under the FAM Period 1 requirement of Initial Industry Member Core Equity and Options Reporting, Industry Members—excluding Small Industry Members that are not OATS reporters—were required to report two categories of data to the CAT: equities transaction data and options transaction data (both excluding Customer Account Information, Customer-ID, and Customer Identifying Information) by July 31, 2020. Pursuant to exemptive relief provided by the Commission, the Commission authorized the Participants’ Compliance Rules to allow core equity reporting for Industry Members (Phase 2a) to begin on June 22, 2020 and core options reporting for Industry Members (Phase 2b) to begin on July 20, 2020.¹⁰⁸

In adopting the FAMs, the Commission stated that the equities transaction reporting required for FAM Period 1 “is consistent with the functionality that the Participants describe on the CAT NMS Plan website as ‘Production Go-Live for Equities 2a file submission and data integrity validations.’”¹⁰⁹ The Phase 2a Industry Member Data is described in detail in the SEC’s Phased Reporting Exemptive Relief Order, and includes the following data related to Eligible Securities that are equities:

- All events and scenarios covered by OATS, which includes information

¹⁰⁶ The Quarterly Progress Reports are available at <https://www.catnmsplan.com/implementation-plan>.

¹⁰⁷ See Q3 2020 Quarterly Progress Report (Oct. 30, 2020) and Updated Q3 2020 Quarterly Progress Report (Jan. 29, 2021).

¹⁰⁸ See Phased Reporting Exemptive Relief Order. Under the CAT NMS Plan as adopted, the Participants were required, through their Compliance Rules, to require their Large Industry Members to commence reporting Industry Member Data to the Central Repository by November 15, 2018, and to require their Small Industry Members to commence reporting Industry Member Data to the Central Repository by November 15, 2019. Sections 6.7(a)(v) and (vi) of the CAT NMS Plan. The SEC granted exemptive relief from these provisions of the CAT NMS Plan to allow for the phased implementation of Industry Member reporting via five phases addressing the reporting requirements for Phase 2a Industry Member Data, Phase 2b Industry Member Data, Phase 2c Industry Member Data, Phase 2d Industry Member Data and Phase 2e Industry Member Data.

¹⁰⁹ Securities Exchange Act Rel. No. 88890 (May 15, 2020), 85 FR 31322, 31330 n.97 (May 22, 2020) (“FAM Adopting Release”).

related to the receipt or origination of orders, order transmittal, and order modifications, cancellations and executions;

- Reportable Events for: (1) proprietary orders, including market maker orders, for Eligible Securities that are equities; (2) electronic quotes in listed equity Eligible Securities (*i.e.*, NMS stocks) sent to a national securities exchange or FINRA’s Alternative Display Facility (“ADF”); (3) electronic quotes in unlisted Eligible Securities (*i.e.*, OTC Equity Securities) received by an Industry Member operating an interdealer quotation system (“IDQS”); and (4) electronic quotes in unlisted Eligible Securities sent to an IDQS or other quotation system not operated by a Participant or Industry Member;

- Firm Designated IDs (“FDIDs”), which Industry Members must report to the CAT as required by Sections 6.3(d)(i)(A) and 6.4(d)(ii)(C) of the CAT NMS Plan;

- Industry Members would be required to report all street side representative orders, including both agency and proprietary orders and mark such orders as representative orders, except in certain limited exceptions as described in the Industry Member Technical Specifications;

- The link between the street side representative order and the order being represented when: (1) the representative order was originated specifically to represent a single order received either from a customer or another broker-dealer; and (2) there is (a) an existing direct electronic link in the Industry Member’s system between the order being represented and the representative order and (b) any resulting executions are immediately and automatically applied to the represented order in the Industry Member’s system;

- Manual and Electronic Capture Time for Manual Order Events;

- Special handling instructions for the original receipt or origination of an order during Phase 2a; and

- When routing an order, whether the order was routed as an intermarket sweep order (“ISO”).

In Phase 2a, Industry Members were not required to report modifications of a previously routed order in certain limited instances, nor were they required to report a cancellation of an order received from a Customer after the order has been executed.¹¹⁰

The Quarterly Progress Report for the third quarter of 2020 states that “Interim Step: Production Go-Live for Equities 2a file submission and data integrity

¹¹⁰ Phased Reporting Exemptive Relief Order at 23076–78.

¹⁰³ Section 11.3(b)(iii)(B)(III) of the CAT NMS Plan.

¹⁰⁴ Section 11.6(b) of the CAT NMS Plan.

¹⁰⁵ Section 11.6 of the CAT NMS Plan.

validation (Large Industry Members and Small OATS Reporters)” was completed on June 22, 2020. Accordingly, the FAM Period 1 requirement of reporting by Industry Members (excluding Small Industry Members that are not OATS reporters) of “equities transaction data, excluding Customer Account Information, Customer-ID, and Customer Identifying Information” was completed on June 22, 2020.

In adopting the FAMs, the Commission stated that the options transaction reporting required for FAM Period 1 is “consistent with the functionality that the Participants describe on the CAT NMS Plan website as ‘Production Go-Live for Options 2b file submission and data integrity validations.’”¹¹¹ The Phase 2b Industry Member Data is described in detail in the SEC’s Phased Reporting Exemptive Relief Order, and includes the Industry Member Data related to Eligible Securities that are options and related to simple electronic option orders, excluding electronic paired option orders. A simple electronic option order is an order to buy or sell a single option that is not related to or dependent on any other transaction for pricing and timing of execution that is either received or routed electronically by an Industry Member. Electronic receipt of an order is defined as the initial receipt of an order by an Industry Member in electronic form in standard format directly into an order handling or execution system. Electronic routing of an order is the routing of an order via electronic medium in standard format from one Industry Member’s order handling or execution system to an exchange or another Industry Member. An electronic paired option order is an electronic option order that contains both the buy and sell side that is routed to another Industry Member or exchange for crossing and/or price improvement as a single transaction on an exchange. Responses to auctions of simple orders and paired simple orders would be reportable in Phase 2b. Furthermore, combined orders in options would be treated in Phase 2b in the same way as equity representative orders are treated in Phase 2a. A combined order would mean, as permitted by SRO rules, a single, simple order in Listed Options created by combining individual, simple orders in Listed Options from a customer with the same exchange origin code before routing to an exchange. During Phase 2b, the single combined order sent to an exchange must be reported and marked as a combined order, but the linkage to the underlying

orders is not required to be reported until Phase 2d.¹¹²

The Quarterly Progress Report for the third quarter of 2020 states that “Interim Step: Production Go-Live for Options 2b file submission and data integrity validations” was completed on July 20, 2020. Accordingly, the FAM Period 1 requirement of reporting by Industry Members (excluding Small Industry Members that are not OATS reporters) of “options transaction data, excluding Customer Account Information, Customer-ID and Customer Identifying Information” was completed on July 20, 2020.

As discussed above, the remaining Historical CAT Costs 1 to be recovered via Historical CAT Assessment 1A would include fees, costs and expenses incurred by or for the Company in connection with the development, implementation and operation of the CAT during the period from June 22, 2020 through July 31, 2020. The total costs for this period, as discussed above, are \$6,377,343. Participants would remain responsible for one-third of this cost (which they have previously paid), and Industry Members would be responsible for the remaining two-thirds, with CEBBs paying one-third (\$2,125,781) and CEBSSs paying one-third (\$2,125,781) through Historical CAT Assessment 1 and Historical CAT Assessment 1A.

(B) Period 2 of the Financial Accountability Milestones

Historical CAT Assessment 1A seeks to recover costs that are related to Post-Amendment Expenses incurred during FAM Period 2. FAM Period 2 began on August 1, 2020, and concluded on December 31, 2020, the date of the Full Implementation of Core Equity Reporting. Section 1.1 of the CAT NMS Plan defines “Full Implementation of Core Equity Reporting” as:

the point at which: (a) Industry Member reporting (excluding reporting by Small Industry Members that are not OATS reporters) for equities transactions, excluding Customer Account Information, Customer-ID, and Customer Identifying Information, is developed, tested, and implemented at a 5% Error Rate or less and with sufficient intra-firm linkage, inter-firm linkage, national securities exchange linkage, and trade reporting facilities linkage to permit the Participants and the Commission to analyze the full lifecycle of an order across the national market system, excluding linkage of representative orders, from order

origination through order execution or order cancellation; and (b) the query tool functionality required by Section 6.10(c)(i)(A) and Appendix D, Sections 8.1.1–8.1.3 and Section 8.2.1 incorporates the Industry Member equities transaction data described in condition (a) and is available to the Participants and to the Commission. This Financial Accountability Milestone shall be considered complete as of the date identified in a Quarterly Progress Report meeting the requirements of Section 6.6(c).

Under Section 1.1 of the CAT NMS Plan, this Financial Accountability Milestone is considered complete as of the date identified in the Participants’ Quarterly Progress Reports. As indicated by the Participants’ Quarterly Progress Report for the fourth quarter of 2020,¹¹³ Full Implementation of Core Equity Reporting was completed on schedule by December 31, 2020.

Specifically, the Full Implementation of Core Equity Reporting requires the satisfaction of two prongs. The first prong requires Participants to have fully implemented the first phase of equities transaction reporting for Industry Members (excluding Small Industry Members that are not OATS reporters) at an Error Rate of less than 5%. In addition, equities transaction data produced by the CAT at this stage must also be sufficiently interlinked so as to permit full analysis of an order’s lifecycle across the national market, excluding full linkage of representative orders. As CAT LLC reported on its Quarterly Progress Reports, Phase 2a was fully implemented as of October 26, 2020, including intra-firm, inter-firm, national securities exchange, and trade reporting facilities linkages.¹¹⁴ In addition to the reporting of Phase 2a Industry Member Data as described above with regard to FAM Period 1, the following linkage data was added to the CAT as described in the Quarterly Progress Reports for the third and fourth quarter of 2020:

- “Production Go-Live for Equities 2a Intrafirm Linkage validations” was completed on 7/27/2020;¹¹⁵
- “Production Go-Live for Firm to Firm Linkage validations for Equities 2a (Large Industry Members and Small OATS Reporters)” was completed on October 26, 2020; and
- “Production Go-Live for Equities 2a Exchange and TRF Linkage validations

¹¹³ Q4 2020 Quarterly Progress Report (Jan. 29, 2021).

¹¹⁴ For a description of the requirements of Phases 2a, see Phased Reporting Exemptive Relief Order.

¹¹⁵ Q3 2020 Quarterly Progress Report (Oct. 20, 2021).

¹¹¹ FAM Adopting Release at 31330, n.98.

¹¹² Phased Reporting Exemptive Relief Order at 23078.

(Large Industry Members and Small OATS Reporters)” was completed on October 26, 2020.

Furthermore, as CAT LLC reported on its Quarterly Progress Report for the fourth quarter of 2020, the average overall error rate for Phase 2a Industry Member Data was less than 5% as of December 31, 2020. The average overall error rate was calculated by dividing the compliance errors by processed records.

The second prong of this FAM requires that the equities transaction data collected by the CAT at this stage be made available to regulators through two basic query tools required by the CAT NMS Plan—a targeted query tool that will enable regulators to retrieve data via an online query screen with a variety of predefined selection criteria, and a user-defined direct query tool that will provide regulators with the ability to query data using all available attributes and data sources.¹¹⁶ As CAT LLC reported on its Quarterly Progress Reports, the query tool functionality incorporating the data from Phase 2a was available to the Participants and the Commission as of December 31, 2020.¹¹⁷

The Commission has determined that the Participants have sufficiently complied with the conditions set forth in the 2020 Orders and with the technical requirements for Quarterly Progress Reports set forth in Section 6.6(c) of the CAT NMS Plan for purposes of determining compliance with this FAM.¹¹⁸

As discussed above, the remaining Historical CAT Costs 1 to be recovered via Historical CAT Assessment 1A would include fees, costs and expenses incurred by or for the Company in connection with the development, implementation and operation of the CAT during the period from August 1, 2020 through December 31, 2020. The total costs for this period, as discussed above, are \$42,976,478. Participants would remain responsible for one-third of this cost (which they have previously paid), and Industry Members would be

responsible for the remaining two-thirds, with CEBBs paying one-third (\$14,325,492.70) and CEBs paying one-third (\$14,325,492.70) through Historical CAT Assessment 1 and Historical CAT Assessment 1A.

(C) Period 3 of the Financial Accountability Milestones

Historical CAT Assessment 1A seeks to recover costs that are related to Post-Amendment Expenses incurred during FAM Period 3. FAM Period 3 began on January 1, 2021, and concluded on December 31, 2021, the date of the Full Availability and Regulatory Utilization of Transactional Database Functionality. Section 1.1 of the CAT NMS Plan defines “Full Availability and Regulatory Utilization of Transactional Database Functionality” as:

the point at which: (a) reporting to the Order Audit Trail System (“OATS”) is no longer required for new orders; (b) Industry Member reporting for equities transactions and simple electronic options transactions, excluding Customer Account Information, Customer-ID, and Customer Identifying Information, with sufficient intra-firm linkage, inter-firm linkage, national securities exchange linkage, trade reporting facilities linkage, and representative order linkages (including any equities allocation information provided in an Allocation Report) to permit the Participants and the Commission to analyze the full lifecycle of an order across the national market system, from order origination through order execution or order cancellation, is developed, tested, and implemented at a 5% Error Rate or less; (c) Industry Member reporting for manual options transactions and complex options transactions, excluding Customer Account Information, Customer-ID, and Customer Identifying Information, with all required linkages to permit the Participants and the Commission to analyze the full lifecycle of an order across the national market system, from order origination through order execution or order cancellation, including any options allocation information provided in an Allocation Report, is developed, tested, and fully implemented; (d) the query tool functionality required by Section 6.10(c)(i)(A) and Appendix D, Sections 8.1.1–8.1.3, Section 8.2.1, and Section 8.5 incorporates the data described in conditions (b)–(c) and is available to the Participants and to the Commission; and (e) the requirements of Section 6.10(a) are met. This Financial Accountability Milestone shall be considered complete as of the date identified in a Quarterly

Progress Report meeting the requirements of Section 6.6(c).

Under Section 1.1 of the CAT NMS Plan, this Financial Accountability Milestone is considered complete as of the date identified in the Participants’ Quarterly Progress Reports. As indicated by the Participants’ Quarterly Progress Report for the fourth quarter of 2021,¹¹⁹ Full Availability and Regulatory Utilization of Transactional Database Functionality was completed on schedule by December 31, 2021.

Specifically, the “Full Availability and Regulatory Utilization of Transactional Database Functionality” requires the satisfaction of five prongs. The first prong requires that reporting to the Order Audit Trail System (“OATS”) is no longer required for new orders. As CAT LLC reported on its Quarterly Progress Report for the fourth quarter of 2021,¹²⁰ FINRA retired OATS effective September 1, 2021.¹²¹ Accordingly, after the retirement of OATS, reporting to OATS was no longer required.

In addition to Phase 2a and Phase 2b Industry Member Data, the second and third prongs of “Full Availability and Regulatory Utilization of Transactional Database Functionality” require Industry Member reporting of Phase 2c Industry Member Data and Phase 2d Industry Member Data. The Phase 2c Industry Member Data is described in detail in the SEC’s Phased Reporting Exemptive Relief Order. That Order states that “Phase 2c Industry Member Data” is Industry Member Data related to Eligible Securities that are equities other than Phase 2a Industry Member Data, Phase 2d Industry Member Data, or Phase 2e Industry Member Data. Specifically, the Phase 2c Industry Member Data includes Industry Member Data that is related to Eligible Securities that are equities and that is related to: (1) Allocation Reports as required to be recorded and reported to the Central Repository pursuant to Section 6.4(d)(ii)(A)(1) of the CAT NMS Plan; (2) quotes in unlisted Eligible Securities sent to an IDQS operated by a CAT Reporter (reportable by the Industry Member sending the quotes) (except for quotes reportable in Phase 2d, as discussed below); (3) electronic quotes in listed equity Eligible Securities (*i.e.*, NMS stocks) that are not sent to a national securities exchange or FINRA’s Alternative Display Facility; (4) reporting changes to client instructions regarding modifications to algorithms;

¹¹⁹ Q4 2021 Quarterly Progress Report (Jan. 17, 2022).

¹²⁰ *Id.*

¹²¹ Securities Exchange Act Rel. No. 92239 (June 23, 2021), 86 FR 34293 (June 29, 2021).

¹¹⁶ At the time of this FAM, Section 6.10(c)(i)(A) of the CAT NMS Plan required the Plan Processor to “provide Participants and the SEC with access to all CAT Data stored in the Central Repository” via an “online targeted query tool,” and Appendix D, Sections 8.1.1–8.1.3 of the CAT NMS Plan described the required functionality associated with this regulatory tool. Appendix D, Section 8.2.1 describes the required functionality associated with a user-defined direct query tool that will “deliver large sets of data that can then be used in internal surveillance or market analysis applications.”

¹¹⁷ See Q3 2020 Quarterly Progress Report (Oct. 30, 2020); Updated Q3 2020 Quarterly Progress Report (Jan. 29, 2021); and Q4 2020 Quarterly Progress Report (Jan. 29, 2021).

¹¹⁸ Securities Exchange Act Rel. No. 98848 (Nov. 2, 2023), 88 FR 77128, 77129 n.13 (Nov. 8, 2023) (“Settlement Exemptive Order”).

(5) marking as a representative order any order originated to work a customer order in price guarantee scenarios, such as a guaranteed VWAP; (6) flagging rejected external routes to indicate a route was not accepted by the receiving destination; (7) linkage of duplicate electronic messages related to a Manual Order Event between the electronic event and the original manual route; (8) special handling instructions on order route reports (other than the ISO, which is required to be reported in Phase 2a); (9) quote identifier on trade events; (10) reporting of LTIDs (if applicable) for accounts with Reportable Events that are reportable to CAT as of and including Phase 2c; (11) reporting of date account opened or Account Effective Date (as applicable) for accounts and reporting of a flag indicating the Firm Designated ID type as account or relationship; (12) order effective time for orders that are received by an Industry Member and do not become effective until a later time; (13) the modification or cancellation of an internal route of an order; and (14) linkages to the customer orders(s) being represented for representative order scenarios, including agency average price trades, net trades, aggregated orders, and disconnected Order Management System (“OMS”)—Execution Management System (“EMS”) scenarios, as required in the Industry Member Technical Specifications.¹²²

Phase 2c Industry Member Data also includes electronic quotes that are provided by or received in a CAT Reporter’s order/quote handling or execution systems in Eligible Securities that are equities and are provided by an Industry Member to other market participants off a national securities exchange under the following conditions: (1) an equity bid or offer is displayed publicly or has been communicated (a) for listed securities to the ADF operated by FINRA; or (b) for unlisted equity securities to an “interdealer quotation system,” as defined in FINRA Rule 6420(c); or (2) an equity bid or offer which is accessible electronically by customers or other market participants and is immediately actionable for execution or routing; *i.e.*, no further manual or electronic action is required by the responder providing the quote in order to execute or cause a trade to be executed). With respect to OTC Equity Securities, OTC Equity Securities quotes sent by an Industry Member to an IDQS operated by an Industry Member CAT Reporter (other than such an IDQS that does not match

and execute orders) are reportable by the Industry Member sending them in Phase 2c. Accordingly, any response to a request for quote or other form of solicitation response provided in a standard electronic format (*e.g.*, FIX) that meets this quote definition (*i.e.*, an equity bid or offer which is accessible electronically by customers or other market participants and is immediately actionable for execution or routing) would be reportable in Phase 2c.¹²³

The Phase 2d Industry Member Data is described in detail in the SEC’s Phased Reporting Exemptive Relief Order. “Phase 2d Industry Member Data” is Industry Member Data that is related to Eligible Securities that are options other than Phase 2b Industry Member Data, Industry Member Data that is related to Eligible Securities that are equities other than Phase 2a Industry Member Data or Phase 2c Industry Member Data, and Industry Member Data other than Phase 2e Industry Member Data. Phase 2d Industry Member Data includes with respect to the Eligible Securities that are options: (1) simple manual orders; (2) electronic and manual paired orders; (3) all complex orders with linkages to all CAT-reportable legs; (4) LTIDs (if applicable) for accounts with Reportable Events for Phase 2d; (5) date account opened or Account Effective Date (as applicable) for accounts with an LTID and flag indicating the Firm Designated ID type as account or relationship for such accounts; (6) Allocation Reports as required to be recorded and reported to the Central Repository pursuant to Section 6.4(d)(ii)(A)(1) of the CAT NMS Plan; (7) the modification or cancellation of an internal route of an order; and (8) linkage between a combined order and the original customer orders. Phase 2d Industry Member Data also would include electronic quotes that are provided by or received in a CAT Reporter’s order/quote handling or execution systems in Eligible Securities that are options and are provided by an Industry Member to other market participants off a national securities exchange under the following conditions: a listed option bid or offer which is accessible electronically by customers or other market participants and is immediately actionable (*i.e.*, no further action is required by the responder providing the quote in order to execute or cause a trade to be executed). Accordingly, any response to a request for quote or other form of solicitation response provided in standard electronic format (*e.g.*, FIX)

that meets this definition is reportable in Phase 2d for options.¹²⁴

Phase 2d Industry Member Data also includes with respect to Eligible Securities that are options or equities (1) receipt time of cancellation and modification instructions through Order Cancel Request and Order Modification Request events; (2) modifications of previously routed orders in certain instances; and (3) OTC Equity Securities quotes sent by an Industry Member to an IDQS operated by an Industry Member CAT Reporter that does not match and execute orders. In addition, subject to any exemptive or other relief, Phase 2d Industry Member Data will include verbal or manual quotes on an exchange floor or in the over-the-counter market, where verbal quotes and manual quotes are defined as bids or offers in Eligible Securities provided verbally or that are provided or received other than via a CAT Reporter’s order handling and execution system (*e.g.*, quotations provided via email or instant messaging).¹²⁵

The Quarterly Progress Report for the fourth quarter of 2021 states that “Phase 2a was fully implemented as of October 26, 2020;” “Phase 2b was fully implemented as of January 4, 2021;” “Phase 2c was implemented as of April 26, 2021;” and “Phase 2d was fully implemented as of December 13, 2021.”¹²⁶ The Quarterly Progress Reports for 2021 provide additional detail regarding the implementation of these steps including the following:

- “Production Go-Live for Equities 2c reporting requirements (Large Industry Members)” was completed on April 26, 2021;
- “LTID Account Information Reporting Go-Live for Phases 2a, 2b and 2c (Large Industry Members)” was completed on April 26, 2021;
- “FCAT Plan Processor creates linkages of the lifecycle of order events based on the received data through Phase 2d Production Go-Live for Options 2d reporting requirements (Large Industry Members)” was completed on December 13, 2021;
- “Production Go-Live for Options 2d reporting requirements (Large Industry Members)” was completed on December 13, 2021;
- “Production Go-Live for Options 2b reporting requirements (Small OATS Reporters and Small Non-OATS Reporters)” was completed on December 13, 2021;
- “Production Go-Live for Equities 2c reporting requirements (Small OATS

¹²⁴ *Id.*

¹²⁵ *Id.* at 23079–80.

¹²⁶ See Q4 2021 Quarterly Progress Report (Jan. 17, 2022).

¹²² Phase Reporting Exemptive Relief Order at 23078–79.

¹²³ *Id.* at 23079.

Reporters and Small Non-OATS Reporters)” was completed on December 13, 2021;

- “Production Go-Live for Options 2d reporting requirements (Small OATS Reporters and Small Non-OATS Reporters)” was completed on December 13, 2021;

- “LTID Account Information Reporting Go-Live for Phases 2d (Large Industry Members)” was completed on December 13, 2021; and

- “LTID Account Information Reporting Go-Live for Phases 2a, 2b, 2c and 2d (Small Industry Members)” was completed on December 13, 2021.¹²⁷

The third prong of “Full Availability and Regulatory Utilization of Transactional Database Functionality” also imposes an Error Rate requirement of 5% or less. The Quarterly Progress Report for the fourth quarter of 2021 states the average overall error rate was less than 5% as of December 31, 2021. The average overall error rate was calculated by dividing the compliance errors by processed records.

The fourth prong of “Full Availability and Regulatory Utilization of Transactional Database Functionality” requires that the data collected by the CAT at this stage be made available to regulators through an online targeted query tool and a user-defined direct query tool. As CAT LLC reported on its Quarterly Progress Report for the fourth quarter of 2021, the query tool functionality incorporating the data from Phases 2a, 2b, 2c and 2d was available to the Participants and to the Commission as of December 31, 2021.¹²⁸

The fifth prong requires the requirements of Section 6.10(a) of the CAT NMS Plan to have been met. Section 6.10(a) of the CAT NMS Plan requires the Participants to use the tools described in Appendix D to “develop and implement a surveillance system, or enhance existing surveillance systems, reasonably designed to make use of the consolidated information contained in the Central Repository.” The Exchange implemented a surveillance system, or enhanced existing surveillance systems, reasonably designed to make use of the consolidated information contained in the Central Repository as of December 31, 2021 in accordance with Section 6.10(a) of the CAT NMS Plan.¹²⁹

The Commission has determined that the Participants have sufficiently complied with the conditions set forth in the 2020 Orders and with the technical requirements for Quarterly Progress Reports set forth in Section 6.6(c) of the CAT NMS Plan for purposes of determining compliance with this FAM.¹³⁰

As discussed above, the remaining Historical CAT Costs 1 to be recovered via Historical CAT Assessment 1A would include fees, costs and expenses incurred by or for the Company in connection with the development, implementation and operation of the CAT during the period from January 1, 2021 through December 31, 2021. The total costs for this period, as discussed above, are \$144,415,268. Participants would remain responsible for one-third of this cost (which they have previously paid), and Industry Members would be responsible for the remain two-thirds, with CEBBs paying one-third (\$48,138,422.70) and CEBBs paying one-third (\$48,138,422.70) through Historical CAT Assessment 1 and Historical CAT Assessment 1A.

(D) Additional Considerations Related to the Financial Accountability Milestones

As discussed above, CAT LLC has satisfied the Financial Accountability Milestones (“FAMs”) for Periods 1 through 3.¹³¹ As discussed below, none of the circumstances related to NIA Electronic RFQ Responses, the 2023 Verbal Quotes Exemption, the November 2023 Order, or Executing Broker reporting, affect the conclusion that the FAMs for Periods 1 through 3 were satisfied in a timely fashion.

(i) NIA Electronic RFQ Responses

CAT LLC does not believe that the exemptive relief relating to the reporting of electronic responses for quotes (“RFQs”) that are not immediately actionable (“NIA Electronic RFQ Responses”) affect the conclusion that FAMs 1 through 3 have been satisfied. The only reason CAT LLC pursued this relief is because certain Industry Members introduced concerns that NIA Electronic RFQ Responses could be considered “orders” reportable pursuant to Rule 613(j)(8) and some Industry Members were not prepared to report

such orders to CAT. Thus, the relief was requested on behalf of Industry Members. CAT LLC itself has not taken any position on whether NIA Electronic RFQ Responses are “orders,” as the definition of “order” is an SEC rule and the trading processes for NIA Electronic RFQ Responses are the Industry Members’, not those of the Participants or CAT LLC. Accordingly, CAT LLC stated in its letter that “Industry Members must determine whether trading interest falls within the definition of an ‘order’ for CAT purposes. To the extent an NIA Electronic RFQ Response is not considered an ‘order’ as defined in Rule 613(j)(8) and the CAT NMS Plan, it would not be reportable to CAT.”¹³²

Only “orders” as defined in SEC Rule 613(j)(8) are reportable to CAT. There is no agreement across the industry or among regulators as to whether NIA Electronic RFQ Responses are “orders” reportable to CAT. Certain Industry Members have raised the question as to whether NIA Electronic RFQ Responses are orders, but others have argued that they are not orders under Rule 613(j)(8).¹³³ Indeed, members of the Advisory Committee, which CAT LLC relies upon for guidance with regard to Industry Member issues, have not had a definitive view on whether NIA Electronic RFQ Responses are orders. As Rule 613(j)(8) is an SEC rule, CAT LLC believes that only the SEC can provide a definitive determination as to if, and under what circumstances, an NIA Electronic RFQ Response is considered an “order” reportable to CAT. The issue has persisted for some time. As a result, CAT LLC filed an exemptive request regarding NIA Electronic RFQ Responses for clarity on the interpretive issue. As recently as April 2024, Industry Members have re-raised this issue stating that the SEC agrees that it must provide additional guidance on this interpretive issue to resolve the CAT reporting issue for NIA Electronic RFQ Responses:

As further discussed in the prior FIF letters, even if the Commission had the legal authority to require the reporting of NIA RFQ responses to CAT without an amendment to Rule 613, the Commission has not provided guidance to industry members as to the conditions under which NIA RFQ responses would be reportable to CAT.

¹²⁷ See Q2 2021 Quarterly Progress Report (July 27, 2021); and Q4 2021 Quarterly Progress Report (Jan. 17, 2022).

¹²⁸ See Q4 2021 Quarterly Progress Report (Jan. 17, 2022).

¹²⁹ See Q1 2021 Quarterly Progress Report (Apr. 30, 2021); Q2 2021 Quarterly Progress Report (July 27, 2021); Q3 2021 Quarterly Progress Report (Nov. 1, 2021); and Q4 2021 Quarterly Progress Report (Jan. 17, 2022).

¹³⁰ Settlement Exemptive Order at 77129 n.13.

¹³¹ In May 2020, the Commission adopted amendments to the CAT NMS Plan that establish four Financial Accountability Milestones and set target deadlines by which these milestones must be achieved. These amendments also reduce the amount of any fees, costs, and expenses that may be recovered from Industry Members if the Participants fail to meet the target deadlines. FAM Adopting Release.

¹³² See Letter from Brandon Becker, Chair, CAT NMS Plan Operating Committee to Vanessa Countryman, Secretary, Commission (Feb. 13, 2024) at 2.

¹³³ See, e.g., Letter from Howard Meyerson, Managing Director, FIF, to Sai Rao, Counsel for Trading and Markets, Office of the Chair (Apr. 25, 2024).

In subsequent discussions with industry members, Commission representatives have agreed that, prior to NIA RFQ responses being reportable to CAT, it would be necessary for the Commission to provide further guidance to industry members as to the conditions under which NIA RFQ responses would be reportable to CAT.¹³⁴

On May 20, 2024, the Commission granted CAT LLC's request for exemptive relief from certain CAT reporting requirements pertaining to NIA Electronic RFQ Responses to the extent such responses are considered "orders" reportable pursuant to Rule 613(j)(8).¹³⁵ The Commission, however, did not provide additional guidance regarding the conditions under which NIA Electronic RFQ Responses would be reportable to CAT. The Commission stated in its exemptive order that "[t]o the extent that the Participants are availing themselves of exemptive relief from a CAT NMS Plan requirement, such requirement shall not be included in the requirements for the Financial Accountability Milestones, provided that any conditions of the exemption are satisfied."¹³⁶

When the Commission proposed the FAMS, the Participants expressed concern that, "by conditioning the ability of CAT LLC and the Participants to collect Post-Amendment Industry Member Fees on factors dependent on the efforts of Industry Members, the Commission's proposals inadvertently establish a perverse incentive for Industry Members to devote less than maximum efforts to comply with their obligations related to the CAT as they will pay less fees in such instances."¹³⁷ The Participants further warned that "Industry Members may request or require unanticipated reporting delays to address Industry Member implementation issues or concerns," but that, "[f]aced with financial penalties for missed deadlines, the Participants may not be able to fully address legitimate industry concerns or accommodate requests for delays with respect to future deadlines."¹³⁸ CAT LLC has engaged in good faith to help address NIA Electronic RFQ Responses and other concerns relevant to the ability of Industry Members to meet their CAT reporting obligations. CAT LLC should not be penalized financially

for seeking in good faith to resolve a difficult interpretive issue for the benefit of Industry Members.

(ii) 2023 Verbal Quotes Exemption

CAT LLC does not believe that the Commission's May 19, 2023 order granting temporary exemptive relief relating to certain verbal floor activity and unstructured verbal and electronic upstairs activity (the "2023 Verbal Quotes Exemption") affects the conclusion that FAMS 1 through 3 have been satisfied. The 2023 Verbal Quotes Exemption, which was issued on May 19, 2023, is not relevant for purposes of FAM Periods 1 through 3, which only cover the period through December 31, 2021. The relevant exemption for this time period is the Commission's November 12, 2020 order, which granted relief for the same activity through July 31, 2023 (the "2020 Verbal Quotes Order").¹³⁹ The Commission has stated that, "to the extent that the Participants are availing themselves of exemptive relief from a CAT NMS Plan requirement, such requirement shall not be included in the requirements for a Financial Accountability Milestone, provided that the conditions of the exemption are satisfied."¹⁴⁰ Here, the 2020 Verbal Quotes Order was in effect and the conditions of the exemption were satisfied as of December 31, 2021, and therefore may be relied upon for purposes of determining compliance with FAM Periods 1 through 3.¹⁴¹

(iii) November 2023 Order

CAT LLC does not believe that the Commission's November 2, 2023 order granting relief from certain CAT NMS Plan requirements (the "November 2023 Order") affects the conclusion that FAMS 1 through 3 have been satisfied. The November 2023 Order is not

relevant for purposes of FAM Periods 1 through 3, which only cover the period through December 31, 2021. As described in the November 2023 Order, the relevant exemptive orders for this time period were issued on December 16, 2020, which also states that "the Commission has determined that the Participants have sufficiently complied with the conditions set forth in the prior Orders and with the technical requirements for Quarterly Progress Reports set forth in section 6.6(c) of the CAT NMS Plan, including for purposes of determining compliance with any applicable Financial Accountability Milestones."¹⁴² The November 2023 Exemption Order is consistent with the Commission's repeated statements in the FAM adopting release that it would have "authority to grant exemptive relief from any requirement associated with a particular Financial Accountability Milestone," citing Section 36 of the Exchange Act and Rule 608.¹⁴³ Similarly, the CAT NMS Plan expressly contemplates the Commission's ability to grant exemptive relief from any CAT NMS Plan requirement.¹⁴⁴

(iv) Executing Broker Reporting

CAT LLC also completed the requirements of FAM Period 2, including the required linkages, by December 31, 2020. Although Participant exchanges may report the Executing Broker to CAT differently in certain situations, these reporting differences are irrelevant for linkage purposes as the fields used for CAT Executing Broker are not used for linkage.

¹⁴² *Id.* at 77129 n.12.

¹⁴³ FAM Adopting Release at 31335 (May 22, 2020). Section 36 of the Exchange Act grants the Commission the authority to "conditionally or unconditionally exempt any person, security, or transaction . . . from any provision or provisions of [the Exchange Act] or of any rule or regulation thereunder, to the extent that such exemption is necessary or appropriate in the public interest, and is consistent with the protection of investors." 15 U.S.C. 78mm(a)(1). Under Rule 608(e) of Regulation NMS, the Commission may "exempt from [Rule 608], either unconditionally or on specified terms and conditions, any self-regulatory organization, member thereof, or specified security, if the Commission determines that such exemption is consistent with the public interest, the protection of investors, the maintenance of fair and orderly markets and the removal of impediments to, and perfection of the mechanism of, a national market system." 17 CFR 242.608(e).

¹⁴⁴ Section 12.3 of the CAT NMS Plan ("[T]o the extent the SEC grants exemptive relief applicable to any provision of this Agreement, Participants and Industry Members shall be entitled to comply with such provision pursuant to the terms of the exemptive relief so granted at the time such relief is granted irrespective of whether this Agreement has been amended.")

¹³⁴ *Id.*

¹³⁵ Securities Exchange Act Rel. No. 100181 (May 20, 2024), 89 FR 45715 (May 23, 2024).

¹³⁶ *Id.* at n.11.

¹³⁷ See Letter from Michael Simon, CAT NMS Plan Operating Committee Chair, to Vanessa Countryman, Secretary, Commission at 9 (Oct. 28, 2019).

¹³⁸ *Id.* at 10.

¹³⁹ Securities Exchange Act Rel. No. 90405, 85 FR 73544 (Nov. 18, 2020) (the "2020 Verbal Quotes Exemption").

¹⁴⁰ See, e.g., Securities Exchange Act Rel. No. 89051 (June 11, 2020), 85 FR 36631, 36633 (June 17, 2020). The straightforward reading of the Commission's statement is that compliance with the conditions of an exemption will be measured as of the deadline for a particular FAM Period.

¹⁴¹ As a condition to the 2020 Verbal Quotes Exemption, the Commission required that the Participants provide a written status update on the reporting of these quotes and orders by July 31, 2022, including the estimated costs of reporting these quotes and orders and an implementation plan for the reporting of these quotes and orders. As noted, the 2020 Verbal Quotes Order was in effect and the conditions of the exemption were satisfied as of December 31, 2021, and therefore may be relied upon for purposes of determining compliance with FAM Periods 1 through 3. In any event, on June 3, 2022, the Participants provided the required written status update. See Letter from Michael Simon, CAT NMS Plan Operating Committee Chair, to Vanessa Countryman, Secretary, Commission (June 3, 2022).

(10) Additional Support for Reasonableness of Historical CAT Costs

The CAT Funding Model approved by the Commission permits the recovery of reasonable costs in each of the categories of CAT costs sought to be recovered via Historical CAT Assessment 1A.¹⁴⁵ As described in detail above and in further detail below, the CAT costs to be recovered for each category are reasonable. The following discusses in further detail how each of the following costs are reasonable: (1) costs incurred prior to the effective date of the CAT NMS Plan; (2) cloud hosting services costs; (3) costs related to funding model filings; (4) costs related to litigation with the SEC regarding the CAT NMS Plan; (5) costs related to the Initial Plan Processor; (6) CAIS implementation costs; (7) public relations costs; (8) legal costs related to the limitation of liability provision in the CAT Reporter agreements; and (9) costs for the Chair of CAT Operating Committee. As discussed in detail below, each of these costs is reasonable and should be recoverable in accordance with the CAT Funding Model.

(A) Costs Incurred Prior to the Effective Date of CAT NMS Plan

CAT LLC believes that it is reasonable to seek recovery of costs incurred prior to when the CAT NMS Plan became effective in November 2016, such as legal and consulting fees incurred to create the CAT NMS Plan. Rule 613 specifically mandates that the CAT be created, implemented and maintained, and further provides that the CAT NMS Plan include a proposed allocation of estimated costs to fund the creation, implementation and maintenance of the CAT among the Participants (referred to as “plan sponsors”), and between the Participants and Industry Members (referred to as “members of the plan sponsors”).¹⁴⁶ Consistent with Rule 613, the CAT NMS Plan, as approved by the Commission, specifically authorizes charging Industry Members fees for costs reasonably incurred prior to the date of the approval of the CAT NMS Plan by the Commission in November 2016, including legal and consulting costs. Section 11.1(c) of the CAT NMS Plan states that:

[i]n determining fees on Participants and Industry Members the Operating Committee shall take into account fees, costs and expenses (including legal and consulting fees and expenses)

¹⁴⁵ See Sections 11.1(a)(i) and 11.3(b)(iii)(B)(III) of the CAT NMS Plan.

¹⁴⁶ See, e.g., Rule 613(a)(1)(vii)(D) of the CAT NMS Plan.

reasonably incurred by Participants on behalf of the Company prior to the Effective Date in connection with the creation and implementation of the CAT.

Accordingly, the CAT NMS Plan specifically permits the recovery of costs, including legal and consulting costs, reasonably incurred prior to November 2016 in connection with the creation and implementation of the CAT.

Furthermore, the costs incurred to create and implement the CAT prior to the effective date of the CAT NMS Plan (“Pre-Formation Costs”) were reasonable both in scope and amount, in accordance with the requirements of Section 11.1(c) of the CAT NMS Plan. During the four-year period from 2012 to 2016, a total of \$13,842,881 in Pre-Formation Costs were incurred. This is an average of approximately \$3.5 million per year over this period. The Pre-Formation Costs fell into three categories: legal costs, consulting costs and public relations costs. This includes legal costs of \$3,196,434; consulting costs of \$10,589,273; and public relations costs of \$57,174. The legal, consulting and public relations services were performed by WilmerHale, Deloitte and Peppercomm, respectively. The selection considerations and fees for these three firms are described in detail above and are described further below. The Pre-Formation Costs are direct costs of CAT, which have been funded entirely by the Participants through non-interest-bearing notes. The Pre-Formation Costs do not include the significant costs incurred by each of the individual Participants in responding to the adoption of Rule 613.

The Pre-Formation Costs are reasonable and appropriate as they reflect the extensive efforts that were necessary to create the CAT NMS Plan as mandated after the SEC’s adoption of Rule 613. As described in more detail below, these efforts included, among other things, developing a plan for selecting the Plan Processor, soliciting and evaluating bids, engaging a diverse set of market participants and the SEC in the development of the Plan, interacting with the SEC in their oversight of the development of the Plan, and seeking appropriate exemptive relief to address areas of concern in Rule 613.¹⁴⁷

¹⁴⁷ The Participants described in detail the process for drafting the CAT NMS Plan in its original filing of the CAT NMS Plan. See Letter from Mike Simon, on behalf of the Participants of the CAT NMS Plan, to Brent J. Fields, Secretary, Commission (Sept. 30, 2014). A non-exclusive list of filings and activities associated with CAT, including certain pre-2016 filings, are available on

(i) Request for Proposal (“RFP”)

The Participants determined to utilize an RFP to ensure that potential alternative solutions for creating the Plan could be presented and considered, and that a detailed and meaningful cost-benefit analysis could be performed. The SEC supported the use of an RFP, and approved its use as it is described in extensive detail in the CAT NMS Plan.¹⁴⁸

In the context of the SEC’s adoption of Rule 613, commenters urged the Commission to utilize an RFP process to assist in the planning and design of the NMS plan.¹⁴⁹ Specifically, the Commission explained:

In this regard, several commenters suggested that the Commission undergo a RFP or request for information (“RFI”) process to create and implement a consolidated audit trail. Specifically, FIF urged the Commission to perform a RFP process “to determine the best technical solution for developing a consolidated audit trail.” FIF suggested that the Commission “should outline a set of goals and guiding principles they are striving to achieve as part of the adopted CAT filing and leave the determination of data elements and other technical requirements to [an] industry working group.” Similarly, Direct Edge suggested that Commission staff should form and engage in a working group to develop an RFP for publication by the Commission. DirectEdge explained that an RFP process would facilitate the identification of the costs and benefits of the audit trail, as well as the consideration of a wider range of technological solutions. Further, commenters, including Broadridge Financial Solutions, Inc., a technology provider, also requested more specific information about the audit trail system to better assess the Commission’s initial cost estimates and to determine the best approach to the consolidated audit trail.¹⁵⁰

In response to these comments, the Commission modified Rule 613 to require the Participants to address certain important considerations regarding the features and details of the NMS plan and to extend the timeframe for submission of the CAT NMS Plan by

the SEC’s website: <https://www.sec.gov/divisions/marketreg/rule613-info>.

¹⁴⁸ See detailed discussion of RFP questions in Appendix C of the CAT NMS Plan, and incorporation of RFP requirements in Appendix D at D–2.

¹⁴⁹ For example, in its comments on proposed Rule 613, FIF suggested “that the SROs should select the processor through a ‘request for proposal.’” Rule 613 Adopting Release at 45785.

¹⁵⁰ Rule 613 Adopting Release at 45738–39.

the Participants from the 90 days as originally proposed to 270 days, in part, to accommodate a process that would address these considerations.¹⁵¹ As the SEC noted, “[i]n light of the numerous specific requirements of Rule 613, the Participants concluded that publication of a request for proposal (‘RFP’) was necessary to ensure that potential alternative solutions to creating the consolidated audit trail can be presented and considered by the Participants and that a detailed and meaningful cost/benefit analysis can be performed, both of which are required considerations to be addressed in the CAT NMS Plan.”¹⁵²

The SEC specifically recognized that the Participants planned to use an RFP when it approved the Selection Plan, and stated that the RFP was a reasonable approach.¹⁵³ As the SEC described in its approval order for the Selection Plan, “[t]he Participants filed the [Selection] Plan to govern how the SROs will proceed with formulating and submitting the CAT NMS Plan—and, as part of that process, how to review, evaluate, and narrow down the bids submitted in response to the RFP (‘Bids’)—and ultimately choosing the plan processor that will build, operate, and maintain the consolidated audit trail (‘Plan Processor’).”¹⁵⁴ After evaluating the Selection Plan, including the use of an RFP process, the Commission stated that it “believes the [Selection] Plan is reasonably designed to govern the process by which the SROs will formulate and submit the CAT NMS Plan, including the review, evaluation, and narrowing down of Bids in response to the RFP, and ultimately choosing the Plan Processor that will build, operate, and maintain the consolidated audit trail.”¹⁵⁵

On February 26, 2013, the Participants published an RFP soliciting bids from parties interested in serving as the plan processor for the CAT. Initially, 31 firms submitted intentions to bid. In the following months, the Participants engaged with potential bidders with respect to, among other things, the selection process, selection criteria, and potential bidders’ questions and concerns. On March 21, 2014, the Participants received ten bids in response to the RFP.

(ii) Selection Plan

On September 4, 2013, the Participants filed with the Commission a national market system plan to govern the process for Participant review of the bids submitted in response to the RFP, the procedures for evaluating the bids, and, ultimately, selection of the plan processor (the “Selection Plan”).¹⁵⁶ The Commission approved the Selection Plan as filed on February 21, 2014.¹⁵⁷ In approving the Selection Plan, the Commission concluded that “it is reasonably designed to achieve its objective of facilitating the development of the CAT NMS Plan and the selection of the Plan Processor.”¹⁵⁸

The Selection Plan divided the review and evaluation of bids, and the selection of the plan processor, into various stages. Specifically, pursuant to the Selection Plan, a selection committee reviewed all bids and determined which bids contained sufficient information to allow the Participants to meaningfully assess and evaluate the bids. The ten submitted bids were deemed “Qualified Bids,” and so passed to the next stage, in which each bidder presented its bids to the Participants on a confidential basis. On July 1, 2014, after conducting careful analysis and comparison of the bids, the Selection Committee voted and selected a shortlist of six eligible bidders. The Selection Committee determined which shortlisted bidders would be provided the opportunity to revise their bids. After the Selection Committee assessed and evaluated the revised bids, the Selection Committee selected the plan processor via two rounds of voting by the Participants, as described in the Selection Plan.

The Selection Plan established an Operating Committee responsible for formulating, drafting, and filing with the Commission the CAT NMS Plan and for ensuring that the Participants’ joint obligations under Rule 613 were met in a timely and efficient manner. In formulating the CAT NMS Plan, the Participants also engaged multiple persons across a wide range of roles and expertise, engaged the consulting firm Deloitte as project manager, and engaged the law firm WilmerHale to serve as legal counsel in drafting the Plan. Within this structure, the Participants focused on, among other things, comparative analyses of the proposed technologies and operating models, development of funding models to support the building and operation of the CAT, and detailed review of

governance considerations. Given the complexity and scope of developing the CAT NMS Plan, these efforts were extensive.

When it approved the CAT NMS Plan in 2016, the Commission reiterated its belief that the Selection Plan remains a “reasonable approach,” that “the competitive bidding process to select the Plan Processor is a reasonable and effective way to choose a Plan Processor,” and that “the process set forth in the Selection Plan should be permitted to continue”:

In approving the Selection Plan, the Commission stated that the Selection Plan is reasonably designed to achieve its objective of facilitating the development of the CAT NMS Plan and the selection of the Plan Processor. The Commission also found that the Selection Plan is reasonably designed to govern the process by which the SROs will formulate and submit the CAT NMS Plan, including the review, evaluation, and narrowing down of Bids in response to the RFP, and ultimately choosing the Plan Processor that will build, operate, and maintain the consolidated audit trail. The Commission believes that the process set out in the Selection Plan for selecting a Plan Processor remains a reasonable approach, which will facilitate the selection of Plan Processor through a fair, transparent and competitive process and that no modifications to the Selection Plan are required to meet the approval standard. . . . In response to the comment that offered support for a specific Bidder, the Commission agrees with the Participants that the competitive bidding process to select the Plan Processor is a reasonable and effective way to choose a Plan Processor and thus believes that the process set forth in the Selection Plan should be permitted to continue.¹⁵⁹

(iii) Engagement With Market Participants and SEC

During the process of developing the CAT NMS Plan, the Participants engaged in extensive and meaningful dialogue with market participants and the SEC. To this end, the Participants created a website to update the public on the progress of the CAT NMS Plan, published a request for comment on multiple issues related to the Plan, held multiple public events to inform the industry of the progress of the CAT and to address inquiries, and formed, and later expanded, a DAG to solicit more

¹⁵¹ Rule 613 Adopting Release at 45739.

¹⁵² Securities Exchange Act Rel. No. 71596 (Feb. 21, 2014), 79 FR 11152, 11152 (Feb. 27, 2014) (“Selection Plan Approval Order”).

¹⁵³ *Id.*

¹⁵⁴ *Id.* at 11153.

¹⁵⁵ *Id.* at 11159.

¹⁵⁶ See Securities Exchange Act Rel. No. 70892 (Nov. 15, 2013), 78 FR 69910 (Nov. 21, 2013).

¹⁵⁷ See Selection Plan Approval Order.

¹⁵⁸ Selection Plan Approval Order at 11160.

¹⁵⁹ See CAT NMS Plan Approval Order at 84737.

input from a representative industry group.¹⁶⁰

The DAG included representatives of Participants and Industry Members and conducted meetings to discuss, among other things, technical and operational aspects the Participants were considering for the Plan. The Participants issued press releases soliciting participants for the DAG, and a wide spectrum of firms was deliberately chosen to provide insight from various industry segments affected by CAT. The DAG meetings included discussions of topics such as option market maker quote reporting, requirements for capturing Customer IDs, timestamps and clock synchronization, reporting requirements for order handling scenarios, costs and funding, error handling and corrections, and potential elimination of systems made redundant by the CAT. From the inception of the DAG through September 2014, the DAG participated in 36 meetings, as well as a variety of DAG subcommittee meetings.

(iv) Request for Exemption From Certain Requirements Under Rule 613

Following multiple discussions between the Participants and both the DAG and the bidders, as well as among the Participants themselves, the Participants recognized that some provisions of Rule 613 would not permit certain solutions to be included in the Plan that the Participants, in coordination with the DAG, determined advisable to effectuate the most efficient and cost-effective CAT. Specifically, “the SROs reached the conclusion that additional flexibility in certain of the minimum requirements specified in Rule 613 would allow them to propose a more efficient and cost-effective approach without adversely affecting the reliability or accuracy of CAT Data, or its security and confidentiality.”¹⁶¹ Consequently, the Participants submitted a request for exemptive relief from certain provisions of Rule 613 regarding: (1) options market maker quotes; (2) Customer-IDs; (3) CAT-Reporter-IDs; (4) CAT-Order-IDs on allocation reports; and (5) timestamp granularity.¹⁶² The Participants filed two supplements to the request for exemptive relief.¹⁶³

After reviewing the exemptive request, the Commission determined that it was appropriate in the public interest and consistent with the protection of investors to grant the requested exemptive relief.¹⁶⁴ In granting the exemptive relief, the Commission stated:

[T]he Commission is persuaded to provide flexibility in the discrete areas discussed in the Exemption Request so that the alternative approaches can be included in the CAT NMS Plan and subject to notice and comment. Doing so could allow for more efficient and cost-effective approaches than otherwise would be permitted. The Commission at this stage is not deciding whether the proposed approaches detailed below are more efficient or effective than those in Rule 613. However, the Commission believes the proposed approaches should be within the permissible range of alternatives available to the SROs.¹⁶⁵

The Commission further stated that the requested exemptive relief is consistent with the protection of investors. The Commission noted that:

Doing so will provide the public an opportunity to consider and comment on whether these proposed alternative approaches would indeed be more efficient and cost-effective than those otherwise required by Rule 613, and whether such approaches would adversely affect the reliability or accuracy of CAT Data or otherwise undermine the goals of Rule 613. Moreover, if—as the SROs represent—efficiency gains and cost savings would result from including the proposed approaches in the CAT NMS Plan without adverse effects, then the resultant benefits could potentially flow to investors (*e.g.*, lower broker-dealer reporting costs resulting in fewer costs passed on to Customers).¹⁶⁶

The Participants incorporated the exemptive relief into the proposed CAT NMS Plan, which was noticed for comment, and the Commission ultimately approved the CAT NMS Plan with the more efficient and cost-effective alternative approaches described in the exemptive relief. Accordingly, the Participants believe that the costs incurred in developing the exemptive request were critical to the creation of a better CAT than was originally contemplated by Rule 613, and therefore should be recoverable as part of Historical CAT Assessment 1A.

Commission (Apr. 3, 2015); Letter from the SROs to Brent J. Fields, Secretary, Commission (Sept. 2, 2015).

¹⁶⁴ See 2016 Exemptive Order.

¹⁶⁵ *Id.* at 11857.

¹⁶⁶ *Id.*

(v) Request for Extensions for Filing the CAT NMS Plan

Rule 613(a)(1) under Regulation NMS required the Participants to jointly file the CAT NMS Plan on or before April 28, 2013, less than a year after the adoption of Rule 613. In recognition of the complexity of the project to create the CAT NMS Plan as well as industry interest in limiting or eliminating certain requirements of Rule 613 (*e.g.*, addressing the reporting of options market maker quotes), the Participants requested two extensions of the deadline to file the CAT NMS Plan. The Participants described the need for additional time as follows:

The SROs stated in their Request Letter that they do not believe that the 270-day time period provided for in Rule 613(a)(1) provides sufficient time for the development of the RFP, formulation and submission of bids, and review and evaluation of such bids. The SROs also stated that they believe additional time beyond the 270 days provided for in Rule 613(a)(1) is necessary in order to provide sufficient time for effective consultation with and input from the industry and the public on the proposed solution chosen by the SROs for the creation of the consolidated audit trail at the conclusion of the RFP process and the NMS plan itself.¹⁶⁷

In recognition of the need for additional time to refine the technical description of and requirements for the CAT and to allow for additional evaluation of the proposed cost and funding considerations, the SEC granted two extensions of this deadline.¹⁶⁸ The SEC determined that both extensions were appropriate, in the public interest, and consistent with the protection of investors.¹⁶⁹ In reaching this conclusion, the Commission stated that “it understands that the creation of a consolidated audit trail is a significant undertaking and that a proposed NMS plan must include detailed information and discussion about many things.”¹⁷⁰ The SEC also noted the following:

This additional time to complete the RFP process should allow the SROs to engage in a more thoughtful and comprehensive process for the development of an NMS plan. In this regard, the Commission notes that the

¹⁶⁷ Securities Exchange Act Rel. No. 69060 (Mar. 7, 2013), 78 FR 15771, 15772 (Mar. 12, 2013) (“March 2013 Exemptive Order”).

¹⁶⁸ See March 2013 Exemptive Order; Securities Exchange Act Rel. No. 71018 (Dec. 6, 2013), 78 FR 75669 (Dec. 12, 2013) (“December 2013 Exemptive Order”).

¹⁶⁹ March 2013 Exemptive Order at 15772; December 2013 Exemptive Order at 75670.

¹⁷⁰ March 2013 Exemptive Order at 15772.

¹⁶⁰ See Section D(11) of Appendix C of the CAT NMS Plan.

¹⁶¹ Securities Exchange Rel. No. 77265 (Mar. 1, 2016), 81 FR 11856 (Mar. 7, 2016) (“2016 Exemptive Order”).

¹⁶² Letter from Robert Colby, FINRA, on behalf of the SROs, to Brent J. Fields, Secretary, Commission (Jan. 30, 2015).

¹⁶³ See Letter from Robert Colby, FINRA, on behalf of the SROs, to Brent J. Fields, Secretary,

additional time to solicit comment from the industry and the public at certain key points in the development of the NMS plan could identify issues that can be resolved earlier in the development of the consolidated audit trail and prior to filing the NMS plan with the Commission.¹⁷¹

Given the Commission's recognition of the reasonableness and value of the extension of the deadline to file the CAT NMS Plan, the Participants believe that the costs incurred in developing the extension request were important to the process of developing the CAT NMS Plan, and therefore should be recoverable as part of Historical CAT Assessment 1A.

(vi) Submission and Approval of the CAT NMS Plan

After extensive analyses and discussions with the DAG, bidders, market participants and the SEC staff, the Participants finalized the draft of the CAT NMS Plan and filed the CAT NMS Plan with the SEC on September 30, 2014. Following additional discussions, the Participants filed several amendments to the CAT NMS Plan during 2015 and 2016. With these additional changes, the SEC published the CAT NMS Plan for notice and comment in May 2016.¹⁷² Following the comment period, the SEC approved the Plan in November 2016.¹⁷³

(vii) Legal Costs Incurred Prior to the Effective Date of the CAT NMS Plan

The Pre-Formation Costs include legal costs of \$3,196,434. The legal services were performed by WilmerHale. The selection considerations and fees for WilmerHale were described in detail above. Prior to the creation of CAT LLC, WilmerHale was engaged to represent the consortium of SROs, not the individual Participants. For administrative purposes, FINRA agreed to receive such legal bills, although such costs were shared among the Participants. Therefore, the legal costs incurred with respect to WilmerHale do not include legal costs incurred by the individual Participants. These pre-formation legal costs are described in detail above and are further described below:

- Analyzed various legal matters associated with the Selection Plan and drafted an amendment to Selection Plan;
- Assisted with the RFP and bidding process for the CAT Plan Processor;

- Analyzed legal matters related to the DAG;
- Drafted the CAT NMS Plan, analyzed various items related to the CAT NMS Plan, and responded to comment letters on the CAT NMS Plan;
- Provided legal support for the formation of the legal entity, the governance of the CAT, including governance support prior to the adoption of the CAT NMS Plan, which involved support for the full committee of exchanges and FINRA as well as subcommittees of this group (e.g., Joint Subcommittee Group, Technical, Industry Outreach, Cost and Funding, and Other Products) and the DAG, and governance support during the transition to the new governance structure under the CAT NMS Plan;
- Drafted exemptive requests;
- Provided interpretations related to the CAT NMS Plan;
- Provided support with regard to discussions among the exchanges, FINRA and other third parties, such as Deloitte;
- Provided tax advice with regard to CAT's status as a tax-exempt organization; and
- Provided support with regard to discussions with the SEC and its staff, including with respect to addressing interpretive and implementation issues.

(viii) Consulting Costs Incurred Prior to the Effective Date of the CAT NMS Plan

The Pre-Formation Costs include consulting costs of \$10,589,273. The consulting services were performed by Deloitte. The selection considerations and fees for Deloitte were described in detail above. Prior to the creation of CAT LLC, for administrative purposes, Deloitte was engaged by FINRA to provide consulting services related to CAT, but the costs were shared by the consortium of SROs per agreement. Therefore, the consulting costs incurred with respect to Deloitte do not include consulting costs incurred by the individual Participants. The pre-formation consulting costs include the following:

- Established and implemented program operations for the CAT project, including the program management office and workstream design;
- Assisted with the Plan Processor selection process, including but not limited to, the development of the RFP and the bidder evaluation process, and facilitation and consolidation of the Participants' independent reviews;
- Assisted with the development and drafting of the CAT NMS Plan, including conducting cost-benefit studies, reviewing technical requirements of other NMS plans,

analyzing OATS and CAT requirements, and drafting appendices to the Plan;

- Provided governance support to the CAT, including governance support prior to the adoption of the CAT NMS Plan, which involved support for the full committee of exchanges and FINRA as well as subcommittees of this group (e.g., Joint Subcommittee Group, Technical, Industry Outreach, Cost and Funding, and Other Products) and the DAG;
- Provided support for updating the SEC on the progress of the development of the CAT;
- Provided support for industry outreach sessions, including with regard to program design and agenda development, program support and logistics and coordination; and
- Provided support in fact finding, drafting content and meeting coordination for WilmerHale with regard to the CAT and the development of the CAT NMS Plan.

Such Pre-Formation Costs did not include costs related to the Chair of the CAT NMS Plan Operating Committee, as the CAT NMS Plan had not yet been adopted.

(ix) Public Relations Costs Incurred Prior to the Effective Date of the CAT NMS Plan

The Pre-Formation Costs include public relations costs of \$57,174. The public relations services were performed by Peppercomm. The selection considerations and fees for Peppercomm are described in detail above. The costs related to Peppercomm were shared among the SROs. Therefore, the public relations costs do not include public relations costs incurred by the individual Participants. The pre-formation public relations costs include services related to communications with the public regarding the CAT, including monitoring developments related to the CAT (e.g., congressional efforts, public comments and reaction to proposals, press coverage of the CAT), reporting such developments to CAT LLC, and drafting and disseminating communications to the public regarding such developments as well as reporting on developments related to the CAT.

(B) Cloud Hosting Services

In approving the CAT Funding Model, the Commission recognized that it is appropriate to recover reasonable costs related to cloud hosting services as a part of Historical CAT Assessments. CAT LLC believes that the costs related to cloud hosting services described in detail above are reasonable and appropriate given the strict data processing timelines and storage

¹⁷¹ *Id.* at 15773.

¹⁷² See Securities Exchange Act Rel. No. 77724 (Apr. 27, 2016), 81 FR 30614 (May 17, 2016).

¹⁷³ See CAT NMS Plan Approval Order.

requirements imposed by the Commission-approved CAT NMS Plan and should be recoverable as a part of Historical CAT Assessment 1A.

(i) Reasonableness of AWS Costs Given the Requirements of the CAT NMS Plan

CAT LLC believes that the costs for the cloud hosting services are reasonable, both in terms of the level of the fees paid by CAT LLC for cloud hosting services provided by AWS and the scope of the services performed by AWS for CAT LLC. CAT LLC believes that both the scope and amount of the costs for cloud hosting services are reasonable given the current requirements of the CAT NMS Plan adopted pursuant to Rule 613, including the strict data processing timeline, storage and other technical requirements under the Commission-approved CAT NMS Plan.

CAT LLC believes that the level of fees for the cloud hosting services is reasonable, taking into consideration a variety of factors, including the expected volume of data and the breadth of services provided and market rates for similar services.

CAT LLC also believes that the scope of services provided by AWS for the CAT are appropriate given the current requirements of the Commission-approved CAT NMS Plan. As described above, the cloud hosting services costs reflect a variety of factors including, among other things:

- *Breadth of Cloud Activities.* AWS was engaged by FCAT, the Plan Processor, to provide a broad range of services to the CAT, including data ingestion, data management, and analytic tools. Services provided by AWS necessary to the CAT include storage services, databases, compute services, and other services (such as networking, management tools and development operations (“DevOps”) tools). AWS also was engaged to provide the various environments for CAT, such as the development, performance testing, test and production environments, which are required by the CAT NMS Plan.

- *High Data Volume.* The cost for AWS services for the CAT is a function of the volume of CAT Data. While it is not linear, the greater the amount of CAT Data, the greater the cost of AWS services to the CAT. The data volume handled by AWS now far exceeds the original volume estimates for the CAT.

- *Plan Requirements.* The cost for AWS services also reflects the technical requirements necessary to meet the stringent performance and other requirements for processing CAT Data. These Plan-dictated processing

timelines, storage, testing, security and other technical requirements are significant drivers of AWS costs.

- *Cost Avoidance Efforts.* CAT LLC and FCAT have engaged in ongoing efforts to seek to avoid and minimize AWS costs where permissible under the Plan. Accordingly, these cost avoidance efforts have limited the extent of AWS costs.

In addition, various requirements of the CAT NMS Plan adopted pursuant to Rule 613 contribute to the significant cloud hosting services costs, and that various Plan requirements could be amended or removed without affecting the regulatory purpose of the CAT. Indeed, CAT LLC has repeatedly sought exemptive relief and filed amendments to the CAT NMS Plan, and has even filed suit against the Commission, to seek to revise or eliminate certain costly requirements related to the CAT. However, despite these efforts, absent the Commission granting exemptive relief or approving cost savings amendments to the CAT NMS Plan, CAT LLC, the Participants and Industry Members are all required to comply with such requirements.

(ii) Effect of CAT Design on CAT Costs

(a) Efficient CAT Design

CAT is reasonably designed to efficiently and effectively utilize cloud computing and storage services, given the requirements of the Commission-approved CAT NMS Plan, including requirements related to security, operational reliance and quality assurance, and maintainability.

The Plan Processor uses state-of-the-art software that meets the strict security standards of the CAT NMS Plan. CAT utilizes a big data processing framework that is extensively used by large data processing companies, such as Apple, Meta, Netflix, IBM and Google. As such, it has substantial commercial support and support in the open-source community. It is also well suited for use with regard to iterative types of algorithms and query functions and analytics that the CAT requires, and it provides the heightened security necessary for the CAT.

The development and implementation of the design of CAT is not and has not been static. CAT LLC and the Plan Processor are always evaluating new innovations and service offerings from AWS and other providers to seek to maximize efficiency and cost avoidance while still satisfying the requirements of the CAT NMS Plan. These efforts have led to substantial savings to date. The cloud hosting costs for 2023 were less than the cloud hosting costs for 2022 by

\$8 million despite processing seven trillion more events in 2023 due to the efficiency and cost avoidance efforts for cloud hosting services. For example, when AWS introduced new storage options, FCAT adopted the cost-efficient new storage option after establishing that the new offering would satisfy the security and other standards of the CAT NMS Plan. This change led to millions of dollars of savings in storage costs. Similarly, when AWS introduced a new compute processor, FCAT adopted this new compute processor, which led to millions of dollars in savings in compute costs. However, in other cases, new cloud technology developments could not be implemented in CAT because they would not satisfy the security or other requirements of the CAT NMS Plan.

When evaluating the design of the CAT, it must be kept in mind that the CAT is not a typical commercial technology project. The ability to make use of technology approaches that may lead to cost avoidance is also subject to the restrictive requirements of the CAT NMS Plan, such as processing timeframes, requirements for retention of data versions, query requirements, and security standards. Because such requirements are set forth in the CAT NMS Plan, any modification of such requirements are subject to the time-consuming process of amending the CAT NMS Plan or seeking an exemption from the relevant requirement. For example, CAT LLC recently has filed an amendment to address several of these expensive Plan requirements.¹⁷⁴

(b) CAT Was Designed To Minimize Industry Member Effort

The CAT System also was designed to minimize the extent to which Industry Members would need to alter their systems to report to CAT. During the design process, Industry Member groups argued that it would make more sense financially for the CAT to accommodate differences in industry systems, than for all Industry Members to change their systems. Moreover, such design choices would facilitate consistency, uniformity and accuracy in reporting. Requiring the CAT to make such accommodations may increase CAT costs while accommodating CAT Reporters.

Based on the requirements in the CAT NMS Plan and/or in response to industry requests for functionality to be

¹⁷⁴ See, e.g., Securities Exchange Act Rel. No. 99938 (Apr. 10, 2024), 89 FR 26983 (Apr. 16, 2024); Letter from Brandon Becker, CAT NMS Plan Operating Committee Chair, to Vanessa Countryman, Secretary, Commission (Mar. 27, 2024) (proposing amendments to the CAT NMS Plan for \$23 million in annual savings).

embedded with the Plan Processor to streamline or limit Industry Member system changes, the CAT has been designed to limit the effect on Industry Members. The following provides examples of such accommodations:

- *Industry Member Reporting.* In light of the complexity of Industry Member market activity, the CAT's order reporting and linkage scenarios document for Industry Members is over 800 pages in length, addressing nearly 200 scenarios.¹⁷⁵ The Industry Member Technical Specifications allow for dozens of specific event types, which drive complexity for the Plan Processor, but streamline reporting for Industry Members. Furthermore, the Plan Processor greatly expanded Industry Member linkage requirements to support, among other things, child events and supplemental events, allowing for "stateless as-you-go" and "batch end-of-day" reporting when all data is available. Accordingly, CAT takes on the significant cost and effort of providing the required linkages between CAT events; correspondingly, Industry Members are not required to perform this costly task.

- *File Submission Process.* The CAT was designed to accommodate the varying needs of CAT Reporters with regard to the file submission process. For example, in a 2018 letter, FIF stated that "[t]he SFTP-based submission process is cumbersome, exposes industry members to unnecessary complexity, and puts the burden of support on the CAT Reporter rather than imbedding more functionality into the Plan Processor."¹⁷⁶ Currently, FCAT provides two mechanisms for submitting files: SFTP via a private network, and the Web via Reporter Web Portal.

- *Error Corrections.* The industry also emphasized the need for the CAT to provide error correction tools and functionalities to identify, rectify and re-submit corrections within the required timeframe. For example, FIF stated in a 2018 letter the following:

To be clear, if OATS-like error correction tools are not made available on Day 1, hundreds of firms will be required to create and test their own tools or obtain vendor alternatives prior to the CAT Go-Live Date. Proprietary tools will require additional system builds, access to and ingestion of CAT data to perform system validation, and testing which will further stress the limited number of subject matter experts

("SMEs") dedicated to the implementation of CAT reporting. Should this occur, inevitably firms (especially small firms who lack the necessary IT staff to write code and develop proprietary systems), may be put in the position of passing onto investors the cost required to build hundreds of redundant systems.¹⁷⁷

CAT provides various tools to help Industry Members identify and rectify errors.

- *Data Ingestion Format.* The industry also recommended that CAT adopt a flexible input format that provides an option for Industry Members to submit data in formats that are already in use to reduce costs and potential reporting errors. For example, FIF argued the following:

FIF CAT WG is not proposing a specific format; rather, we are proposing flexibility of input formats which includes support of existing formats (e.g., OATS, FIX) as well as a baseline specification where all fields are defined, and normalized. The input formats must be clearly and thoroughly defined in Technical Specifications, including FAQs.

Mandating a uniform format for reporting data to the CAT simplifies the task for the Central Repository of consolidating/storing data, but it puts the burden on each CAT Reporter to accurately translate their current (e.g., OATS) reporting information into a uniform CAT interface. However, that is likely to yield more errors because it is very dependent on accurate, complete and timely information (Technical Specifications, FAQs, meta-data, competent CAT help desk) available to CAT Reporters, availability of sophisticated CAT test tools to validate interface protocols, and the skill levels of the estimated 300+ unique CAT Reporters/Submitters during Phase 1 of CAT. Concentrating the responsibility of data conversions with the Central Repository is a reasonable trade-off that should yield fewer errors, and greater accuracy.¹⁷⁸

CAT provides such a flexible input format.

(c) Effect of Initial Plan Processor Design

The costs for cloud hosting services are appropriate and have not been adversely affected by the original design and approaches of the Initial Plan Processor. FCAT's design costs are the

result of the requirements of the Commission-approved CAT NMS Plan.

When FCAT took over as the Plan Processor from Thesys, it utilized certain aspects of the technical specifications created by Thesys in its design. However, FCAT has not maintained aspects of the original design that would not be appropriate for the CAT. FCAT revised and enhanced the original technical specifications of the CAT System to increase its efficiency and efficacy, and to ensure its compliance with the CAT NMS Plan. For example, the Initial Plan Processor's approach utilized many more fields than FCAT's approach, which relies on additional linkages. With the additional linkages, the CAT System takes on more of the CAT-related burdens than the Industry Members. Such an approach serves to facilitate consistency, uniformity and accuracy in reporting.

Moreover, FCAT did not utilize the system built by the Initial Plan Processor; it rebuilt the CAT System based on revised technical specifications. For example, the Initial Plan Processor used an on-premises processing approach which was not geared toward the huge amounts of data stored in the CAT, while FCAT adopted a cloud-based solution in response to such data demands.

Furthermore, given the very short timeframe to develop the CAT System and the prior optimization of certain query tools (e.g., Diver) for regulatory use with significant amounts of data, FCAT determined to rely upon certain existing FINRA tools and adapt them for use with the CAT.

(iii) Consideration of AWS Alternatives

CAT LLC continues to support the selection of AWS as the cloud hosting services provider for CAT given the compliance, operational, and security requirements of the CAT. Independent analyses confirm these conclusions, noting that "AWS is an excellent choice for either strategic or tactical use and recommends considering AWS for almost all cloud IaaS or IaaS+PaaS scenarios."¹⁷⁹ AWS provides the following benefits to CAT, among others:

- *Broad Suitability.* AWS has a long track record of successfully serving cloud customers with mission-critical projects.

- *Proven Scalability.* AWS has demonstrated that it is capable of building and delivering services on a large scale.

¹⁷⁵ See CAT Industry Member Reporting Scenarios v.4.10 (Oct. 21, 2022).

¹⁷⁶ Letter from Janet Early, FIF, to Thesys CAT (Mar. 29, 2018).

¹⁷⁷ Letter from Christopher Bok, FIF, to Jay Clayton, Chair, Commission at 4 (Dec. 11, 2018).

¹⁷⁸ Letter from Mary Lou Von Kaenel, Managing Director, FIF, to Brent Fields, Secretary, Commission at 92 (July 18, 2016), <https://www.sec.gov/comments/4-698/4698-13.pdf>.

¹⁷⁹ See, e.g., Lydia Leong and Adrian Wong, Solution Comparison for Strategic Cloud Integrated IaaS and PaaS Providers (July 28, 2023) ("Strategic Cloud Assessment Article").

- *Track Record of Innovation.* AWS continues to rapidly innovate, both in terms of new domains of capability and at a fundamental level, thereby facilitating innovation for its customers.

- *Resiliency/Dependability.* Another benefit of AWS is its resiliency; it has a strong track record of stable services. As noted in a review of cloud service providers, “[c]ustomers like to have a broad set of options for resilience and for their cloud providers to have a strong track record of stable services (continuously available, without operational quirks). Only AWS fulfills both desires.”¹⁸⁰

- *Technical and Customer Support.* AWS consistently provides high-quality technical and customer support and engagement. Given the size, scope and regulatory importance of CAT, customer support and engagement that CAT has with the highest levels of AWS are very important to the success of the CAT.

- *Scale.* AWS is capable of supporting large-scale solutions, which is critical given the size and magnitude of the CAT.

- *Security.* AWS provides the security features necessary for the CAT.

In addition, the nature of the CAT, including the amount of data it must process and the size of its data footprint, does not allow for a multi-cloud solution as this would be cost prohibitive and greatly increase the security boundary and associated risk profile of the CAT. For example, a multi-cloud hosting option would increase costs, complexity, and risk for operations with regard to, for example, DevOps, production support, and networking. Similarly, with regard to security, a multi-cloud solution would increase risk, including with regard to the need for data transfers between cloud providers and the expansion of the security boundary. With regard to labor, a multi-cloud solution would lose economies of scale due to the need to support unique cloud requirements. Accordingly, the use of a single-cloud solution continues to provide advantages with regard to cost, complexity, and risk. Indeed, “[t]he best practice is to focus on a single primary strategic provider.”¹⁸¹

Furthermore, if another cloud service provider were determined to be a better match for the CAT at some future date, switching cloud service providers would be a very significant, expensive and time-consuming effort. Such an effort would likely be a 10-to-15-year commitment at a substantial expense. Such a move would require the

replication or redesign of the underlying cloud environments (e.g., organizational setup, identify management, accounts, environments, DevOps tooling likes release management/config management/network management), as the new provider likely would not have the same infrastructure and software. Once that process has been completed, an exabyte of CAT data would need to be securely migrated to the new platform.

(C) Funding Model Filings

CAT LLC believes that the recovery of costs related to the development of the funding model is appropriate, and that the amount and scope of such costs, as described above, are reasonable.

Funding the CAT is a critical aspect of Rule 613 and the CAT NMS Plan.

Article XI of the CAT NMS Plan describes in detail the requirements for funding the CAT, and the Participants are required to comply with and enforce compliance with the funding requirements of the CAT NMS Plan, just as with other aspects of the Plan.

Accordingly, the development and implementation of a funding model for the CAT is as much a part of the requirements of the CAT NMS Plan as the development and operation of the CAT System. CAT LLC sees no reason to distinguish the efforts to develop a funding model from, for example, efforts to develop the CAT System, in seeking to recover reasonable CAT costs.

Moreover, in approving the CAT Funding Model, the Commission recognized that it is appropriate to recover reasonable costs for legal services as a part of Historical CAT Assessments. As approved by the SEC, the CAT NMS Plan states that “the reasonably budgeted CAT costs shall include . . . legal costs.”¹⁸² In addition, the CAT NMS Plan also requires Participants to include in their fee filings “a brief description of the amount and type of the Historical CAT Costs, including . . . legal . . . costs.”¹⁸³ In keeping with these provisions, this filing provides a brief description of reasonably budgeted legal costs above. These legal costs include costs related to the development of the CAT Funding Model.

In addition, the legal costs incurred for the assistance in developing the CAT Funding Model are reasonable in both amount and scope and should be recoverable as a part of Historical CAT Assessment 1A. As described above, the specialized services were performed by

experienced counsel at negotiated rates for such services that reflect both the extent of the services and market rates. Moreover, the scope of the legal costs associated with the development of the funding model reflect the complexity of the task in satisfying the detailed requirements of the CAT NMS Plan, the standards of the Exchange Act, and the many perspectives of the different market constituents potentially affected by or interested in the funding model, including Industry Members, Participants and investors. The many and varied comments by market participants on CAT funding over the years demonstrate the complexity of the task.

(D) Costs Related to Litigation With the SEC

CAT LLC believes that the recovery of legal costs related to the litigation with the SEC regarding the CAT NMS Plan is appropriate, and that the amount and scope of such costs, as described above, are reasonable.

As a preliminary matter, as discussed above, the Commission recognized that it is appropriate to recover reasonable costs for legal services as a part of Historical CAT Assessments.¹⁸⁴ Moreover, CAT LLC initiated such litigation, and incurred the related legal costs, because it was critical to address the Commission’s interpretations of the CAT NMS Plan. Among other things, such interpretations threatened to impose unnecessary costs on the CAT, which would be borne by the Participants and Industry Members. Indeed, in response to the litigation, the Commission provided exemptive relief that allowed alternative, more cost-effective approaches to the implementation of the CAT. Specifically, in the 2023 exemptive order, the Commission stated:

The conditional exemptive relief in this Order allows for the implementation of alternative regulatory solutions that continue to advance the regulatory goals that Rule 613 and the CAT NMS Plan were intended to promote, while reducing the implementation and operational costs, burdens, and/or difficulties that would otherwise be incurred by the Participants and Industry Members that must fund the CAT.¹⁸⁵

CAT LLC believes it is reasonable and appropriate to incur costs to limit the need to incur even greater costs due to certain interpretations of the Plan.

¹⁸⁰ Strategic Cloud Assessment Article.

¹⁸¹ *Id.*

¹⁸² Section 11.1(a)(i) of the CAT NMS Plan.

¹⁸³ Section 11.3(b)(iii)(B)(II) of the CAT NMS Plan.

¹⁸⁴ See Sections 11.1(a)(i) and 11.3(b)(iii)(B)(II) of the CAT NMS Plan.

¹⁸⁵ Settlement Exemptive Order at 77129–30.

In addition, the legal costs incurred during the litigation are reasonable in both amount and scope and should be recoverable as a part of Historical CAT Assessment 1A. As described above, the specialized services were performed by experienced counsel at market rates for such services. As such, the legal costs related to this litigation incurred during the period covered by Historical CAT Assessment 1A were reasonable.

Finally, Industry Members will directly benefit from the result of the litigation because it has addressed CAT NMS Plan requirements that would have imposed significantly greater costs on the CAT. Accordingly, it is reasonable and appropriate that the costs of such litigation be included in Historical CAT Costs 1.

(E) Costs Related to the Initial Plan Processor

CAT LLC believes that it is appropriate to recover costs related to the services performed by the Initial Plan Processor prior to November 15, 2017, which was the date by which Participants were required to begin reporting to the CAT, due to the delay in the commencement of reporting to the CAT. As discussed above, the Participants determined to exclude all CAT costs incurred from November 15, 2017 through November 15, 2018, which includes \$37,852,083 in Thesys costs incurred from November 15, 2017 through November 15, 2018 (as well as other CAT costs during this period). The remaining Thesys costs incurred after November 15, 2018 are the \$19,628,791 in capitalized developed technology costs for the period from November 16, 2018 through February 2019 incurred in the development of the CAT by the Initial Plan Processor, as well as a transition fee for the transition from the Initial Plan Processor to the successor Plan Processor. The Participants would remain responsible for 100% of these \$19,628,791 in costs.

CAT LLC believes that it is appropriate to recover costs related to the services performed by the Initial Plan Processor prior to November 15, 2017. CAT LLC notes that the development and implementation of the CAT System, while unprecedented in scope and design, is like any other large and innovative technology project in that, inevitably, there were adjustments and refinements in the technical approach as the project developed, even with substantial planning efforts and oversight prior to the build. This is even more likely when the project faces a very tight implementation schedule, such as the one imposed by the Commission in Rule 613 and the CAT

NMS Plan. However, an adjusted approach does not mean that the funds were not valid expenditures and should not be recovered.

The reasonableness of Thesys costs should be evaluated by the Commission as of the time they were incurred, not in hindsight. As detailed above, the Commission concluded in 2016 that “the competitive bidding process to select the Plan Processor is a reasonable and effective way to choose a Plan Processor,” and that “the process set forth in the Selection Plan should be permitted to continue.”¹⁸⁶ Following this process, the Participants notified the Commission of the selection of Thesys as the Initial Plan Processor on January 17, 2017.¹⁸⁷ At the time, neither the Commission nor the industry argued that the selection of the Initial Plan Processor was unreasonable or otherwise inconsistent with the CAT NMS Plan, nor did they predict the selection would result in unanticipated delays in the implementation of the CAT System. On the contrary, on April 4, 2017, the President of SIFMA wrote that “SIFMA looks forward to commencing work with the SROs and Thesys.”¹⁸⁸

As noted in the CAT Funding Model Approval Order, the Commission recognized that “[t]he CAT NMS Plan contemplates that the costs of the CAT are to be allocated between the Participants and Industry Members.”¹⁸⁹ If the CAT Funding Model had existed on Day 1, the risk of any unanticipated costs or challenges associated with the Initial Plan Processor would have been fairly and reasonably shared among the Participants and Industry Members on an ongoing basis. Given that the Commission concluded in 2012 that the costs of the CAT would be shared by the Participants and Industry Members, it is not fair or reasonable to determine in hindsight that all of the risk involved in developing the CAT should be allocated entirely to the Participants.

(F) CAIS Implementation Costs

CAT LLC believes that the recovery of CAIS-related costs is appropriate, and that the amount and scope of such costs, as described above, are reasonable, and that the reasonableness of historical

costs should be evaluated by the Commission as of the time they were incurred, not in hindsight.

In approving the CAT Funding Model, the Commission recognized that it is appropriate to recover reasonable CAIS operating costs as a part of Historical CAT Assessments. As approved by the SEC, the CAT NMS Plan states that “the reasonably budgeted CAT costs shall include . . . CAIS operating fees.”¹⁹⁰ In addition, the CAT NMS Plan also requires Participants to include in their fee filings “a brief description of the amount and type of the Historical CAT Costs, including . . . CAIS operating fees.”¹⁹¹ In keeping with these provisions, this filing provides a brief description of reasonably budgeted CAIS operating fees.

In addition, CAT LLC determined that the CAIS operating fees described above are reasonable in both amount and scope and should be recoverable as a part of Historical CAT Assessment 1A. The “CAIS Operating Costs” for Historical CAT Costs 1 total \$9,480,587, with Pre-FAM costs of \$2,072,908, FAM 1 costs of \$254,998, FAM 2 costs of \$1,590,298, and FAM 3 costs of \$5,562,383. As described above, the CAIS operating fees were incurred with regard to two categories of CAIS-related efforts: (1) the acceleration of the reporting of LTIDs; and (2) the development of the CAIS Technical Specifications and the building of CAIS. These two categories of costs are discussed in more detail below.

(i) LTID Reporting

During the period covered by Historical CAT Assessment 1A, the CAIS operating costs included costs related to the acceleration of the reporting of LTIDs earlier than originally contemplated during this period at the request of the SEC and in accordance with exemptive relief granted by the SEC.¹⁹² As the SEC approved in this exemptive relief, the Participants proposed “to require the reporting of LTIDs to the CAT in Phases 2c and 2d, instead of with the rest of Customer Account Information in Phase 2e, which potentially could result in an earlier elimination of broker-dealer recordkeeping, reporting and monitoring requirements of the Large Trader Rule.”¹⁹³ To implement the reporting of LTIDs to the CAT, the following steps were taken during the

¹⁸⁶ CAT NMS Plan Approval Order at 84737.

¹⁸⁷ Letter from the Participants to Brent J. Fields, Secretary, SEC (Jan. 18, 2017), <https://www.sec.gov/divisions/marketreg/rule613-info-notice-of-plan-processor-selection.pdf>.

¹⁸⁸ Letter from Kenneth E. Bentsen, Jr., SIFMA, to Participants re: Selection of Thesys as CAT Processor (Apr. 4, 2017), <https://www.sifma.org/wp-content/uploads/2017/05/SIFMA-Submits-Comment-Letter-to-SRO-on-the-selection-of-Thesys-as-the-CAT-Processor.pdf>.

¹⁸⁹ CAT Funding Model Approval Order at 13421.

¹⁹⁰ Section 11.1(a)(i) of the CAT NMS Plan.

¹⁹¹ Section 11.3(b)(iii)(B)(II) of the CAT NMS Plan.

¹⁹² See Phased Reporting Exemptive Relief Order at 23079–80.

¹⁹³ *Id.* at 23078–79, n.70.

period covered by Historical CAT Assessment 1A:

- After FCAT developed the LTID Technical Specifications, the LTID Technical Specifications were published on January 31, 2020, with additional updates provided to the LTID Technical Specifications through April 2021.¹⁹⁴
- The LTID account information testing environment opened on August 24, 2020.
- The LTID account information reporting production environment opened on December 14, 2020. CAT Reporters were required to request their production readiness certification for account information related to LTIDs by the deadline of April 9, 2021.
- The LTID account information reporting for Phases 2a, 2b and 2c for Large Industry Members went live on April 26, 2021.
- The LTID account information reporting for Phases 2d for Large Industry Members went live on December 13, 2021.
- The LTID account information reporting for Phases 2a, 2b, 2c and 2d for Small Industry Members went live on April 26, 2021.

Throughout this project, FCAT and CAT LLC worked closely with the industry on LTID and CAIS reporting. Between December 2019 and December 2021, at least 57 checkpoint calls, webinars, and technical working group meetings with industry representatives were hosted to address issues and to educate CAT Reporters regarding LTID and CAIS reporting.¹⁹⁵

The LTID reporting project was successfully completed in a timely fashion, and the fees related to the project were reasonable. Accordingly, CAT LLC appropriately seeks to recover such costs via Historical CAT Assessment 1A.

(ii) CAIS Reporting

During the period covered by Historical CAT Assessment 1A, FCAT began the development of the full CAIS Technical Specifications and the building of CAIS. The CAIS Technical Specifications were developed during this period as follows:

- Iterative drafts of the CAIS Technical Specifications were

published on June 30, 2020, December 1, 2020, and January 1, 2021.¹⁹⁶

- The full, final CAIS Technical Specifications were published on January 29, 2021.

- Updated versions of the CAIS Technical Specifications were published throughout 2021.¹⁹⁷

As discussed above, FCAT and CAT LLC frequently engaged with the industry regarding the development of CAIS, hosting regular checkpoint calls, webinars, and technical working group meetings with industry representatives to address any issues, including addressing the interplay between Industry Members' existing customer systems and CAIS, and to educate CAT Reporters regarding LTID and CAIS reporting. Such engagement was critical to the CAIS development process as the CAIS project was unprecedented in terms of its content, scope and complexity.

During this period, FCAT also commenced the building of the CAIS system in accordance with the CAIS Technical Specifications during the period covered by Historical CAT Assessment 1A. The CAIS system was ready for industry testing shortly after the end of this period in January 2022.

The CAIS Technical Specifications and the CAIS system, as developed during this period, continue to be used. Industry Members have been required to report, and have continuously reported, required data to CAIS on a daily basis since November 7, 2022, consistent with interim reporting obligations. The CAIS system accepts and validates the CAIS data submitted by Industry Members and provides Industry Members with initial feedback on data errors. In light of the unprecedented nature of the CAIS system, certain changes to the system, such as changes related to error corrections and the CAIS regulatory portal, were necessary to finalize CAIS reporting. FCAT worked to address these remaining issues,¹⁹⁸ and, as of May 31, 2024, FCAT indicated that it had achieved the final CAIS reporting milestone. Accordingly, CAT LLC appropriately seeks to recover CAIS operating costs via Historical CAT Assessment 1A.

¹⁹⁶ The CAIS Technical Specifications, including original drafts and updated versions, are available on the Industry Member Specifications page of the CAT website (<https://www.catnmsplan.com/specifications/im>).

¹⁹⁷ Six updated versions of the CAIS Technical Specifications were published during 2021, in March, May, June, August, October and December.

¹⁹⁸ See, e.g., CAT Q4 2023 Quarterly Progress Report (Jan. 30, 2024) (<https://www.catnmsplan.com/sites/default/files/2024-01/CAT-Q4-2023-QPR.pdf>).

(G) Public Relations Costs

CAT LLC believes that the recovery of public relations costs is appropriate and that the amount and scope of such costs, as described above, are reasonable.

The Commission has long recognized that external public relations costs are reasonably associated with creating, implementing and maintaining the CAT. In the CAT NMS Plan Approval Order, the Commission estimated that the Participants had collectively spent approximately \$2,400,000 in preparation of the CAT NMS Plan on external public relations, legal, and consulting costs, and estimated that the Participants would continue to incur external public relations costs associated with maintaining the CAT upon approval of the CAT NMS Plan.¹⁹⁹

In approving the CAT Funding Model, the Commission recognized that it is appropriate to recover reasonable costs for public relations services as a part of Historical CAT Assessments. As approved by the SEC, the CAT NMS Plan states that "the reasonably budgeted CAT costs shall include . . . public relations costs."²⁰⁰ In addition, the CAT NMS Plan also requires Participants to include in their fee filings "a brief description of the amount and type of the Historical CAT Costs, including . . . public relations costs."²⁰¹ In keeping with these provisions, a brief description of reasonable public relations costs are described above.

In addition, CAT LLC determined that the public relations costs described above are reasonable in both amount and scope and should be recoverable as a part of Historical CAT Assessment 1A. The services performed by the public relations firms through 2021 were limited in scope to assist CAT LLC, which has no employees of its own, to be better positioned to understand and address CAT matters to the benefit of all market participants and to communicate on important CAT topics with the public. In addition, the costs for these services were appropriately limited. During the 10-year period covered by Historical CAT Assessment 1A, the average cost per year for these services was approximately \$36,000.

(H) Legal Costs Related to the Limitation of Liability Provision in CAT Reporter Agreements

CAT LLC believes that the recovery of legal costs related to the limitation of liability provision, including costs

¹⁹⁴ The LTID Technical Specifications, including original drafts and updated versions, are available on the Industry Member Specifications page of the CAT website (<https://www.catnmsplan.com/specifications/im>).

¹⁹⁵ Such contact points with the industry are described in detail on the Events web page of the CAT website (<https://www.catnmsplan.com/events>).

¹⁹⁹ CAT NMS Plan Approval Order at 84917–18.

²⁰⁰ Section 11.1(a)(i) of the CAT NMS Plan.

²⁰¹ Section 11.3(b)(iii)(B)(II) of the CAT NMS Plan.

related to the proceedings before the SEC and costs related to the proposed amendment to the Consolidated Audit Trail Reporter Agreement and the Consolidated Audit Trail Reporting Agent Agreement (the “Reporting Agreements”) is appropriate and that the amount and scope of such costs as described above are reasonable.

As a preliminary matter, as discussed above, the Commission recognized that it is appropriate to recover reasonable costs for legal services as a part of Historical CAT Assessments.²⁰² In addition, CAT LLC determined that the legal costs incurred for the assistance with regard to the limitation of liability provisions are reasonable in both amount and scope and should be recoverable as a part of Historical CAT Assessment 1A.

Moreover, it is critical that CAT LLC, which has no employees of its own, have the ability to fund a legal defense in litigation and other legal proceedings against it. In response to CAT LLC requiring Industry Members to agree to the limitation of liability provision to submit data to the CAT, SIFMA filed an application for review of actions taken by CAT LLC and the Participants pursuant to Sections 19(d) and 19(f) of the Exchange Act. Contemporaneously with the filing of this proceeding, SIFMA moved for a stay of the requirement that Industry Members sign a Reporter Agreement, or in the alternative, asked the Commission to further delay the launch of CAT reporting on June 22, 2020. CAT LLC must have the resources to defend itself from litigious actions by others, like these.

Although a limitation of liability provision ultimately was not adopted as proposed, it was a reasonable provision to propose for the CAT Reporter Agreements, given that such provisions are in accordance with industry norms. Limitations of liability are ubiquitous within the securities industry and have long governed the economic relationships between self-regulatory organizations and the entities that they regulate. For example, U.S. securities exchanges have adopted rules to limit their liability for losses that Industry Members incur through their use of exchange facilities.²⁰³ Similarly, FINRA’s former order audit trail, OATS, which has functioned as an integrated audit trail of order, quote, and trade data for equity securities, required FINRA members to acknowledge an agreement that includes a limitation of liability

provision.²⁰⁴ In addition, such a provision was intended to ensure the financial stability of the CAT. Accordingly, it was reasonable for CAT LLC to propose the use of such a provision.²⁰⁵

Furthermore, as described above, the specialized services were performed by experienced counsel at market rates for such services. Accordingly, the legal costs for the efforts related to the limitation of liability provision were reasonable.

(I) Costs for the Chair of the CAT Operating Committee

CAT LLC believes that the recovery of consulting costs related to the Chair of the CAT Operating Committee is appropriate and that the amount and scope of such costs are reasonable.

As a preliminary matter, the selection of the Chair of the Operating Committee complies with the requirements of Section 4.2 of the CAT NMS Plan. The initial Chair that served during the period covered by Historical CAT Assessment 1A was designated by a Participant as the Participant’s alternate voting member. Accordingly, the Chair is a representative of the Participants, as required by the CAT NMS Plan.

In addition, in approving the CAT Funding Model, the Commission recognized that it is appropriate to recover reasonable costs for consulting as a part of Historical CAT Assessments. As approved by the SEC, the CAT NMS Plan states that “the reasonably budgeted CAT costs shall include . . . consulting . . .” costs.²⁰⁶ In addition, the CAT NMS Plan also requires Participants to include in their fee filings “a brief description of the amount and type of the Historical CAT Costs, including . . . consulting”²⁰⁷ costs. In keeping with these provisions, a brief description of reasonable consulting costs is included in this filing, and such reasonable consulting costs include the costs related to the Chair position.

The Participants determined that the position of the Chair was a critical role for the implementation of the CAT, and

an independent Chair would appropriately consider and address the views of each of the Participants. The Participants also determined that it was important to have a Chair with a strong background regarding issues related to the regulatory obligations of self-regulatory organizations, including their obligations under national market system plans. The compensation paid to the Chair is appropriate for a person with such background and skills. The average annual amount paid to the Chair from 2017 through the end of FAM 3 was \$292,733.30. Separate from the Chair, CAT LLC relies upon a Leadership Team of representatives of the SROs to oversee the day-to-day implementation of the CAT NMS Plan. CAT LLC does not compensate any member of the Leadership Team.

(11) Fee Implementation Assistance for Industry Members

(A) Reconciliation of CAT Invoices

(i) Reconciliation of CAT Invoices to Underlying Trades Provided by CAT

CAT LLC understands that there are three types of reconciliation processes related to the invoices:

- *Reconciliation of CAT Invoices to Underlying Trades:* Reconciling the CAT invoice amount to the underlying trades provided by CAT;
- *Matching Trades to Books and Records:* Providing the means to match the underlying trades provided by CAT with CAT invoices to other books and records independently maintained by individual CAT Reporters (e.g., exchange trade journals/ acknowledgements) and data sources of self-regulatory organizations independent of CAT; and
- *Order Originator Identification:* Providing the ability to identify the order originator for the underlying trades provided by CAT with CAT invoices, which would facilitate firms’ ability to pass through CAT Fees to their customers.

As discussed further below, CAT LLC only considers the first type of process to be a “reconciliation” and the only type of process that is required under the CAT NMS Plan. CAT LLC provides the means to reconcile the CAT invoice amount to the underlying trades provided by CAT.

The CAT NMS Plan does not require CAT LLC to facilitate the second type of process: matching underlying trades for a CAT invoice with a firm’s internal books and records. CAT LLC has access only to the underlying trades provided by CAT; it does not have access to a firm’s internal books and records. Although beyond the requirements of

²⁰⁴ FINRA Rule 1013(a)(1)(R) requires all applicants for FINRA Membership to acknowledge the FINRA Entitlement Program Agreement and Terms of Use, which applies to OATS. Industry Members click to indicate that they agree to its terms—including its limitation of liability provision—every time they access FINRA’s OATS system to report trade information (i.e., repeatedly over the course of a trading day for many Industry Members).

²⁰⁵ See Letter from Michael Simon, Chair, CAT Operating Committee, to Vanessa Countryman, Secretary, Commission (Dec. 18, 2020).

²⁰⁶ Section 11.1(a)(i) of the CAT NMS Plan.

²⁰⁷ Section 11.3(b)(iii)(B)(II) of the CAT NMS Plan.

²⁰² See Sections 11.1(a)(i) and 11.3(b)(iii)(B)(II) of the CAT NMS Plan.

²⁰³ See, e.g., NASDAQ Equities Rule 4626.

the CAT NMS Plan and involving firm specific considerations, CAT LLC voluntarily has provided guidance and processes to assist CAT Reporters in their efforts to match the underlying trades with their own books and records.

The CAT NMS Plan also does not require CAT LLC to provide the ability to identify the order originator for the underlying trades for the CAT invoices. Accordingly, the billing guidance and processes do not provide CAT Reporters with the ability to identify the order originator for the underlying trades provided by CAT with CAT invoices. CAT LLC has been working closely with CAT Reporters to explain its billing approach and to address any outstanding billing questions. But, it should not be lost that CAT LLC provides information sufficient to allow CAT Reporters to reconcile CAT invoice amounts with the underlying trades provided by CAT LLC.

(ii) Match the Underlying Trades Provided by CAT With CAT Invoices to Firms' Internal Books and Records Independent of CAT

The CAT NMS Plan does not require CAT LLC to facilitate the matching of underlying trades for a CAT invoice with a firm's internal books and records, which may consist of trading data from various sources external to CAT. Although beyond the requirements of the CAT NMS Plan and involving firm specific considerations, CAT LLC voluntarily has provided guidance and processes to assist CAT Reporters in their efforts to match the underlying trades with their own books and records.

In this regard, it is important to recognize that CAT LLC has developed a billing approach that greatly improves upon existing billing practices for similar regulatory fees (e.g., fees related to Section 31). Accordingly, with the additional information voluntarily provided by CAT LLC, CAT Reporters generally will have sufficient information to match their underlying trades provided by CAT with their own internal books and records that are independent of CAT or to SRO data that is independent of CAT data. However, CAT LLC emphasizes that providing such additional information is not required by the CAT NMS Plan.

To facilitate the introduction of CAT fees, CAT LLC has worked with FCAT to develop an approach to CAT billing that is consistent with existing billing constructs used with regard to Section 31-related sales values fees, subject to certain enhancements. Under this billing approach, FCAT is providing

additional linkage elements, not necessarily provided in the Section 31-sales value fee context, to facilitate CAT Reporters' ability to match the underlying trades provided by CAT with their internal books and records and to reduce the complexity of that process. Specifically, FCAT is providing various key elements of the trade itself, such as the tradeID and branch sequence,²⁰⁸ to CAT Reporters in the trade billing details provided with their CAT invoices ("Additional Trade Details"). As a result, CAT Reporters now have numerous alternative methods for matching a trade with their internal books and records where they previously did not have such matching methods in other fee contexts.

With the Additional Trade Details, CAT LLC and FCAT believe that the overwhelming majority of underlying trades provided by CAT bills can be matched with a CAT Reporter's internal books and records. CAT LLC recognizes that there may be certain cases in which such matching is more difficult given various firm-specific considerations, but believes that such instances are significantly more limited than with regard to the SRO fees charged in relation to Section 31.²⁰⁹ By providing Additional Trade Details that are not available in other fee contexts, FCAT enhances the Industry Members' ability to match the underlying trades provided with CAT invoices with books and records and SRO data, both of which are independent of CAT data.

(iii) CAT LLC Is Not Required To Facilitate CAT Reporters' Ability To Pass Through Fees to Their Customers

Similar to other regulatory fees, the CAT NMS Plan does not address the manner or extent to which CAT Executing Brokers may seek to pass any CAT fees on to their customers, nor does it impose any obligation on CAT LLC or

the Plan Processor to facilitate firms' ability to do so. Accordingly, Historical CAT Assessment 1A does not address the process by which any CAT Reporters may pass through the fee to their customers. Likewise, the CAT billing approach provided by the Plan Processor is designed to address the needs of CAT Reporters with regard to the reconciliation of CAT invoices with the underlying trades provided by CAT LLC with the invoices; they are not designed to address issues related to any pass-through fees. Accordingly, facilitating CAT Reporters' ability to pass through fees to their clients is outside the scope of this fee filing. Nevertheless, as described below, CAT LLC and the Plan Processor have expended significant efforts to provide technical assistance to Industry Members regarding the implementation of Historical CAT Assessment 1A, including providing Additional Trade Details that provide significant details about each underlying trade.

(a) Originating Brokers Versus Executing Brokers

In its approval of the CAT Funding Model, the Commission approved charging CAT fees to the CAT Executing Broker, rather than the originating broker. This fee filing must comply with the requirements of the CAT Funding Model, and, therefore, charges the Historical CAT Assessment 1A to CAT Executing Brokers.

Moreover, charging originating brokers would introduce significant complexity to the billing process from the CAT's perspective, and would increase the costs of implementing CAT fees. Charging the CAT Executing Broker is simple and straightforward, and leverages a one-to-one relationship between billable events (trades) and billable parties, similar to other transaction-based fees. In contrast, for a single trade event, there may be many originating brokers, and each trade must be broken down on a pro-rata basis, to account for one or more layers of aggregation, disaggregation, and representation of the underlying orders. While CAT is indeed designed to capture and unwind complex aggregation scenarios, the data and linkages are structured to facilitate regulatory use, and not a billing mechanism that assesses fees on a distinct set of executed trades; it is not simply a matter of using existing CAT linkages. Furthermore, charging originating brokers would implicate issues related to lifecycle linkage rates, and issues related to corrections, cancellations and allocations, while

²⁰⁸ See CAT Technical Specifications for Billing Trade Details; Trade Details Schema (<https://catnmsplan.com/sites/default/files/2024-02/02.05.24-Billing-Trade-Details-Schema.json>); CAT Billing Scenarios, Version 1.0 (Nov. 30, 2023) (<https://www.catnmsplan.com/sites/default/files/2024-01/01.12.2024-CAT-Billing-Scenarios-v1.0.pdf>).

²⁰⁹ For years, broker-dealers have faced similar reconciliation issues with regard to SRO fees related to Section 31. Broker-dealers have responded to this issue in the Section 31 context by exercising their discretion as to whether and the manner and extent to which they pass on those fees (e.g., by rounding up its fees to the nearest cent, or decide to charge for, or not charge for, certain transactions, or assess a specific fee or incorporate the costs into other fee programs). See, e.g., Securities Exchange Act Rel. No. 49928 (June 28, 2004), 69 FR 41060, 41072 (July 7, 2004) (noting that broker-dealers may "over-collect" Section 31-related fees charged to their clients due to rounding practices, and double-counting with regard to certain transactions).

charging CAT Executing Brokers would avoid such issues.

(b) Identification of Order Originator for Underlying Trades

As noted, the CAT NMS Plan does not address the manner or extent to which CAT Executing Brokers may seek to pass any CAT Fees on to their customers, nor does it impose any obligation on CAT LLC or the Plan Processor to facilitate firms' ability to do so. Nevertheless, the Additional Trade Details provided with regard to the underlying trades on CAT invoices may assist with this process. Like with Section 31-related sales value fees, however, it is not always possible to trace every fee on a transaction back to the originating party. Industry Members have faced these issues under Section 31-related sales value fees for many years.²¹⁰ However, with the Additional Trade Details provided under the CAT billing approach, in many cases, CAT Reporters will be able to identify the order originator for the underlying trades provided by CAT with CAT invoices. In some cases, CAT LLC believes that certain issues related to certain types of market activity may implicate CAT Reporters' ability to identify the order originator for a limited set of underlying trades for the CAT invoices. Although CAT LLC does not believe that it is required to address these issues, CAT LLC and FCAT have been carefully researching and analyzing these types of issues as they are identified, and have been working voluntarily to assist CAT Reporters with these issues as necessary and when possible. In addition, CAT LLC intends to continue to provide CAT Reporters with billing guidance through FAQs, CAT Alerts and Helpdesk responses to address outstanding billing questions.

(B) Significant Technical Assistance

CAT LLC has worked with FCAT to provide significant technical assistance to Industry Members to allow the Industry Members to understand how Historical CAT Assessments will be implemented and billed, including webinars, CAT alerts, mock invoices, and responses to questions posed to the FCAT Help Desk.

²¹⁰ "FINRA charges a Regulatory Transaction Fee ("RTF") to industry members to reimburse FINRA for the Section 31 fees that FINRA pays to the Commission. FINRA does not currently provide industry members with the data that industry members require for proper reconciliation of RTF fees. This has been a major problem for the industry for many years." Letter from Howard Meyerson, Managing Director, FIF, to Robert Cook, Chief Executive Officer, FINRA at 2 (Dec. 15, 2023) (<https://fif.com/index.php/working-groups/category/271-comment-letters?download=2820:fif-letter-to-finra-on-pass-through-of-finra-cat-fees&view=category>).

- *Technical Specifications and Scenarios.* CAT LLC has provided detailed technical documentation for CAT billing, including (1) technical specifications, which describe the CAT Billing Trade Details Files associated with monthly CAT invoices, including detailed information about data elements and file formats as well as access instructions, network and transport options;²¹¹ (2) trade details schemas;²¹² and (3) CAT billing scenarios.²¹³

- *Industry Webinars.* CAT LLC has hosted two industry webinars specifically dedicated to CAT billing. The first webinar, hosted on September 28, 2023, discussed the operational implementation of the CAT Reporter billing process.²¹⁴ The second webinar, hosted on November 7, 2023, provided (1) a demonstration of the CAT Reporter Portal and how to access CAT billing documents, including CAT invoices; and (2) additional information on underlying trade details in relation to the CAT Reporter billing process and an overview of the CAT Contact Management System.²¹⁵ 485 participants and 394 participants attended the two webinars, respectively.

- *CAT Alert.* CAT LLC has published a detailed CAT Alert that describes how FCAT, as the Plan Processor acting on behalf of CAT LLC, will calculate applicable fees, issue invoices to and collect payment from CAT Executing Brokers.²¹⁶

- *Frequently Asked Questions (FAQs).* CAT LLC also has continued to engage with the industry on billing issues by making responses to billing FAQs available on the CAT website. The FAQs address a broad range of frequently asked questions, including, for example, which Industry Members will receive invoices, how fees are calculated, when and how fees are required to be paid, how to access invoices, and how to update the billing

²¹¹ CAT Technical Specifications for Billing Trade Details, Version 1.0 r1 (Dec. 8, 2023) (https://catnmsplan.com/sites/default/files/2023-12/12.07.2023-CAT-Technical-Specifications-for-Billing-Trade-Details-v1.0r1_CLEAN.pdf).

²¹² Trade Details Schema (<https://catnmsplan.com/sites/default/files/2024-02/02.05.24-Billing-Trade-Details-Schema.json>).

²¹³ CAT Billing Scenarios, Version 1.0 (Nov. 30, 2023) (<https://www.catnmsplan.com/sites/default/files/2024-01/01.12.2024-CAT-Billing-Scenarios-v1.0.pdf>).

²¹⁴ CAT Billing Webinar, Part 1 (Sept. 28, 2023) (<https://www.catnmsplan.com/events/part-1-cat-billing-webinar>).

²¹⁵ CAT Billing Webinar, Part 2 (Nov. 7, 2023) (<https://www.catnmsplan.com/events/part-2-cat-billing-webinar>).

²¹⁶ See CAT Alert 2023–02 (Oct. 12, 2023) (<https://www.catnmsplan.com/sites/default/files/2023-10/10.12.23-CAT-Alert-2023-02.pdf>).

contact. To date, responses to 31 FAQs are available on the CAT website, and CAT LLC will provide additional responses to FAQs as warranted.²¹⁷

- *Substantial Past Experience with CAT Billing Processes.* To date, CAT LLC, via FCAT, has billed Industry Members for Historical CAT Assessment 1 and certain Prospective CAT Fees. Industry Members will be billed for Historical CAT Assessment 1A via the same processes established for Historical CAT Assessment 1 and the Prospective CAT Fees. Accordingly, Industry Members have substantial experience with the CAT billing processes.

- *Help Desk Assistance.* CAT LLC also provides detailed, individualized assistance to Industry Members regarding CAT fees and the billing process through the FCAT Help Desk.²¹⁸ For example, the Help Desk assisted with 406 cases related to the billing of CAT fees from July 2023 through March 2024.

By providing such detailed and sustained assistance to Industry Members regarding CAT fees and billing, CAT LLC has successfully addressed questions raised by Industry Members regarding the CAT fees and billing processes.

(C) Notice to Industry Members

In keeping with past practice, CAT LLC provided notice of the proposed Historical CAT Assessment 1A via CAT Fee Alert on April 1, 2026,²¹⁹ one month prior to the effective date of Historical CAT Assessment 1A on May 1, 2026. Such notice provides Industry Members with sufficient time to address any technological or other requirements necessary for implementing Historical CAT Assessment 1A.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the requirements of the Exchange Act. The Exchange believes that the proposed rule change is consistent with Section 6(b)(5) of the Act,²²⁰ which requires, among other things, that the Exchange's

²¹⁷ See CAT Billing FAQs, Section V of CAT FAQs (https://www.catnmsplan.com/faq?search_api_fulltext=&field_topics=271&sort_by=field_faq_number).

²¹⁸ The CAT NMS Plan requires that the Plan Processor "staff a CAT help desk, as described in Appendix D, CAT Help Desk, to provide technical expertise." Section 6.10(c)(vi) of the CAT NMS Plan. See also Section 10.3 of Appendix D of the CAT NMS Plan for a description of the Plan requirements for the CAT Help Desk.

²¹⁹ CAT Fee Alert 2026–1 (Apr. 1, 2026) (<https://www.catnmsplan.com/sites/default/files/2026-04/04.01.26-CAT-Fee-Alert-2026-1.pdf>).

²²⁰ 15 U.S.C. 78f(b)(6).

rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest, and not designed to permit unfair discrimination between customers, issuers, brokers and dealers. The Exchange also believes that the proposed rule change is consistent with the provisions of Section 6(b)(4) of the Act,²²¹ because it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers. The Exchange further believes that the proposed rule change is consistent with Section 6(b)(8) of the Act,²²² which requires that the Exchange's rules not impose any burden on competition that is not necessary or appropriate in furtherance of the purpose of the Exchange Act. These provisions also require that the Exchange be "so organized and [have] the capacity to be able to carry out the purposes" of the Act and "to comply, and . . . to enforce compliance by its members and persons associated with its members," with the provisions of the Exchange Act.²²³ Accordingly, a reasonable reading of the Act indicates that it intended that regulatory funding be sufficient to permit an exchange to fulfill its statutory responsibility under the Act, and contemplated that such funding would be achieved through equitable assessments on the members, issuers, and other users of an exchange's facilities.

(1) Implementation of CAT Funding Model in CAT NMS Plan

Section 11.1(b) of the CAT NMS Plan states that "[t]he Participants shall file with the SEC under Section 19(b) of the Exchange Act any such fees on Industry Members that the Operating Committee approves." Per Section 11.1(b) of the CAT NMS Plan, the Exchange has filed this fee filing to implement the Industry Member CAT fees included in the CAT Funding Model. The Exchange believes that this proposal is consistent with the Exchange Act because it is consistent with, and implements, the CAT Funding Model in the CAT NMS Plan, and is designed to assist the Exchange and its Industry Members in meeting regulatory obligations pursuant to the CAT NMS Plan. In approving the CAT NMS Plan, the SEC noted that the Plan "is

necessary and appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanism of a national market system, or is otherwise in furtherance of the purposes of the Act."²²⁴ Similarly, in approving the CAT Funding Model, the SEC concluded that the CAT Funding Model met this standard.²²⁵ As this proposal implements the Plan and the CAT Funding Model described therein, and applies specific requirements to Industry Members in compliance with the Plan, the Exchange believes that this proposal furthers the objectives of the Plan, as identified by the SEC, and is therefore consistent with the Exchange Act.

(2) Calculation of Fee Rate for Historical CAT Assessment 1A Is Reasonable

The SEC has determined that the CAT Funding Model is reasonable and satisfies the requirements of the Exchange Act. Specifically, the SEC has concluded that the method for determining Historical CAT Assessments as set forth in Section 11.3 of the CAT NMS Plan, including the formula for calculating the Historical Fee Rate, the identification of the parties responsible for payment and the transactions subject to the fee rate for the Historical CAT Assessment, is reasonable and satisfies the Exchange Act.²²⁶ In each respect, as discussed above, Historical CAT Assessment 1A is calculated, and would be applied, in accordance with the requirements applicable to Historical CAT Assessments as set forth in the CAT NMS Plan. Furthermore, as discussed below, the Exchange believes that each of the figures for the variables in the SEC-approved formula for calculating the fee rate for Historical CAT Assessment 1A is reasonable and consistent with the Exchange Act. Calculation of the fee rate for Historical CAT Assessment 1A requires the figures for the Historical CAT Costs 1, the executed equivalent share volume for the prior twelve months, the determination of Historical Recovery Period 1A, and the projection of the executed equivalent share volume for Historical Recovery Period 1A. Each of these variables is reasonable and satisfies the Exchange Act, as discussed throughout this filing.

(A) Historical CAT Costs 1

The formula for calculating a Historical Fee Rate requires the amount of Historical CAT Costs to be recovered. Specifically, Section 11.3(b)(iii)(B)(II) of the CAT NMS Plan requires a fee filing to provide:

a brief description of the amount and type of the Historical CAT Costs, including (1) the technology line items of cloud hosting services, operating fees, CAIS operating fees, change request fees, and capitalized developed technology costs, (2) legal, (3) consulting, (4) insurance, (5) professional and administration and (6) public relations costs.

In accordance with this requirement, the Exchange has set forth the amount and type of Historical CAT Costs 1 for each of these categories of costs above.

Section 11.3(b)(iii)(B)(II) of the CAT NMS Plan also requires that the fee filing provide "sufficient detail to demonstrate that the Historical CAT Costs are reasonable and appropriate." As discussed below, the Exchange believes that the amounts set forth in this filing for each of these cost categories is "reasonable and appropriate." Each of the costs included in Historical CAT Costs 1 are reasonable and appropriate because the costs are consistent with standard industry practice, based on the need to comply with the requirements of the CAT NMS Plan, incurred subject to negotiations performed on an arm's length basis, and/or are consistent with the needs of any legal entity, particularly one with no employees.

(i) Technology: Cloud Hosting Services

In approving the CAT Funding Model, the Commission recognized that it is appropriate to recover costs related to cloud hosting services as a part of Historical CAT Assessments.²²⁷ CAT LLC determined that the costs related to cloud hosting services described in this filing are reasonable and should be included as a part of Historical CAT Costs 1. As described above, the cloud hosting services costs reflect, among other things, the breadth of the CAT cloud activities, data volume far in excess of the original volume estimates, the need for specialized cloud services given the volume and unique nature of the CAT, the processing time requirements of the Plan, and regular efforts to seek to minimize costs where permissible under the Plan. CAT LLC determined that use of cloud hosting services is necessary for implementation

²²¹ 15 U.S.C. 78f(b)(4).

²²² 15 U.S.C. 78f(b)(8).

²²³ See Section 6(b)(1) of the Exchange Act.

²²⁴ CAT NMS Plan Approval Order at 84696.

²²⁵ CAT Funding Model Approval Order at 13481.

²²⁶ *Id.*

²²⁷ Section 11.3(b)(iii)(B)(II)(B)(1) of the CAT NMS Plan.

of the CAT, particularly given the substantial data volumes associated with the CAT, and that the fees for cloud hosting services negotiated by FCAT were reasonable, taking into consideration a variety of factors, including the expected volume of data and the breadth of services provided and market rates for similar services.²²⁸ Indeed, the actual costs of the CAT are far in excess of the original estimated costs of the CAT due to various factors, including the higher volumes and greater complexity of the CAT than anticipated when Rule 613 was originally adopted.

To comply with the requirements of the Plan, the breadth of the cloud activities related to the CAT is substantial. The cloud services not only include the production environment for the CAT, but they also include two industry testing environments, support environments for quality assurance and stress testing and disaster recovery capabilities. Moreover, the cloud storage costs are driven by the requirements of the Plan, which requires the storage of multiple versions of the data, from the original submitted version of the data through various processing steps, to the final version of the data.

Data volume is a significant driver of costs for cloud hosting services. When the Commission adopted the CAT NMS Plan in 2016, it estimated that the CAT would need to receive 58 billion records per day²²⁹ and that annual operating costs for the CAT would range from \$36.5 million to \$55 million.²³⁰ Through 2021, the actual data volumes have been five times that original estimate. The data volumes for each period are set forth in detail above.²³¹

In addition to the effect of the data volume on the cloud hosting costs, the processing timelines set forth in the Plan contribute to the cloud hosting costs. Although CAT LLC has proactively sought to manage cloud hosting costs while complying with the Plan, including through requests to the Commission for exemptive relief and an amendment to the CAT NMS Plan, stringent CAT NMS Plan requirements do not allow for any material flexibility in cloud architecture design choices, processing timelines (e.g., the use of non-peak processing windows), or lower-cost storage tiers. As a result, the

required CAT processing timelines contribute to the cloud hosting costs of the CAT.

The costs for cloud hosting services also reflect the need for specialized cloud hosting services given the data volume and unique processing needs of the CAT. The data volume as well as the data processing needs of the CAT necessitate the use of cloud hosting services. The equipment, power and services required for an on-premises data model, the alternative to cloud hosting services, would be cost prohibitive. Moreover, as CAT was being developed, there were limited cloud hosting providers that could satisfy all the necessary CAT requirements, including the operational and security criteria. Over time more providers offering cloud hosting services that would satisfy these criteria have entered the market. CAT LLC will continue to evaluate alternative cloud hosting services, recognizing that the time and cost to move to an alternative cloud provider would be substantial.

The reasonableness of the cloud hosting services costs is further supported by key cost discipline mechanisms for the CAT—a cost-based funding structure, cost transparency, cost management efforts (including regular efforts to lower compute and storage costs where permitted by the Plan) and oversight. Together, these mechanisms help ensure the ongoing reasonableness of the CAT's costs and the level of fees assessed to support those costs.²³²

(ii) Technology: Operating Fees

In approving the CAT Funding Model, the SEC recognized that it is appropriate to recover costs related to operating fees as a part of Historical CAT Assessments.²³³ CAT LLC determined that the costs related to operating fees described in this filing are reasonable and should be included as a part of Historical CAT Costs 1. The operating fees include the negotiated fees paid by CAT LLC to the Plan Processor to operate and maintain the system for order-related information and to perform business operations related to the system, including compliance, security, testing, training, communications with the industry (e.g., management of the FINRA CAT Helpdesk, FAQs, website and webinars) and program management. CAT LLC determined that the selection of FCAT

as the Plan Processor was reasonable and appropriate given its expertise with securities regulatory reporting, after a process of considering other potential candidates.²³⁴ CAT LLC also determined that the fixed price contract, negotiated on an arm's length basis with the goals of managing costs and receiving services required to comply with the CAT NMS Plan and Rule 613, was reasonable and appropriate, taking into consideration a variety of factors, including the breadth of services provided and market rates for similar types of activity.²³⁵ The services performed by FCAT for each period and the costs related to such services are described above.²³⁶

(iii) Technology: CAIS Operating Fees

In approving the CAT Funding Model, the SEC recognized that it is appropriate to recover costs related to CAIS operating fees as a part of Historical CAT Assessments.²³⁷ CAT LLC determined that the costs related to CAIS operating fees described in this filing are reasonable and should be included as a part of Historical CAT Costs 1. The CAIS operating fees include the fees paid to the Plan Processor to operate and maintain CAIS and to perform the business operations related to the system, including compliance, security, testing, training, communications with the industry (e.g., management of the FINRA CAT Helpdesk, FAQs, website and webinars) and program management. CAT LLC determined that the FCAT-negotiated fees for Kingland's CAIS-related services, negotiated on an arm's length basis with the goals of managing costs and receiving services required to comply with the CAT NMS Plan, taking into consideration a variety of factors, including the services to be provided and market rates for similar types of activity, were reasonable and appropriate.²³⁸ The services performed by Kingland for each period and the costs for each period are described above.²³⁹

(iv) Technology: Change Request Fees

In approving the CAT Funding Model, the SEC recognized that it is appropriate to recover costs related to change

²²⁸ For a discussion of the amount and type of cloud hosting services fees, see Sections 3(a)(2)(B)(i)(a)(I), 3(a)(2)(B)(i)(b)(I), 3(a)(2)(B)(i)(c)(I) and 3(a)(2)(B)(i)(d)(I) above.

²²⁹ Appendix D-4 of the CAT NMS Plan at n.262.

²³⁰ CAT NMS Plan Approval Order at 84801.

²³¹ See Sections 3(a)(2)(B)(i)(a)(I), 3(a)(2)(B)(i)(b)(I), 3(a)(2)(B)(i)(c)(I) and 3(a)(2)(B)(i)(d)(I) above.

²³² See Securities Exchange Act Rel. No. 97151 (Mar. 15, 2023), 88 FR 17086, 17117 (Mar. 21, 2023) (describing key cost discipline mechanisms for the CAT).

²³³ Section 11.3(b)(iii)(B)(II)(B)(1) of the CAT NMS Plan.

²³⁴ See Section 3(a)(2)(B)(i)(a)(II) above.

²³⁵ See Sections 3(a)(2)(B)(i)(a)(II), 3(a)(2)(B)(i)(b)(II), 3(a)(2)(B)(i)(c)(II) and 3(a)(2)(B)(i)(d)(II) above.

²³⁶ *Id.*

²³⁷ Section 11.3(b)(iii)(B)(II)(B)(1) of the CAT NMS Plan.

²³⁸ See Sections 3(a)(2)(B)(i)(a)(III), 3(a)(2)(B)(i)(b)(III), 3(a)(2)(B)(i)(c)(III) and 3(a)(2)(B)(i)(d)(III) above.

²³⁹ *Id.*

request fees as a part of Historical CAT Assessments.²⁴⁰ CAT LLC determined that the costs related to change request fees described in this filing are reasonable and should be included as a part of Historical CAT Costs 1. It is common practice to utilize a change request process to address evolving needs in technology projects. This is particularly true for a project like CAT that is the first of its kind, both in substance and in scale. The substance and costs of each of the change requests are evaluated by the Operating Committee, and approved in accordance with the requirements for Operating Committee meetings. In each case, CAT LLC determined that the change requests were necessary to implement the CAT. As described above, the change requests cover various technology changes, including, for example, changes related to CAT reporting, data feeds and exchange functionality. CAT LLC also determined that the costs for each change request were appropriate for the relevant technology change. A description of the change requests for each FAM Period and their total costs is described above.²⁴¹ As noted above, the total costs for change requests through FAM Period 3 represent a small percentage of Historical CAT Costs 1—that is, 0.25% of Historical CAT Costs 1.

(v) Capitalized Developed Technology Costs

In approving the CAT Funding Model, the SEC recognized that it is appropriate to recover costs related to capitalized developed technology costs as a part of Historical CAT Assessments.²⁴² Capitalized developed technology costs include costs related to certain development costs, costs related to certain modifications, upgrades and other changes to the CAT, CAIS implementation fees and license fees. The amount and type of costs for each period are described in more detail above.²⁴³ CAT LLC determined that these costs are reasonable and should be included as a part of Historical CAT Costs 1.

These costs involve the activity of both the Initial Plan Processor and FCAT, as the successor Plan

Processor.²⁴⁴ With regard to the Initial Plan Processor, the Participants utilized an RFP to seek proposals to build and operate the CAT, receiving a number of proposals in response to the RFP. The Participants carefully reviewed and considered each of the proposals, including holding in-person meetings with each of the Bidders. After several rounds of review, the Participants selected the Initial Plan Processor in accordance with the CAT NMS Plan. CAT LLC entered into an agreement with the Initial Plan Processor in which CAT LLC would pay the Initial Plan Processor a negotiated, fixed price fee.²⁴⁵ In addition, as described above, CAT LLC determined that it was appropriate to enter into an agreement with FCAT as the successor Plan Processor.²⁴⁶

(vi) Legal

In approving the CAT Funding Model, the SEC recognized that it is appropriate to recover costs related to legal fees as a part of Historical CAT Assessments.²⁴⁷ CAT LLC determined that the legal costs described in this filing are reasonable and should be included as a part of Historical CAT Costs 1. Given the unique nature of the CAT, the number of parties involved with the CAT (including, for example, the SEC, Participants, Industry Members, and vendors) and the many regulatory issues associated with the CAT, the scope of the necessary legal services is substantial. CAT LLC determined that the scope of the legal services is necessary to implement and maintain the CAT and that the legal rates reflect the specialized services necessary for such a project. When hiring each law firm for a CAT project, CAT LLC interviewed multiple firms, and determined to hire each firm based on a variety of factors, including the relevant expertise and fees. In each case, CAT LLC determined that the hourly fee rates were in line with market rates for the specialized legal expertise. In addition, CAT LLC determined that the total costs incurred for each CAT project were appropriate given the breadth of services provided. The services performed by each law firm for each period and the costs related to such services are described above.²⁴⁸

(vii) Consulting

In approving the CAT Funding Model, the SEC recognized that it is appropriate to recover consulting costs as a part of Historical CAT Assessments.²⁴⁹ CAT LLC determined that the consulting costs described in this filing are reasonable and should be included as a part of Historical CAT Costs 1. Because there are no CAT employees²⁵⁰ and because of the significant number of issues associated with the CAT, the consultants provided assistance in the management of various CAT matters and the processes related to such matters.²⁵¹ CAT LLC considered a variety of factors in choosing a consulting firm and determined to select Deloitte after an interview process.²⁵² CAT LLC also determined that the consulting services were provided at reasonable market rates, as the fees were negotiated annually and comparable to the rates charged by other consulting firms for similar work.²⁵³ Moreover, the total costs for such consulting services were appropriate in light of the breadth of services provided by Deloitte. The services performed by Deloitte and the costs related to such services are described above.²⁵⁴

(viii) Insurance

In approving the CAT Funding Model, the SEC recognized that it is appropriate to recover insurance costs as a part of Historical CAT Assessments.²⁵⁵ CAT LLC determined that the insurance costs described in this filing are reasonable and should be included as a part of Historical CAT Costs 1. CAT LLC determined that it is common practice to have directors' and officers' liability insurance, and errors and omissions liability insurance. CAT LLC further determined that it was important to have cyber security insurance given the nature of the CAT, and such a decision is consistent with the CAT NMS Plan, which states that the cyber incident response plan may include "[i]nsurance

²⁴⁰ Section 11.3(b)(iii)(B)(II)(B)(1) of the CAT NMS Plan.

²⁴¹ See Sections 3(a)(2)(B)(i)(a)(IV), 3(a)(2)(B)(i)(b)(IV), 3(a)(2)(B)(i)(c)(IV) and 3(a)(2)(B)(i)(d)(IV) above.

²⁴² Section 11.3(b)(iii)(B)(II)(B)(1) of the CAT NMS Plan.

²⁴³ See Sections 3(a)(2)(B)(i)(a)(V), 3(a)(2)(B)(i)(b)(V), 3(a)(2)(B)(i)(c)(V) and 3(a)(2)(B)(i)(d)(V) above.

²⁴⁴ *Id.*

²⁴⁵ See Section 3(a)(2)(B)(i)(a)(V) above.

²⁴⁶ See Section 3(a)(2)(B)(i)(a)(II) above.

²⁴⁷ Section 11.3(b)(iii)(B)(II)(B)(2) of the CAT NMS Plan.

²⁴⁸ See Sections 3(a)(2)(B)(i)(a)(VI), 3(a)(2)(B)(i)(b)(VI), 3(a)(2)(B)(i)(c)(VI) and 3(a)(2)(B)(i)(d)(VI) above.

²⁴⁹ Section 11.3(b)(iii)(B)(II)(B)(3) of the CAT NMS Plan.

²⁵⁰ As stated in the filing of the proposed CAT NMS Plan, "[i]t is the intent of the Participants that the Company have no employees." Securities Exchange Act Rel. No. 77724 (Apr. 27, 2016), 81 FR 30614, 30621 (May 17, 2016).

²⁵¹ CAT LLC uses certain third parties to perform tasks that may be performed by administrators for other NMS Plans. See, e.g., CTA Plan and CQ Plan.

²⁵² See Section 3(a)(2)(B)(i)(a)(VII) above.

²⁵³ See Sections 3(a)(2)(B)(i)(a)(VII), 3(a)(2)(B)(i)(b)(VII), 3(a)(2)(B)(i)(c)(VII) and 3(a)(2)(B)(i)(d)(VII) above.

²⁵⁴ *Id.*

²⁵⁵ Section 11.3(b)(iii)(B)(II)(B)(4) of the CAT NMS Plan.

against security breaches.”²⁵⁶ In selecting the insurance providers for these policies, CAT LLC engaged in an evaluation of alternative insurers, including a comparison of the pricing offered by the alternative insurers.²⁵⁷ Based on this analysis, CAT LLC determined that the selected insurance policies provided appropriate coverage at reasonable market rates.²⁵⁸

(ix) Professional and Administration

In approving the CAT Funding Model, the SEC recognized that it is appropriate to recover professional and administration costs as a part of Historical CAT Assessments.²⁵⁹ CAT LLC determined that the professional and administration costs described in this filing are reasonable and should be included as a part of Historical CAT Costs 1. Because there are no CAT employees, all required accounting, financial, tax, cash management and treasury functions for CAT LLC have been outsourced at market rates. In addition, the required annual financial statement audit of CAT LLC is included in professional and administration costs, which costs are also at market rates.

CAT LLC determined to hire a financial advisory firm, Anchin, to assist with financial matters for the CAT. CAT LLC interviewed Anchin as well as other potential financial advisory firms to assist with the CAT project, considering a variety of factors in its analysis, including the firm’s relevant expertise and fees.²⁶⁰ The hourly fee rates for this firm were in line with market rates for the financial advisory services provided.²⁶¹ Moreover, the total costs for such financial advisory services was appropriate in light of the breadth of services provided by Anchin. The services performed by Anchin and the costs related to such services are described above.²⁶²

CAT LLC also determined to engage an independent accounting firm, Grant Thornton, to complete the audit of CAT LLC’s financial statements, in accordance with the requirements of the CAT NMS Plan. CAT LLC interviewed this firm as well as another potential

accounting firm to audit CAT LLC’s financial statements, considering a variety of factors in its analysis, including the relevant expertise and fees of each of the firms. CAT LLC determined that Grant Thornton was well-qualified for the role given the balance of these considerations.²⁶³ Grant Thornton’s fixed fee rate compensation arrangement was reasonable and appropriate, and in line with the market rates charged for these types of accounting services.²⁶⁴ Moreover, the total costs for such financial advisory services was appropriate in light of the breadth of services provided by Grant Thornton. The services performed by Grant Thornton and the costs related to such services are described above.²⁶⁵

The professional and administrative costs also include costs related to the receipt of certain market data from Exegy. After performing an analysis of the available market data vendors to confirm that the data provided met the SIP Data requirements of the CAT NMS Plan and comparing the costs of the vendors providing the required SIP Data, CAT LLC determined to purchase market data from Exegy. Exegy provided the data elements required by the CAT NMS Plan, and the fees were reasonable and in line with market rates for the market data received.²⁶⁶

The professional and administrative costs also include costs related to a third party security assessment of the CAT performed by RSM. The assessment was designed to verify and validate the effective design, implementation and operation of the controls specified by NIST Special Publication 800–53, Revision 4 and related standards and guidelines. Such a security assessment is in line with industry practice and important given the data included in the CAT. CAT LLC determined to engage RSM to perform the security assessment, after considering a variety of factors in its analysis, including the firm’s relevant expertise and fees. The fees were reasonable and in line with market rates for such an assessment.²⁶⁷

(x) Public Relations Costs

In approving the CAT Funding Model, the SEC recognized that it is appropriate to recover public relations costs as a part of Historical CAT Assessments.²⁶⁸

CAT LLC determined that the public relations costs described in this filing are reasonable and should be included as a part of Historical CAT Costs 1. CAT LLC determined that the types of public relations services utilized were beneficial to the CAT and market participants more generally. Public relations services were important for various reasons, including monitoring comments made by market participants about CAT and understanding issues related to the CAT discussed on the public record.²⁶⁹ By engaging a public relations firm, CAT LLC was better positioned to understand and address CAT issues to the benefit of all market participants.²⁷⁰ Moreover, CAT LLC determined that the rates charged for such services were in line with market rates.²⁷¹ As noted above, the total public relations costs through FAM Period 3 represent a small percentage of Historical CAT Costs 1—that is, 0.1% of Historical CAT Costs 1.

(B) Total Executed Equivalent Share Volume for the Prior 12 Months

The total executed equivalent share volume of transactions in Eligible Securities for the 12-month period from March 2025 through February 2026 was 5,980,937,549,360.49 executed equivalent shares. CAT LLC determined the total executed equivalent share volume for the prior twelve months by counting executed equivalent shares in the same manner as it will count executed equivalent shares for CAT billing purposes.

(C) Historical Recovery Period 1A

CAT LLC has determined to establish a Historical Recovery Period of 24 months for Historical CAT Assessment 1A and that such length is reasonable. CAT LLC determined that the length of Historical Recovery Period 1A appropriately weighs the need for a reasonable fee rate for Historical CAT Assessment 1A that spreads the Historical CAT Costs over an appropriate amount of time and the need to repay the loans notes to the Participants in a timely fashion. CAT LLC determined that 24 months for Historical Recovery Period 1A would establish a fee rate that is lower than other transaction-based fees, including fees assessed pursuant to Section 31.²⁷²

²⁵⁶ Section 4.1.5 of Appendix D of the CAT NMS Plan.

²⁵⁷ See Sections 3(a)(2)(B)(i)(a)(VIII), 3(a)(2)(B)(i)(b)(VIII), 3(a)(2)(B)(i)(c)(VIII) and 3(a)(2)(B)(i)(d)(VIII) above.

²⁵⁸ *Id.*

²⁵⁹ Section 11.3(b)(iii)(B)(II)(B)(5) of the CAT NMS Plan.

²⁶⁰ See Section 3(a)(2)(B)(i)(a)(IX) above.

²⁶¹ See Sections 3(a)(2)(B)(i)(a)(IX), 3(a)(2)(B)(i)(b)(IX), 3(a)(2)(B)(i)(c)(IX) and 3(a)(2)(B)(i)(d)(IX) above.

²⁶² *Id.*

²⁶³ See Section 3(a)(2)(B)(i)(a)(IX) above.

²⁶⁴ See Sections 3(a)(2)(B)(i)(a)(IX), 3(a)(2)(B)(i)(b)(IX), 3(a)(2)(B)(i)(c)(IX) and 3(a)(2)(B)(i)(d)(IX) above.

²⁶⁵ *Id.*

²⁶⁶ See Section 3(a)(2)(B)(i)(a)(IX) above.

²⁶⁷ *Id.*

²⁶⁸ Section 11.3(b)(iii)(B)(II)(B)(6) of the CAT NMS Plan.

²⁶⁹ See Section 3(a)(2)(B)(i)(a)(X) above.

²⁷⁰ See Sections 3(a)(2)(B)(i)(a)(X), 3(a)(2)(B)(i)(b)(X), 3(a)(2)(B)(i)(c)(X) and 3(a)(2)(B)(i)(d)(X) above.

²⁷¹ *Id.*

²⁷² As the SEC noted in the CAT Funding Model Approval Order, recent Section 31 fees ranged from

In addition, in establishing a Historical Recovery Period of 24 months, CAT LLC recognized that the total cost for Historical CAT Assessment 1A was less than the total costs for 2022 and 2023, and therefore it would be appropriate to recover those costs in two years.

(D) Projected Executed Equivalent Share Volume for Historical Recovery Period 1A

CAT LLC has determined to calculate the projected total executed equivalent share volume for the 24 months of Historical Recovery Period 1A by doubling the executed equivalent share volume for the prior 12 months. The Operating Committee determined that such an approach was reasonable as the CAT's annual executed equivalent share volume has increased from prior years (e.g., the executed equivalent share volume for 2024 was 4,295,884,600,069.4) and the Operating Committee believes that it is reasonable to conclude that the annual executed equivalent share volume will remain at the higher level. Accordingly, the projected total executed equivalent share volume for Historical Recovery Period 1A is projected to be 11,961,875,098,720.98 executed equivalent shares.²⁷³

(E) Actual Fee Rate for Historical CAT Assessment 1A

(i) Decimal Places

As noted in the Plan amendment for the CAT Funding Model, as a practical matter, the fee filing for a Historical CAT Assessment would provide the exact fee per executed equivalent share to be paid for each Historical CAT Assessment, and describe the relevant number of decimal places for the fee rate.²⁷⁴ Accordingly, proposed paragraph (a)(2)(B) of the fee schedule would set forth a fee rate of \$0.000002 per executed equivalent share. CAT LLC determined that the use of six decimal places is reasonable as it balances the accuracy of the calculation with the potential systems and other impracticalities of using additional decimal places in the calculation.

(ii) Reasonable Fee Level

The Exchange believes that imposing Historical CAT Assessment 1A with a fee rate of \$0.000002 per executed equivalent share is reasonable because it provides for a revenue stream for the

Company that is aligned with the remaining Historical CAT Costs 1 and such costs would be spread out over an appropriate recovery period, as discussed above. Moreover, the Exchange believes that the level of the fee rate is reasonable, as it is comparable to other transaction-based fees. Indeed, Historical CAT Assessment 1A is significantly lower than fees assessed pursuant to Section 31 (e.g., \$0.00007 per share to \$0.00072 per share),²⁷⁵ and, as a result, the magnitude of Historical CAT Assessment 1A is small, and therefore will mitigate any potential adverse economic effects or inefficiencies. Furthermore, the reasonable fee rate for Historical CAT Assessment 1A further supports CAT LLC's decision to seek to recover the costs described herein.

(3) Historical CAT Assessment 1A Provides for an Equitable Allocation of Fees

Historical CAT Assessment 1A provides for an equitable allocation of fees, as it equitably allocates CAT costs between and among the Participants and Industry Members. The SEC approved the CAT Funding Model, finding that each aspect of the CAT Funding Model satisfied the requirements of the Exchange Act, including the formula for calculating Historical CAT Assessments as well as the Industry Members to be charged the Historical CAT Assessments.²⁷⁶ In approving the CAT Funding Model, the SEC stated that "[t]he Participants have sufficiently demonstrated that the proposed allocation of fees is appropriate."²⁷⁷ Accordingly, the CAT Funding Model sets forth the requirements for allocating fees related to Historical CAT Costs among Participants and Industry Members, and the fee filings for Historical CAT Assessments must comply with those requirements.

Historical CAT Assessment 1A provides for an equitable allocation of fees as it complies with the requirements regarding the calculation of Historical CAT Assessments as set forth in the CAT NMS Plan. For example, as described above, the calculation of Historical CAT Assessment 1A complies with the formula set forth in Section 11.3(b) of the CAT NMS Plan. In addition, Historical CAT Assessment 1A would be charged to CEBBs and CEBBs in accordance with Section 11.3(b) of the CAT NMS Plan. Furthermore, the Participants would continue to remain

responsible for their designated share of Past CAT Costs through the cancellation of loans made by the Participants to CAT LLC.

In addition, as discussed above, each of the inputs into the calculation of Historical CAT Assessment 1A—Historical CAT Costs 1 (including Excluded Costs) and the exclusion of costs previously invoiced via Historical CAT Assessment 1, the count for the executed equivalent share volume for the prior 12 months, the length of the Historical Recovery Period, and the projected executed equivalent share volume for the Historical Recovery Period—are reasonable. Moreover, these inputs lead to a reasonable fee rate for Historical CAT Assessment 1A that is lower than other fee rates for transaction-based fees. A reasonable fee rate allocated in accordance with the requirements of the CAT Funding Model provides for an equitable allocation of fees.

(4) Historical CAT Assessment 1A Is Not Unfairly Discriminatory

Historical CAT Assessment 1A is not an unfairly discriminatory fee. The SEC approved the CAT Funding Model, finding that each aspect of the CAT Funding Model satisfied the requirements of the Exchange Act. In reaching this conclusion, the SEC analyzed the potential effect of Historical CAT Assessments calculated pursuant to the CAT Funding Model on affected categories of market participants, including Participants (including exchanges and FINRA), Industry Members (including subcategories of Industry Members, such as alternative trading systems, CAT Executing Brokers and market makers), and investors generally, and considered market effects related to equities and options, among other things. Historical CAT Assessment 1A complies with the requirements regarding the calculation of Historical CAT Assessments as set forth in the CAT NMS Plan. In addition, as discussed above, each of the inputs into the calculation of Historical CAT Assessment 1A and the resulting fee rate for Historical CAT Assessment 1A is reasonable. Therefore, Historical CAT Assessment 1A does not impose an unfairly discriminatory fee on Industry Members.

Finally, the Exchange believes the proposed fees established pursuant to the CAT Funding Model promote just and equitable principles of trade, and, in general, protect investors and the public interest, and are provided in a transparent manner and specificity in the fee schedule. The Exchange also believes that the proposed fees are

\$0.00007 per share to \$0.00072 per share. CAT Funding Model Approval Order at 13469.

²⁷³ This projection was calculated by multiplying 5,980,937,549,360.49 executed equivalent shares by two.

²⁷⁴ CAT Funding Model Approval Order at 13445, n.677.

²⁷⁵ *Id.* at 13469.

²⁷⁶ See Section 11.3(b) of the CAT NMS Plan.

²⁷⁷ CAT Funding Model Approval Order at 13412.

reasonable because they would provide ease of calculation, ease of billing and other administrative functions, and predictability of a fee based on fixed rate per executed equivalent share. Such factors are crucial to estimating a reliable revenue stream for CAT LLC and for permitting Exchange members to reasonably predict their payment obligations for budgeting purposes.

B. Self-Regulatory Organization's Statement on Burden on Competition

Section 6(b)(8) of the Act²⁷⁸ requires that the Exchange's rules not impose any burden on competition that is not necessary or appropriate in furtherance of the purpose of the Exchange Act. The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange notes that Historical CAT Assessment 1A implements provisions of the CAT NMS Plan that were approved by the Commission and is designed to assist the Exchange in meeting its regulatory obligations pursuant to the Plan.

In addition, all Participants (including exchanges and FINRA) are proposing to introduce Historical CAT Assessment 1A on behalf of CAT LLC to implement the requirements of the CAT NMS Plan. Therefore, this is not a competitive fee filing, and, therefore, it does not raise competition issues between and among the Participants.

Furthermore, in approving the CAT Funding Model, the SEC analyzed the potential competitive impact of the CAT Funding Model, including competitive issues related to market services, trading services and regulatory services, efficiency concerns, and capital formation.²⁷⁹ The SEC also analyzed the potential effect of CAT fees calculated pursuant to the CAT Funding Model on affected categories of market participants, including Participants (including exchanges and FINRA), Industry Members (including

subcategories of Industry Members, such as alternative trading systems, CAT Executing Brokers and market makers), and investors generally, and considered market effects related to equities and options, among other things. Based on this analysis, the SEC approved the CAT Funding Model as compliant with the Exchange Act. Historical CAT Assessment 1A is calculated and implemented in accordance with the CAT Funding Model as approved by the SEC.

As discussed above, each of the inputs into the calculation of Historical CAT Assessment 1A is reasonable and the resulting fee rate for Historical CAT Assessment 1A calculated in accordance with the CAT Funding Model is reasonable. Therefore, Historical CAT Assessment 1A would not impose any burden on competition that is not necessary or appropriate in furtherance of the purpose of the Exchange Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Not applicable.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act²⁸⁰ and paragraph (f) of Rule 19b-4²⁸¹ thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-CboeEDGX-2026-031 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-CboeEDGX-2026-031. 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-CboeEDGX-2026-031 and should be submitted on or before June 4, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁸²

J. Matthew DeLesDernier,
Deputy Secretary.

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²⁷⁸ 15 U.S.C. 78f(b)(8).

²⁷⁹ CAT Funding Model Approval Order at 13479-13481.

²⁸⁰ 15 U.S.C. 78s(b)(3)(A).

²⁸¹ 17 CFR 240.19b-4(f).

²⁸² 17 CFR 200.30-3(a)(12).



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Part VI

Securities and Exchange Commission

Self-Regulatory Organizations; Cboe EDGA Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Fee Schedule Entitled "Consolidated Audit Trail Funding Fees"; Notice

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–105433; File No. SR–CboeEDGA–2026–014]

Self-Regulatory Organizations; Cboe EDGA Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Fee Schedule Entitled “Consolidated Audit Trail Funding Fees”

May 11, 2026.

Pursuant to Section 19(b)(1) under the Securities Exchange Act of 1934 (“Act”),¹ and Rule 19b–4 thereunder,² notice is hereby given that on April 27, 2026, Cboe EDGA Exchange, Inc. (the “Exchange” or “EDGA”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of the Substance of the Proposed Rule Change

Cboe EDGA Exchange, Inc. (the “Exchange” or “EDGA”) proposes to amend its fee schedule entitled “Consolidated Audit Trail Funding Fees”³ to establish fees for Industry Members⁴ related to certain historical costs of the National Market System Plan Governing the Consolidated Audit Trail (the “CAT NMS Plan” or “Plan”) incurred prior to January 1, 2022 that were not previously invoiced via Historical CAT Assessment 1. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Commission’s website (<https://www.sec.gov/rules/sro.shtml>), the Exchange’s website (https://www.cboe.com/us/equities/regulation/rule_filings/bzx/), and at the principal office of the Exchange.

II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On July 11, 2012, the Commission adopted Rule 613 of Regulation NMS, which required the self-regulatory organizations (“SROs”) to submit a national market system (“NMS”) plan to create, implement and maintain a consolidated audit trail that would capture customer and order event information for orders in NMS securities across all markets, from the time of order inception through routing, cancellation, modification or execution.⁵ On November 15, 2016, the Commission approved the CAT NMS Plan.⁶ Under the CAT NMS Plan, the Operating Committee has the discretion to establish funding for CAT LLC to operate the CAT, including establishing fees for Industry Members to be assessed by CAT LLC that would be implemented on behalf of CAT LLC by the Participants.⁷ On September 5, 2025, CAT LLC proposed a revised funding model to fund the CAT (“CAT Funding Model”).⁸ On March 16, 2026, the Commission approved the CAT Funding Model, after concluding that the model satisfied the requirements of Section 11A of the Exchange Act and Rule 608 thereunder.⁹

The CAT Funding Model provides a framework for the recovery of the costs to create, develop and maintain the CAT, including providing a method for allocating costs to fund the CAT among Participants and Industry Members. The CAT Funding Model establishes two categories of fees: (1) CAT fees assessed by CAT LLC and payable by certain Industry Members to recover a portion of historical CAT costs previously paid by the Participants (“Historical CAT Assessment” fees); and (2) CAT fees assessed by CAT LLC and payable by Participants and Industry Members to fund prospective CAT costs (“Prospective CAT Costs” fees).¹⁰

Under the CAT Funding Model, “[t]he Operating Committee will establish one or more fees (each a ‘Historical CAT Assessment’) to be payable by Industry Members with regard to CAT costs previously paid by the Participants (‘Past CAT Costs’).”¹¹ In establishing a Historical CAT Assessment, the Operating Committee will determine a “Historical Recovery Period” and calculate a “Historical Fee Rate” for that Historical Recovery Period. Then, for each month in which a Historical CAT Assessment is in effect, each CEBB and CEBS would be required to pay the fee—the Historical CAT Assessment—for each transaction in Eligible Securities executed by the CEBB or CEBS from the prior month as set forth in CAT Data, where the Historical CAT Assessment for each transaction will be calculated by multiplying the number of executed equivalent shares in the transaction by one-third and by the Historical Fee Rate.¹²

Each Historical CAT Assessment to be paid by CEBBs and CEBSs is designed to contribute toward the recovery of two-thirds of the Historical CAT Costs. Because the Participants previously have paid Past CAT Costs via loans to the Company, the Participants would not be required to pay any Historical

¹⁰ Under the CAT Funding Model, the Operating Committee may establish one or more Historical CAT Assessments. Section 11.3(b) of the CAT NMS Plan. This filing only establishes Historical CAT Assessment 1A related to certain Historical CAT Costs as described herein; it does not address any other potential Historical CAT Assessment related to other Historical CAT Costs. In addition, under the CAT Funding Model, the Operating Committee also may establish CAT Fees related to CAT costs going forward. Section 11.3(a) of the CAT NMS Plan. This filing does not address any potential CAT Fees related to CAT costs going forward. Any such other fee for any other Historical CAT Assessment or CAT Fee for Prospective CAT Costs will be subject to a separate fee filing.

¹¹ Section 11.3(b) of the CAT NMS Plan.

¹² In approving the CAT Funding Model, the Commission stated that, “[i]n the Commission’s view, the proposed recovery of the Past CAT Costs via the Historical CAT Assessment is appropriate.” CAT Funding Model Approval Order at 13450.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

³ The Exchange and each of its affiliated exchanges (Cboe BYX Exchange, Inc., Cboe BZX Exchange, Inc., Cboe C2 Exchange, Inc., Cboe Exchange, Inc., and Cboe EDGX Exchange, Inc.) are filing to adopt the same amendment to this fee schedule.

⁴ An “Industry Member” is defined as “a member of a national securities exchange or a member of a national securities association.” See Exchange Rule 4.5(u); see also Section 1.1 of the CAT NMS Plan. Unless otherwise specified, capitalized terms used in this rule filing are defined as set forth in the CAT NMS Plan and/or the CAT Compliance Rule. See Rule 4.5–4.17.

⁵ Securities Exchange Act Rel. No. 67457 (July 18, 2012), 77 FR 45721 (Aug. 1, 2012) (“Rule 613 Adopting Release”).

⁶ Securities Exchange Act Rel. No. 79318 (Nov. 15, 2016), 81 FR 84696 (Nov. 23, 2016) (“CAT NMS Plan Approval Order”).

⁷ Section 11.1(b) of the CAT NMS Plan.

⁸ Securities Exchange Act Rel. No. 103960 (Sept. 12, 2025), 90 FR 44910 (Sept. 17, 2025).

⁹ Securities Exchange Act Rel. No. 105003 (Mar. 16, 2026), 91 FR 13410 (Mar. 29, 2026) (“CAT Funding Model Approval Order”). This CAT Funding Model replaced the prior funding model that was approved by the Commission on September 6, 2023. Securities Exchange Act Rel. No. 98290 (Sept. 6, 2023), 88 FR 62628 (Sept. 12, 2023).

CAT Assessment. In lieu of a Historical CAT Assessment, the Participants' one-third share of Historical CAT Costs will be paid by the cancellation of loans made by the Participants to the Company on a pro rata basis based on the outstanding loan amounts due under the loans, instead of through the payment of a CAT fee.¹³ In addition, the Participants also will be 100% responsible for certain Excluded Costs (as discussed below).

CAT LLC proposes to charge CEBBs and CEBs (as described in more detail below) Historical CAT Assessment 1A to recover certain historical CAT costs incurred prior to January 1, 2022, in accordance with the CAT Funding Model. To implement this fee on behalf of CAT LLC, the CAT NMS Plan requires the Participants to "file with the SEC under Section 19(b) of the Exchange Act any such fees on Industry Members that the Operating Committee approves, and such fees shall be labeled as 'Consolidated Audit Trail Funding Fees.'" ¹⁴ The Plan further states that "Participants will be required to file with the SEC pursuant to Section 19(b) of the Exchange Act a filing for each Historical CAT Assessment."¹⁵ Accordingly, the purpose of this filing is to implement a Historical CAT Assessment on behalf of CAT LLC for

Industry Members, referred to as Historical CAT Assessment 1A, in accordance with the CAT NMS Plan.¹⁶

The Exchange, along with the other Participants in the CAT, previously filed a fee filing to implement Historical CAT Assessment 1.¹⁷ Based on the fee filing for Historical CAT Assessment 1, Historical CAT Assessment 1 was expected to be in effect from the first invoice in November 2024 until \$212,039,879.34 (two-thirds of Historical CAT Costs 1) was invoiced to CAT Executing Brokers collectively.¹⁸ However, Historical CAT Assessment 1 ceased before the entire amount was invoiced.¹⁹ The last invoice for Historical CAT Assessment 1 was provided on December 2025, after only \$173,075,024 of the total \$212,039,879.34 had been invoiced to Industry Members.²⁰ Accordingly, \$38,964,855.34 of Historical CAT Costs 1 has not been invoiced. Historical CAT Assessment 1A would seek to recover this outstanding amount of Historical CAT Costs 1 that has not been invoiced.

(1) CAT Executing Brokers

Historical CAT Assessment 1A will be charged to each CEBB and CEBs for each applicable transaction in Eligible Securities.²¹ The CAT NMS Plan defines a "CAT Executing Broker" to mean:

(a) with respect to a transaction in an Eligible Security that is executed on an exchange, the Industry Member identified as the Industry Member responsible for the order on the buy-side of the transaction and the Industry Member responsible for the sell-side of the transaction in the equity order trade event and option trade event in the CAT Data submitted to the CAT by the relevant exchange pursuant to the Participant Technical Specifications; and (b) with respect to a transaction in an Eligible Security that is executed otherwise than on an exchange and required to be reported to an equity trade reporting facility of a registered national securities association, the Industry Member identified as the executing broker and the Industry Member identified as the contra-side executing broker in the TRF/ORF/ADF transaction data event in the CAT Data submitted to the CAT by FINRA pursuant to the Participant Technical Specifications; provided, however, in those circumstances where there is a non-Industry Member identified as the contra-side executing broker in the TRF/ORF/ADF transaction data event or no contra-side executing broker is identified in the TRF/ORF/ADF transaction data event, then the Industry Member identified as the executing broker in the TRF/ORF/ADF transaction data event would be treated as CAT Executing Broker for the Buyer and for the Seller.²²

The following fields of the Participant Technical Specifications indicate the CAT Executing Brokers for the transactions executed on an exchange.

EQUITY ORDER TRADE (EOT)²³

No.	Field name	Data type	Description	Include key
12.n.8/13.n.8	member	Member Alias	The identifier for the member firm that is responsible for the order on this side of the trade. Not required if there is no order for the side as indicated by the NOBUYID/NOSELLID instruction. This must be provided if orderID is provided ...	C

¹³ Section 11.3(b)(ii) of the CAT NMS Plan.

¹⁴ Section 11.1(b) of the CAT NMS Plan.

¹⁵ Section 11.3(b)(iii)(B)(I) of the CAT NMS Plan.

¹⁶ Note that there may be one or more Historical CAT Assessments. Section 11.3(b) of the CAT NMS Plan.

¹⁷ Securities Exchange Act Release No. 100942 (September 5, 2024), 89 FR 75296 (September 11, 2024) (SR-CboeEDGA-2024-035) ("Historical CAT Assessment 1 Filing").

¹⁸ See Consolidated Audit Trail Funding Fees (a)(1).

¹⁹ In response to the Eleventh Circuit's decision vacating the prior CAT NMS Plan funding model, the last invoices for Historical CAT Assessment 1 were sent in December 2025 based on November 2025 transactions. See *American Securities*

Association v. SEC, No. 23-13396 (11th Cir. July 25, 2025).

²⁰ CAT Fee Alert 2025-4 (Nov. 25, 2025).

²¹ In its approval order for the CAT Funding Model, the Commission determined that charging CAT fees to CAT Executing Brokers was appropriate. In reaching this conclusion the Commission noted that the use of CAT Executing Brokers is appropriate because the CAT Funding Model is based upon the calculation of *executed* equivalent shares, and, therefore, charging CAT Executing Brokers would reflect their executing role in each transaction. Furthermore, the Commission noted that, because CAT Executing Brokers are already identified in transaction reports from the exchanges and FINRA's equity trade reporting facilities recorded in CAT Data, charging CAT

Executing Brokers could streamline the billing process. CAT Funding Model Approval Order at 13413.

²² Section 1.1 of the CAT NMS Plan. In its approval order for the CAT Funding Model, the Commission "recognize[d] that Industry Members may pass-through CAT fees for customer executed volume." See CAT Funding Model Approval Order at 13424.

²³ See Table 23, Section 4.7 (Order Trade Event) of the CAT Reporting Technical Specifications for Plan Participants, Version 4.2.0-r2 (Feb. 24, 2026), https://www.catnmsplan.com/sites/default/files/2026-02/02.24.2026-CAT_Reporting_Technical_Specifications_for_Participants_4.2.0-r2.pdf ("CAT Reporting Technical Specifications for Plan Participants").

OPTION TRADE (OT)²⁴

No.	Field name	Data type	Description	Include key
16.n.13/17.n.13	member	Member Alias	The identifier for the member firm that is responsible for the order.	R

In addition, the following fields of the Participant Technical Specifications would indicate the CAT Executing

Brokers for the transactions executed otherwise than on an exchange.

TRF/ORF/ADF TRANSACTION DATA EVENT (TRF)²⁵

No.	Field name	Data type	Description	Include key
26	reportingExecutingMpid	Member Alias	MPID of the executing party	R
28	contraExecutingMpid	Member Alias	MPID of the contra-side executing party	C

(2) Calculation of Fee Rate for Historical CAT Assessment 1A

The Operating Committee determined the fee rate to be used in calculating Historical CAT Assessment 1A based on the Historical CAT Costs for Historical CAT Assessment 1A and the projected total executed share volume of all transactions in Eligible Securities for the Historical Recovery Period for Historical CAT Assessment 1A (“Historical Recovery Period 1A”), as discussed in detail below. Based on this calculation, the Operating Committee has determined that the fee rate for Historical CAT Assessment 1A would be \$0.000002, as discussed in detail below.

(A) Executed Equivalent Shares for Transactions in Eligible Securities

Under the CAT NMS Plan, for purposes of calculating each Historical CAT Assessment, executed equivalent shares in a transaction in Eligible Securities will be reasonably counted as follows: (1) each executed share for a transaction in NMS Stocks will be counted as one executed equivalent share; (2) each executed contract for a transaction in Listed Options will be counted based on the multiplier applicable to the specific Listed Options (*i.e.*, 100 executed equivalent shares or such other applicable multiplier); and (3) each executed share for a transaction in OTC Equity Securities shall be counted as 0.01 executed equivalent share.²⁶

(B) Historical CAT Costs

The CAT NMS Plan states that “[t]he Operating Committee will reasonably determine the Historical CAT Costs sought to be recovered by each Historical CAT Assessment, where the Historical CAT Costs will be Past CAT Costs minus Past CAT Costs reasonably excluded from Historical CAT Costs by the Operating Committee. Each Historical CAT Assessment will seek to recover from CAT Executing Brokers two-thirds of Historical CAT Costs incurred during the period covered by the Historical CAT Assessment.”²⁷ Historical CAT Assessment 1, the original Historical CAT Assessment, was implemented to recover \$212,039,879.34 of Historical CAT Costs 1 from CEBBs and CEBBs collectively.²⁸ As described in the fee filings for Historical CAT Assessment 1, Historical CAT Costs 1 of \$212,039,879.34 includes Past CAT Costs of \$401,312,909 minus certain Excluded Costs of \$83,253,090. As described in the filing for Historical CAT Assessment 1, Participants collectively will remain responsible for one-third of Historical CAT Costs 1 (which is \$106,019,939.67), plus the Excluded Costs of \$83,253,090. Accordingly, CEBBs collectively will be responsible for one-third of Historical CAT Costs 1 (which is \$106,019,939.67), and CEBBs collectively will be responsible for one-third of Historical CAT Costs 1 (which is \$106,019,939.67), for a total of \$212,039,879.34. CEBBs and CEBBs collectively have been invoiced for \$173,075,024 of the

\$212,039,879.34 of Historical CAT Costs 1 via Historical CAT Assessment 1. Accordingly, Historical CAT Assessment 1A would charge CEBBs and CEBBs collectively for the remaining \$38,964,855.34 of Historical CAT Costs 1 that was not invoiced to CEBBs and CEBBs via Historical CAT Assessment 1. Historical CAT Assessment 1A will be designed to recover the remaining \$38,964,855.34 of Historical CAT Costs 1 from CEBBs and CEBBs collectively, with CEBBs collectively responsible for \$19,482,427.67 and CEBBs collectively responsible for \$19,482,427.67.

(i) Historical CAT Costs 1

The following describes in detail Historical CAT Costs 1 with regard to four separate historical time periods as well as Past CAT Costs excluded from Historical CAT Costs 1 (“Excluded Costs”). The following cost details are provided in accordance with the requirement in the CAT NMS Plan to provide in the fee filing “a brief description of the amount and type of Historical CAT Costs, including (1) the technology line items of cloud hosting services, operating fees, CAIS operating fees, change request fees, and capitalized developed technology costs, (2) legal, (3) consulting, (4) insurance, (5) professional and administration and (6) public relations costs.”²⁹ Each of the costs described below are reasonable, appropriate and necessary for the creation, implementation and maintenance of CAT. These Historical

²⁴ See Table 52, Section 5.2.5.1 (Simple Option Trade Event) of the CAT Reporting Technical Specifications for Plan Participants.

²⁵ See Table 62, Section 6.1 (TRF/ORF/ADF Transaction Data Event) of the CAT Reporting Technical Specifications for Plan Participants.

²⁶ Section 11.3(a)(i)(B) and 11.3(b)(i)(B) of the CAT NMS Plan. In approving the CAT Funding Model, the Commission concluded that “in the Commission’s view, the use of executed equivalent share volume as the basis for determining and allocating CAT costs during the two-year interim period is appropriate and consistent with the

funding principles of the CAT NMS Plan.” CAT Funding Model Approval Order at 13427.

²⁷ Section 11.3(b)(i)(C) of the CAT NMS Plan.

²⁸ See Historical CAT Assessment 1 Filing at 75318.

²⁹ Section 11.3(b)(iii)(B)(III)(B) of the CAT NMS Plan.

CAT Costs 1 are the same as described in the fee filing for Historical CAT Assessment 1.³⁰

(a) Historical CAT Costs Incurred Prior to June 22, 2020 (Pre-FAM Costs)

Historical CAT Costs 1 would include costs incurred by CAT prior to June 22, 2020 ("Pre-FAM Period") and already

funded by the Participants, excluding Excluded Costs (described further below). Historical CAT Costs 1 would include costs for the Pre-FAM Period of \$124,290,730. The Participants would remain responsible for one-third of this cost (which they have previously paid) (\$41,430,243.33), and Industry Members would be responsible for the remaining

two-thirds, with CEBBs paying one-third (\$41,430,243.33) and CEBBs paying one-third (\$41,430,243.33). These costs do not include Excluded Costs, as discussed further below. The following table breaks down Historical CAT Costs 1³¹ for the Pre-FAM Period into the categories set forth in Section 11.3(b)(iii)(B)(II) of the CAT NMS Plan.

Operating expense	Historical CAT costs 1 for Pre-FAM Period (prior to June 22, 2020)
Capitalized Developed Technology Costs *	\$51,847,150
Technology Costs	33,568,579
Cloud Hosting Services	10,268,840
Operating Fees	21,085,485
CAIS Operating Fees	2,072,908
Change Request Fees	141,346
Legal	19,674,463
Consulting	17,013,414
Insurance	880,419
Professional and administration	1,082,036
Public relations	224,669
Total Operating Expenses	124,290,730

* The non-cash amortization of these capitalized developed technology costs of \$2,115,545 incurred during the period prior to June 22, 2020 have been appropriately excluded from the above table.³²

The Pre-FAM Period includes a broad range of CAT-related activity from 2012 through June 22, 2020, including the evaluation of the requirements of SEC Rule 613, the development of the CAT NMS Plan, the evaluation and selection of the initial and successor Plan Processors, the commencement of the creation and implementation of the CAT to comply with Rule 613 and the CAT NMS Plan, including technical specifications for transaction reporting and regulatory access, and related technology and the commencement of reporting to the CAT. The following describes the costs for each of the categories for the Pre-FAM Period.

(I) Technology Costs—Cloud Hosting Services

The \$10,268,840 in technology costs for cloud hosting services represent costs incurred for services provided by the cloud services provider for the CAT,

Amazon Web Services, Inc. ("AWS"), during the Pre-FAM Period.

As part of its proposal for acting as the successor Plan Processor for the CAT, FCAT selected AWS as a subcontractor to provide cloud hosting services. In 2019, after reviewing the capabilities of other cloud services providers, FCAT determined that AWS was the only cloud services provider at that time sufficiently mature and capable of providing the full suite of necessary cloud services for the CAT, including, for example, the security, resiliency and complexity necessary for the CAT computing requirements. The use of cloud hosting services is standard for this type of high-volume data activity and reasonable and necessary for implementation of the CAT, particularly given the substantial data volumes associated with the CAT.

Under the Plan Processor Agreement with FCAT, CAT LLC is required to pay FCAT the fees incurred by the Plan

Processor for cloud hosting services provided by AWS as FCAT's subcontractor on a monthly basis for the cloud hosting services, and FCAT, in turn, pays such fees to AWS. The fees for cloud hosting services were negotiated by FCAT on an arm's length basis with the goals of managing cost and receiving services required to comply with the CAT NMS Plan and Rule 613, taking into consideration a variety of factors, including the expected volume of data, the breadth of services provided and market rates for similar services. The fees for cloud hosting services during the Pre-FAM Period were paid to FCAT by CAT NMS, LLC³³ and subsequently Consolidated Audit Trail, LLC (as previously noted, both entities are referred to generally as "CAT LLC"),³⁴ and FCAT, in turn, paid AWS. CAT LLC was funded via loan contributions by the Participants.³⁵

AWS was engaged by FCAT to provide a broad array of cloud hosting

³⁰ See generally Historical CAT Assessment 1 Filing.

³¹ The costs described in this table of costs for the Pre-FAM Period were calculated based upon CAT LLC's review of applicable bills and invoices and related financial statements. CAT LLC financial statements are available on the CAT website. In addition, in accordance with Section 6.6(a)(i) of the CAT NMS Plan, in 2018 CAT LLC provided the SEC with "an independent audit of fees, costs, and expenses incurred by the Participants on behalf of the Company prior to the Effective Date of the Plan that will be publicly available." The audit is available on the CAT website.

³² With respect to certain costs that were "appropriately excluded," such excluded costs

relate to the amortization of capitalized technology costs, which are amortized over the life of the Plan Processor Agreement. As such costs have already been otherwise reflected in the filing, their inclusion would double count the capitalized technology costs. In addition, amortization is a non-cash expense.

³³ CAT NMS, LLC was formed by FINRA and the U.S. national securities exchanges to implement the requirements of SEC Rule 613 under the Exchange Act. SEC Rule 613 required the SROs to jointly submit to the SEC the CAT NMS Plan to create, implement and maintain the CAT. The SEC approved the CAT NMS Plan on November 15, 2016. CAT NMS Plan Approval Order.

³⁴ On August 29, 2019, the Participants formed a new Delaware limited liability company named Consolidated Audit Trail, LLC for the purpose of conducting activities related to the CAT from and after the effectiveness of the proposed amendment of the CAT NMS Plan to replace CAT NMS, LLC. See Securities Exchange Act Rel. No. 87149 (Sept. 27, 2019), 84 FR 52905 (Oct. 3, 2019).

³⁵ For each of the costs paid by CAT NMS, LLC and Consolidated Audit Trail, LLC as discussed throughout this filing, CAT NMS, LLC and Consolidated Audit Trail, LLC paid these costs via loan contributions by the Participants to CAT NMS, LLC and Consolidated Audit Trail, LLC, respectively.

services for the CAT, including data ingestion, data management, and analytic tools. Services provided by AWS include storage services, databases, compute services and other services (such as networking, management tools and DevOps tools). AWS also was engaged to provide various environments for CAT, such as development, performance testing, test and production environments.

The cost for AWS services for the CAT is a function of the volume of CAT Data. The greater the amount of CAT Data, the greater the cost of AWS

services to the CAT. During the Pre-FAM Period from the engagement of AWS in February 2019 through June 2020, AWS provided cloud hosting services for volumes of CAT Data far in excess of the volume predictions set forth in the CAT NMS Plan. The CAT NMS Plan states, when all CAT Reporters are submitting their data to the CAT, it “must be sized to receive[,] process and load more than 58 billion records per day,”³⁶ and that “[i]t is expected that the Central Repository will grow to more than 29 petabytes of raw, uncompressed data.”³⁷ However,

the volume of CAT Data for the Pre-FAM Period was far in excess of these predicted levels. By the end of this period, data submitted to the CAT included options and equities Participant Data,³⁸ Phase 2a and Phase 2b Industry Member Data³⁹ (including certain linkages), as well as SIP Data,⁴⁰ reference data and other types of Other Data.⁴¹ The following chart provides data regarding the average daily volume, cumulative total events, total compute hours and storage footprint of the CAT during the Pre-FAM Period.⁴²

	Date range: 3/29/19 to 4/12/20 *	Date range: 4/13/20 to 6/21/20 **
Average Daily Volume in Billions:		
Participant—Equities	5	5
Participant—Options	80	981
Industry Member—Equities		3
Industry Member—Options		0.04
SIP—Options & Equities	64	70
Average Total Daily Volume	149	166
Cumulative Total Events for the Period	3,890	4,990
Total Compute Hours for the Period	*** N/A	5,663,247
Storage Footprint at End of Period (Petabytes)	30.57	47.96

* The Participant Equities in RSA format.

** Start of Industry Member reporting on 4/13/2020.

*** Note that, although there were compute hours during this period, data related to such compute hours are no longer available in current data.

(II) Technology Costs—Operating Fees

The \$21,085,485 in technology costs related to operating fees represent costs incurred with regard to activities of FCAT as the Plan Processor. Operating fees are those fees paid by CAT LLC to FCAT as the Plan Processor to operate and maintain the CAT and to perform business operations related to the system, including compliance, security, testing, training, communications with the industry (e.g., management of the FINRA CAT Helpdesk, FAQs, website and webinars) and program management as required by the CAT NMS Plan.

FCAT was selected to assume the role of the successor Plan Processor. Prior to this selection, the Participants engaged in discussions with two prior Bidders⁴³ for the successor Plan Processor role. The Operating Committee formed a Selection Subcommittee in accordance with Section 4.12 of the CAT NMS Plan to evaluate and review Bids and to make

a recommendation to the Operating Committee with respect to the selection of the successor Plan Processor. In an April 9, 2019 letter to the Commission, the Participants described the reasons for its selection of the successor Plan Processor:

The Selection Subcommittee considered factors including, but not limited to, the following, in recommending FINRA to the Operating Committee as the successor Plan Processor:

a. FINRA’s specialized technical expertise and capabilities in the area of broker-dealer technology;

b. The need to appoint a successor Plan Processor with specialized expertise to develop, implement, and maintain the CAT System in accordance with the CAT NMS Plan and SEC Rule 613;

c. FINRA’s detailed proposal in response to CATLLC’s recent inquiries; and

d. FINRA’s data query and analytics systems demonstration to the Participants.

Based on these and other factors, the Selection Subcommittee determined that FINRA was the most appropriate Bidder to become the successor Plan Processor.⁴⁴

On February 26, 2019, the Operating Committee (with FINRA recusing itself) voted to select FINRA as the successor Plan Processor pursuant to Section 6.1(t) of the CAT NMS Plan.⁴⁵ On March 29, 2019, CAT LLC and FCAT (a wholly owned subsidiary of FINRA) entered into a Plan Processor Agreement pursuant to which FCAT would perform the functions and duties of the Plan Processor contemplated by the CAT NMS Plan, including the management and operation of the CAT.

Under the Plan Processor Agreement with FCAT, CAT LLC is required to pay FCAT a negotiated monthly fixed price for the operation of the CAT. This fixed price contract was negotiated on an

³⁶ Appendix D–4 of the CAT NMS Plan at n.262.

³⁷ Appendix D–5 of the CAT NMS Plan.

³⁸ See Section 6.3(d) of the CAT NMS Plan.

³⁹ See Securities Exchange Rel. No. 88702 (Apr. 20, 2020), 85 FR 23075 (Apr. 24, 2020) (“Phased Reporting Exemptive Relief Order”) for a description of Phase 2a and Phase 2b Industry Member Data.

⁴⁰ See Section 6.5(a)(ii) of the CAT NMS Plan.

⁴¹ See Appendix C–109 of the CAT NMS Plan.

⁴² Note that the volume data described in this table does not include CAIS data.

⁴³ The term “Bidder” is defined in Section 1.1 of the CAT NMS Plan.

⁴⁴ Letter from Michael J. Simon, Chair, CAT NMS, LLC Operating Committee, to Brent J. Fields, Secretary, SEC (Apr. 9, 2019), <https://www.sec.gov/divisions/marketreg/rule613-info-notice-of-plan-processor-selection-040919.pdf>.

⁴⁵ *Id.*

arm's length basis with the goals of managing costs and receiving services required to comply with the CAT NMS Plan and Rule 613, taking into consideration a variety of factors, including the breadth of services provided and market rates for similar types of activity. The operating fees during the Pre-FAM Period were paid to FCAT by CAT LLC.

From March 29, 2019 (the commencement of the Plan Processor Agreement with FCAT) through June 22, 2020 (the end of the Pre-FAM Period), the Plan Processor's activities with respect to the CAT included the following:

- Commenced user acceptance testing with market data provided by Exegy Incorporated ("Exegy"), a market data provider;⁴⁶
- Published Technical Specifications and related reporting scenarios documents for Phase 2a, 2b and 2c reporting for Industry Members, after substantial engagement with SEC staff, Industry Members and Participants on the Technical Specifications;
- Facilitated testing for Phase 2a and 2b reporting for Industry Members;
- Began developing Technical Specifications and related reporting scenarios documents for Phase 2d reporting for Industry Members, after substantial engagement with SEC staff, Industry Members and Participants on the Technical Specifications;
- Published Central Repository Access Technical Specifications, and provided regulator access to test data from Industry Members;
- Facilitated Participant exchanges that support options market makers sending Quote Sent Time to the CAT;
- Facilitated the introduction of OPRA and Options NBBO Other Data to CAT;
- Addressed compliance items, including drafting CAT policies and procedures, and addressing requirements under Regulation SCI;
- Provided support to the Operating Committee, the Compliance Subcommittee and CAT working groups;
- Assisted with interpretive efforts and exemptive requests regarding the CAT NMS Plan;
- Oversaw the security of the CAT;
- Monitored the operation of the CAT, including with regard to Participant and Industry Member reporting;
- Provided support to subcontractors under the Plan Processor Agreement;

⁴⁶ The use of Exegy to provide market data, including the costs and market data provided, is discussed below in Section 3(a)(2)(B)(a)(IX).

- Provided support in discussions with Participants, the SEC and its staff;
- Operated the FINRA CAT Helpdesk, which is the primary source for answers to questions about CAT, including questions regarding: clock synchronization, firm reporting responsibilities, interpretive questions, technical specifications for reporting to CAT and more;
- Facilitated communications with the industry, including via FAQs, CAT Alerts, meetings, presentations and webinars;
- Administered the CAT website and all of its content;⁴⁷ and
- Provided technical support and assistance with connectivity, data access, and user support, including the use of CAT Data and query tools, for Participants and the SEC staff.

(III) Technology Costs—CAIS Operating Fees

The \$2,072,908 in technology costs related to CAIS operating fees represent the fees paid for FCAT's subcontractor charged with the development and operation of CAT's Customer and Account Information System ("CAIS"). The CAT is required under the CAT NMS Plan to capture and store Customer Identifying Information and Customer Account Information in a database separate from the transactional database and to create a CAT-Customer-ID for each Customer.

During the Pre-FAM Period, the CAIS-related services were provided by the Plan Processor through the Plan Processor's subcontractor, Kingland Systems Incorporation ("Kingland"). Kingland had experience operating in the securities regulatory technology space, and as a part of its proposal for acting as the Plan Processor for the CAT, FCAT selected Kingland as a subcontractor to provide certain CAIS-related services.

Under the Plan Processor Agreement with FCAT, CAT LLC was required to pay to the Plan Processor the fees incurred by FCAT for CAIS-related services provided by FCAT through Kingland on a monthly basis. FCAT negotiated the fees for Kingland's CAIS-related services on an arm's length basis with the goals of managing costs and receiving services required to comply with the CAT NMS Plan, taking into consideration a variety of factors, including the services to be provided and market rates for similar types of activity. The fees for CAIS-related services during the Pre-FAM Period

were paid by CAT LLC to FCAT. FCAT, in turn, paid Kingland.

During the Pre-FAM Period, Kingland began development of the CAIS Technical Specifications and the building of CAIS. In addition, Kingland also worked on the build related to the CCID Alternative, an alternative approach to customer information that was not included in the CAT NMS Plan as originally adopted.⁴⁸ Furthermore, Kingland also worked on the acceleration of the reporting of large trader identifiers ("LTID") earlier than originally contemplated during this period, in accordance with exemptive relief granted by the SEC.⁴⁹

(IV) Technology Costs—Change Request Fees

The technology costs related to change request fees include costs related to certain modifications, upgrades or other changes to the CAT. Change requests are standard practice and necessary to reflect operational changes, including changes related to new market developments, such as new market participants. In general, if CAT LLC determines that a modification, upgrade or other change to the functionality or service is necessary and appropriate, CAT LLC will submit a request for such a change to the Plan Processor. The Plan Processor will then respond to the request with a proposal for implementing the change, including the cost (if any) of such a change. CAT LLC then determines whether to approve the proposed change. The change request costs were paid by CAT LLC to FCAT. During the Pre-FAM Period, CAT LLC incurred costs of \$141,346 related to change requests implemented by FCAT. Such change requests related to a development fee regarding the OPRA and SIP data feeds, and the reprocessing of certain exchange data.⁵⁰

(V) Technology Costs—Capitalized Developed Technology Costs

This category of costs includes capitalizable application development costs incurred in the development of the CAT. The capitalized developed technology costs for the Pre-FAM Period of \$51,847,150 relate to technology provided by the Initial Plan Processor and the successor Plan Processor.

⁴⁸ For a discussion of the CCID Alternative, see Securities Exchange Act Rel. No. 88393 (Mar. 17, 2020), 85 FR 16152 (Mar. 20, 2020).

⁴⁹ Phased Reporting Exemptive Relief Order at 23079–80.

⁵⁰ Note that CAT LLC also has incurred costs related to specific Industry Members (e.g., reprocessing costs related to Industry Member reporting errors).

⁴⁷ The CAT website is <https://www.catnmsplan.com>.

Initial Plan Processor: Thesys CAT, LLC. The capitalized developed technology costs related to the Initial Plan Processor include costs incurred with regard to testing for Participant reporting, Participant reporting to the CAT, a security assessment of the CAT, and the development of the billing function for the CAT.

On January 17, 2017, the Selection Committee of the CAT NMS Plan selected the Initial Plan Processor, Thesys Technologies, LLC, for the CAT NMS Plan pursuant to Article V of the CAT NMS Plan.⁵¹ The Participants utilized a request for proposal ("RFP") to seek proposals to build and operate the CAT, receiving a number of proposals in response to the RFP. The Participants carefully reviewed and considered each of the proposals, including holding in-person meetings with each of the Bidders. After several rounds of review, the Participants selected the Initial Plan Processor in accordance with the CAT NMS Plan, taking into consideration that the Initial Plan Processor had experience operating in the securities regulatory technology space, among other considerations. On April 6, 2017, CAT LLC entered into an agreement with Thesys CAT LLC ("Thesys CAT"), a Thesys affiliate, to perform the functions and duties of the Plan Processor contemplated by the CAT NMS Plan, including the management and operation of the CAT. Under the agreement, CAT LLC would pay Thesys CAT a negotiated, fixed price fee for its role as the Initial Plan Processor. Effective January 30, 2019, the Plan Processor Agreement with Thesys CAT was terminated, and FCAT was subsequently selected as the successor Plan Processor.

From January 17, 2017 through January 30, 2019, the time in which Thesys CAT was engaged for the CAT, but excluding the period from November 15, 2017 through January 30, 2019, the Initial Plan Processor engaged in various activities with respect to the CAT, including preparing iterative drafts of Participant Technical Specifications, Industry Member Technical Specifications and the Central Repository Access Technical Specifications. In addition, Thesys CAT also developed CAT technology, addressed compliance items, including drafting CAT policies and procedures, addressing Regulation SCI requirements, establishing a CAT Compliance Officer and a Chief Information Security

Officer, addressed security-related matters for the CAT, and worked towards the initiation of Participant reporting per the Participant Technical Specifications.

Successor Plan Processor: FCAT. The capitalized developed technology costs related to FCAT include: (1) development costs incurred during the application development stage to meet various agreed-upon milestones regarding the CAT, including the completion of go-live functionality related to options ingestion and validation, equities regulatory services agreement query tool updates and unlinked options data query, options linkages release, Industry Member Phase 2a file submission and data integrity (including error corrections), and Industry Member testing, including reporting relationships, ATS order type management, basic reporting statistics, SFTP data integrity feedback and error correction; (2) costs related to certain modifications, upgrades, or other changes to the CAT that were not contemplated by the agreement between CAT LLC and the Plan Processor, including a one-time development fee for a secure analytics workspace, a one-time development fee for an Industry Member connectivity solution, and a one-time development fee for the acceleration of multi-factor authentication; (3) CAIS implementation fees; and (4) license fees.

(VI) Legal Costs

The legal costs of \$19,674,463 represent the fees paid for legal services provided by two law firms, Wilmer Cutler Pickering Hale and Dorr LLP ("WilmerHale") and Pillsbury Winthrop Shaw Pittman LLP ("Pillsbury"), during the Pre-FAM Period. The legal costs exclude those costs incurred from November 15, 2017 through November 15, 2018.

Law Firm: WilmerHale. Following the adoption of Rule 613, the Participants determined it was necessary to engage external legal counsel to advise the Participants with respect to corporate and regulatory legal matters related to the CAT, including drafting and developing the CAT NMS Plan. The Participants considered a variety of factors in their analysis of prospective law firms, including (1) the firm's qualifications, resources and expertise; (2) the firm's relevant experience and understanding of the regulatory matters raised by the CAT and in advising on matters of similar scope; (3) the composition of the legal team; and (4) professional fees. Following a series of interviews, the Participants acting as a

consortium determined that WilmerHale was well qualified given the balance of these considerations and engaged WilmerHale in February 2013.

WilmerHale's billing rates are negotiated on an annual basis and are determined with reference to the rates charged by other leading law firms for similar work. The Participants assess WilmerHale's performance and review prospective budgets and staffing plans submitted by WilmerHale on an annual basis. WilmerHale's compensation arrangements are reasonable and appropriate, and in line with the rates charged by other leading law firms for similar work.

The legal costs for WilmerHale during the Pre-FAM Period included costs incurred from 2013 until June 22, 2020 to address corporate and regulatory legal matters related to the CAT. The legal fees for this law firm during the period from February 2013 until the formation of the CAT NMS, LLC on November 15, 2016 were paid directly by the exchanges and FINRA to WilmerHale. After the formation of CAT NMS LLC, the legal fees were paid by CAT LLC to WilmerHale.

After WilmerHale was engaged in 2013 through the end of the Pre-FAM Period on June 22, 2020 (excluding the legal costs from November 15, 2017 through November 15, 2018), WilmerHale provided legal assistance to the CAT on a variety of matters, including with regard to the following:

- Analyzed various legal matters associated with the Selection Plan, and drafted an amendment to the Selection Plan;
- Assisted with the RFP and bidding process for the CAT Plan Processor;
- Analyzed legal matters related to the Development Advisory Group ("DAG");
- Drafted the CAT NMS Plan, analyzed various items related to the CAT NMS Plan, and responded to comment letters on CAT NMS Plan;
- Provided legal support for the formation of the legal entity, the governance of the CAT, including governance support prior to the adoption of the CAT NMS Plan, which involved support for the full committee of exchanges and FINRA as well as subcommittees of this group (e.g., Joint Subcommittee Group, Technical, Industry Outreach, Cost and Funding and Other Products) and the DAG, governance support during the transition to the new governance structure under the CAT NMS Plan, and governance support after the adoption of the CAT NMS Plan, which involved support for the Operating Committee, Advisory Committee, Compliance

⁵¹ Letter from the Participants to Brent J. Fields, Secretary, SEC (Jan. 18, 2017), <https://www.sec.gov/divisions/marketregrule613-info-notice-of-plan-processor-selection.pdf>.

Subcommittee and CAT working groups;

- Assisted with the development of the CAT funding model and drafted related amendments of the CAT NMS Plan and related filings;
- Negotiated and drafted the plan processor agreements with the Initial Plan Processor and the successor Plan Processor;
- Provided assistance with compliance with Regulation SCI;
- Assisted with clock synchronization study;
- Provided assistance with respect to the establishment of CAT security;
- Drafted exemptive requests from CAT NMS Plan requirements, including with regard to options market maker quotes, Customer IDs, CAT Reporter IDs, linking allocations to executions, CAT reporting timeline, FDIDs, customer and account information, timestamp granularity, small industry members, data facility reporting and linkage, allocation reports, SRO-assigned market participant identifiers and cancelled trade indicators, thereby seeking to implement changes that would be cost effective and benefit Industry Members and Participants;
- Assisted with the Implementation Plan required pursuant to Section 6.6(c)(i) of the CAT NMS Plan;
- Provided advice regarding CAT policies and procedures;
- Analyzed the SEC's amendment of the CAT NMS Plan regarding financial accountability;
- Provided interpretations of and related to the CAT NMS Plan;
- Provided support with regard to discussions with the SEC and its staff, including with respect to addressing interpretive and implementation issues; and
- Assisted with third-party vendor agreements.

Law Firm: Pillsbury. The legal costs for CAT during the Pre-FAM Period include costs related to the legal services performed by Pillsbury. The Participants interviewed this law firm as well as other potential law firms to provide legal assistance regarding certain liability matters. After considering a variety of factors in its analysis, including the relevant expertise and fees of the firm, CAT LLC determined to hire Pillsbury in April 2019. The hourly fee rates for this law firm were in line with market rates for specialized legal expertise. The legal fees were paid by CAT LLC to Pillsbury. The legal costs for Pillsbury during the Pre-FAM Period included costs incurred from April 2019 until June 22, 2020 to address legal matters regarding the agreements between CAT Reporters and

CAT LLC concerning certain terms associated with CAT Reporting (the "Reporter Agreement"). During that period, Pillsbury advised CAT LLC regarding applicable legal matters, participated in negotiations between the Participants and Industry Members, participated in meetings with senior SEC staff, the Chairman, and Commissioners, represented CAT LLC and the Participants in an SEC administrative proceeding, and drafted a proposed amendment to the CAT NMS Plan regarding liability matters. Liability issues related to the CAT are important matters that needed to be resolved and clarified. CAT LLC's efforts to seek such resolution and clarity work to the benefit of Participants, Industry Members and other market participants. Moreover, litigation involving CAT LLC is an expense of operating the CAT, and, therefore, is appropriately an obligation of both Participants and Industry Members under the CAT Funding Model.

(VII) Consulting Costs

The consulting costs of \$17,013,414 represent the fees paid to the consulting firm Deloitte & Touche LLP ("Deloitte") as project manager during the Pre-FAM Period, from October 2012 until June 22, 2020. These consulting costs include costs for advisory services related to the operation of the CAT, and meeting facilitation and communications coordination, vendor support and financial analyses.

To help facilitate project management given the unprecedented complexity and scope of the CAT project, the Participants determined it was necessary to engage a consulting firm to assist with the CAT project in 2012, following the adoption of Rule 613. A variety of factors were considered in the analysis of prospective consulting firms, including (1) the firm's qualifications, resources, and expertise; (2) the firm's relevant experience and understanding of the regulatory issues raised by the CAT and in coordinating matters of similar scope; (3) the composition of the consulting team; and (4) professional fees. Following a series of interviews, the exchanges and FINRA as a consortium determined that Deloitte was well qualified given the balance of these considerations and engaged Deloitte on October 1, 2012.

Deloitte's fee rates are negotiated on an annual basis and are in line with market rates for this type of specialized consulting work. CAT LLC assesses Deloitte's performance and reviews prospective budgets and staffing plans submitted by Deloitte on an annual basis. Deloitte's compensation

arrangements are reasonable and appropriate, and in line with the rates charged by other leading consulting firms for similar work.

The consulting costs for CAT during the period from 2012 until the formation of the CAT NMS, LLC were paid directly by the Participants to Deloitte. After the formation of CAT NMS, LLC, the consulting fees were paid by CAT LLC to Deloitte. CAT LLC reviewed the consulting fees each month and approved the invoices.

After Deloitte was hired in 2012 through the end of the Pre-FAM Period on June 22, 2020 (excluding the consulting costs from November 15, 2017 through November 15, 2018), Deloitte provided a variety of consulting services, including the following:

- Established and implemented program operations for the CAT project, including the program management office and workstream design;
- Assisted with the Plan Processor selection process, including but not limited to, the development of the RFP and the bidder evaluation process, and facilitation and consolidation of the Participant's independent reviews;
- Assisted with the development and drafting of the CAT NMS Plan, including conducting cost-benefit studies, analyzing OATS and CAT requirements, and drafting appendices to the Plan;
- Assisted with cost and funding-related activities for the CAT, including the development of the CAT funding model and assistance with loans and the CAT bank account for CAT funding;
- Provided governance support to the CAT, including governance support prior to the adoption of the CAT NMS Plan, which involved support for the full committee of exchanges and FINRA as well as subcommittees of this group (e.g., Joint Subcommittee Group, Technical, Industry Outreach, Cost and Funding and Other Products) and the DAG, governance support during the transition to the new governance structure under the CAT NMS Plan and governance support after the adoption of the CAT NMS Plan, which involved support for the Operating Committee, Advisory Committee, Compliance Subcommittee and CAT working groups;
- Provided support to the Operating Committee, the Chair of the Operating Committee and the Leadership Team, including project management support, coordination and planning for meetings and communications, and interfacing with law firms and the SEC;
- Assisted with industry outreach and communications regarding the CAT, including assistance with industry

outreach events, the development of the CAT website, frequently asked questions, and coordinating with the CAT LLC's public relations firm;

- Provided support for updating the SEC on the progress of the development of the CAT;

- Provided active planning and coordination with and support for the Initial Plan Processor with regard to the development of the CAT, and reported to the Participants on the progress;

- Coordinated efforts regarding the selection of the successor Plan Processor;

- Assisted with the transition from the Initial Plan Processor to the successor Plan Processor, including support for the Operating Committee and successor Plan Processor for the new role; and

- Provided support for third-party vendors for the CAT, including FCAT, Anchin and the law firms engaged by CAT LLC.

(VIII) Insurance

The insurance costs of \$880,419 represent the cost incurred for insurance for CAT during the Pre-FAM Period. Commencing in 2020, CAT LLC performed an evaluation of various potential alternatives for CAT insurance policies, which included engaging in discussions with different insurance companies and conducting cost comparisons of various alternative approaches to insurance. Based on an analysis of a variety of factors, including coverage and premiums, CAT LLC determined to purchase cyber security liability insurance, directors' and officers' liability insurance, and errors and omissions liability insurance from USI Insurance Services LLC ("USI"). Such policies are standard for corporate entities, and cyber security liability insurance is important for the CAT System. The annual premiums for these policies were competitive for the coverage provided. The annual premiums were paid by CAT LLC to USI.

(IX) Professional and Administration Costs

In adopting the CAT NMS Plan, the Commission amended the Plan to add a requirement that CAT LLC's financial statements be prepared in compliance with GAAP, audited by an independent public accounting firm, and made publicly available.⁵² The professional and administration costs include costs related to accounting and accounting advisory services to support the operating and financial functions of

CAT, financial statement audit services by an independent accounting firm, preparation of tax returns, and various cash management and treasury functions. In addition, professional and administration costs for the Pre-FAM Period include costs related to the receipt of market data and a security assessment. The costs for these professional and administration services were \$1,082,036 for the Pre-FAM Period.

Financial Advisory Firm: Anchin Accountants & Advisors ("Anchin"). CAT LLC determined to hire a financial advisory firm, Anchin, to assist with financial matters for the CAT in April 2018. CAT LLC interviewed Anchin as well as other potential financial advisory firms to assist with the CAT project, considering a variety of factors in its analysis, including the firm's relevant expertise and fees. The hourly fee rates for this firm were in line with market rates for these financial advisory services. The fees for these services were paid by CAT LLC to Anchin.

After Anchin was hired in April 2018 through the end of the Pre-FAM Period on June 22, 2020 (excluding the period from April 2018 through November 15, 2018), Anchin provided a variety of services, including the following:

- Developed, updated and maintained internal controls;
- Provided cash management and treasury functions;
- Facilitated bill payments;
- Provided monthly bookkeeping;
- Reviewed vendor invoices and documentation in support of cash disbursements;
- Provided accounting research and consultations on various accounting, financial reporting and tax matters;
- Addressed not-for-profit tax and accounting considerations;
- Prepared tax returns;
- Addressed various accounting, financial and operating inquiries from Participants;
- Developed and maintained quarterly and annual operating and financial budgets, including budget to actual fluctuation analyses;
- Addressed accounting and financial reporting matters relating to the transition from CAT NMS, LLC to Consolidated Audit Trail, LLC, including supporting the dissolution of CAT NMS, LLC;
- Supported compliance with the CAT NMS Plan;
- Worked with and provided support to the Operating Committee and various CAT working groups;
- Prepared monthly, quarterly and annual financial statements;

- Supported the annual financial statement audits by an independent auditor;

- Reviewed historical costs from inception; and

- Provided accounting and financial information in support of SEC filings.

Accounting Firm: Grant Thornton LLP ("Grant Thornton"). In February 2020, CAT LLC determined to engage an independent accounting firm, Grant Thornton, to complete the audit of CAT LLC's financial statements, in accordance with the requirements of the CAT NMS Plan. CAT LLC interviewed this firm as well as another potential accounting firm to audit CAT LLC's financial statements, considering a variety of factors in its analysis, including the relevant expertise and fees of each of the firms. CAT LLC determined that Grant Thornton was well-qualified for the proposed role given the balance of these considerations. Grant Thornton's fixed fee rate compensation arrangement was reasonable and appropriate, and in line with the market rates charged for these types of accounting services. The fees for these services were paid by CAT LLC to Grant Thornton.

Market Data Provider: Exegy. The professional and administrative costs for the Pre-FAM Period included costs related to the receipt of certain market data for the CAT pursuant to an agreement with the CAT LLC, and then with FCAT. Exegy provided SIP Data required by the CAT NMS Plan.

After performing an analysis of the available market data vendors to confirm that the data provided met the SIP Data requirements of the CAT NMS Plan and comparing the costs of the vendors providing the required SIP Data, CAT LLC determined to purchase market data from Exegy from July 2018 through March 2019. CAT LLC determined that, unlike certain other vendors, Exegy provided market data that included all data elements required by the CAT NMS Plan.⁵³ In addition, the fees were reasonable and in line with market rates for the market data received. Accordingly, the professional and administrative costs for the Pre-FAM Period include the Exegy costs from November 2018 through March 2019. The cost of the market data was reasonable for the market data received. The fees for the market data were paid directly by CAT LLC to Exegy.

Upon the termination of the contract between CAT LLC and Exegy, FCAT entered into a contract with Exegy to purchase the required market data from Exegy in July 2019. All costs under the

⁵² Section 9.2 of the CAT NMS Plan.

⁵³ See Section 6.5(a)(ii) of the CAT NMS Plan.

contract were treated as a direct pass through cost to CAT LLC. Therefore, the fees for the market data were paid by CAT LLC to FCAT, who, in turn, paid Exegy for the market data.

Security Assessment: RSM US LLP (“RSM”). The operating costs for the Pre-FAM Period include costs related to a third party security assessment of the CAT performed by RSM. The assessment was designed to verify and validate the effective design, implementation, and operation of the controls specified by NIST Special Publication 800–53, Revision 4 and related standards and guidelines. Such a security assessment is in line with industry practice and important given the data included in the CAT. CAT LLC determined to engage RSM to perform the security assessment, after considering a variety of factors in its analysis, including the firm’s relevant expertise and fees. The fees were reasonable and in line with market rates for such an assessment. RSM performed the assessment from October 2018 through December 2018. Accordingly, the costs for the Pre-FAM Period include the costs incurred in November and December 2018. The cost for the security assessment were paid directly to RSM by CAT LLC.

(X) Public Relations Costs

The public relations costs of \$224,669 represent the fees paid to public relations firms during the Pre-FAM Period for professional communications services to CAT, including media relations consulting, strategy and execution. By engaging a public relations firm, CAT LLC was better positioned to understand and address CAT matters to the benefit of all market participants. Specifically, the public relations firms provided services related to communications with the public regarding the CAT, including

monitoring developments related to the CAT (e.g., congressional efforts, public comments and reaction to proposals, press coverage of the CAT), reporting such developments to CAT LLC, and drafting and disseminating communications to the public regarding such developments as well as reporting on developments related to the CAT (e.g., amendments to the CAT NMS Plan). Public relations services were important for various reasons, including monitoring comments made by market participants about CAT and understanding issues related to the CAT discussed on the public record.

The services performed by each of the public relations firms were comparable. The fees for such services were reasonable and in line with market rates. Only one public relations firm was engaged at a time; the three firms were engaged sequentially as the primary public relations contact moved among the three firms during this time period.

Public Relations Firm: Peppercomm, Inc. (“Peppercomm”). The national securities exchanges and FINRA, acting as a consortium, determined to hire the public relations firm Peppercomm in October 2014 and continued to engage this firm through September 2017. The exchanges and FINRA made this engagement decision after considering a variety of factors in its analysis, including the firm’s relevant expertise and fees. The fee rates for this public relations firm were negotiated on an arm’s length basis and were in line with market rates for these types of services. The public relations costs during the period from October 2014 until the formation of the CAT NMS, LLC were paid directly by the exchanges and FINRA to the public relations firm. After the formation of CAT NMS, LLC, the consulting fees were paid by CAT LLC.

Public Relations Firm: Sloane & Company (“Sloane”). CAT LLC determined to hire a new public relations firm, Sloane, in March 2018, based on, among other things, their expertise and the primary contact’s history with the project. The fee rates for this public relations firm were in line with market rates for these types of services. The fees during the Pre-FAM Period were paid by CAT LLC to Sloane. CAT LLC continued the engagement with Sloane until February 2020.

Public Relations Firm: Peak Strategies. CAT LLC determined to hire a new public relations firm, Peak Strategies, in March 2020, based on, among other things, their expertise and the primary contact’s history with the project. The fee rates for this public relations firm were in line with market rates for these types of services. The fees during the Pre-FAM Period were paid by CAT LLC to Peak Strategies.

(b) Historical CAT Costs Incurred in Financial Accountability Milestone Period 1

Historical CAT Costs 1 would include costs incurred by CAT and already funded by the Participants during Period 1 of the Financial Accountability Milestones (“FAM Period 1”),⁵⁴ which covers the period from June 22, 2020–July 31, 2020. Historical CAT Costs 1 would include costs for FAM Period 1 of \$6,377,343. The Participants would remain responsible for one-third of this cost (which they have previously paid) (\$2,125,781), and Industry Members would be responsible for the remaining two-thirds, with CEBBs paying one-third (\$2,125,781) and CEBBs paying one-third (\$2,125,781). The following table breaks down Historical CAT Costs 1 for FAM Period 1⁵⁵ into the categories set forth in Section 11.3(b)(iii)(B)(II) of the CAT NMS Plan.

Operating expense	Historical CAT costs for FAM Period 1
Capitalized Developed Technology Costs *	\$1,684,870
Technology Costs	3,996,800
Cloud Hosting Services	2,642,122
Operating Fees	1,099,680
CAIS Operating Fees	254,998
Change Request Fees .....	.....
Legal	481,687
Consulting	137,209
Insurance .....	.....
Professional and administration	69,077
Public relations	7,700

⁵⁴ Section 11.6(a)(i)(A) of the CAT NMS Plan.

⁵⁵ The costs described in this table of costs for FAM Period 1 were calculated based upon CAT LLC’s review of applicable bills and invoices and

related financial statements. CAT LLC financial statements are available on the CAT website.

Operating expense	Historical CAT costs for FAM Period 1
Total Operating Expenses	6,377,343

* The non-cash amortization of these capitalized developed technology costs of \$362,121 incurred during FAM Period 1 have been appropriately excluded from the above table.⁵⁶

By the completion of FAM Period 1, CAT LLC was required to implement the reporting by Industry Members (excluding Small Industry Members that are not OATS reporters) of equities transaction data and options transaction data, excluding Customer Account Information, Customer-ID and Customer Identifying Information.⁵⁷ CAT LLC completed the requirements of FAM Period 1 by July 31, 2020. The following describes the costs for each of the categories for FAM Period 1.

(I) Technology Costs—Cloud Hosting Services

CAT LLC continued to utilize AWS in FAM Period 1 to provide a broad array of cloud hosting services for the CAT, including data ingestion, data management, and analytic tools. AWS

continued to provide storage services, databases, compute services and other services (such as networking, management tools and DevOps tools), as well as various environments for CAT, such as development, performance testing, test, and production environments, during the FAM 1 Period. Accordingly, the \$2,642,122 in technology costs for cloud hosting services represent costs incurred for services provided by AWS, as the cloud services provider, during FAM Period 1. The fee arrangement for AWS described above with regard to the Pre-FAM Period continued in place during FAM Period 1 pursuant to the Plan Processor Agreement. Moreover, CAT LLC continued to believe that AWS's maturity in the cloud services space as well as the significant cost and time

necessary to move the CAT to a different cloud services provider supported the continued engagement of AWS.

The cost for AWS cloud services for the CAT continued to be a function of the volume of CAT Data. During the FAM 1 Period, the volume of CAT Data continued to far exceed the original predictions for the CAT as set forth in the CAT NMS Plan. During this period, data submitted to the CAT included options and equities Participant Data, Phase 2a and Phase 2b Industry Member Data (including certain linkages) as well as SIP Data, reference data and other types of Other Data. The following chart provides data regarding the average daily volume, cumulative total events, total compute hours and storage footprint of the CAT during FAM Period 1.⁵⁸

	Date range: 6/22/20–7/31/20
Average Daily Volume in Billions:	
Participant—Equities	6
Participant—Options	103
Industry Member—Equities	7
Industry Member—Options	0.31
SIP—Options & Equities	74
Average Total Daily Volume	185
Cumulative Total Events for the Period	5,190
Total Compute Hours for the Period	2,612,082
Storage Footprint at End of Period (Petabytes)	57.47

(II) Technology Costs—Operating Fees

Pursuant to the Plan Processor Agreement discussed above, FCAT continued in its role as the Plan Processor for the CAT during FAM Period 1. Accordingly, the \$1,099,680 in technology costs for operating fees represent costs incurred for the services provided by FCAT under the Plan Processor Agreement during FAM Period 1. The fee arrangement for FCAT described above with regard to the Pre-FAM Period continued in place during FAM Period 1 pursuant to the Plan Processor Agreement. During FAM Period 1, FCAT's activities with respect to the CAT included the following:

- Published iterative drafts of draft Technical Specifications for Phase 2d, after substantial engagement with SEC staff, Industry Members and Participants on the Technical Specifications;
- Published iterative drafts of CAIS Technical Specifications, after substantial engagement with SEC staff, Industry Members and Participants on the Technical Specifications;
- Facilitated Industry Member reporting of Quote Sent Time on Options Market Maker quotes;
- Addressed compliance items, including drafting CAT policies and procedures, and addressing Regulation SCI requirements;

- Provided support to the Operating Committee, the Compliance Subcommittee and CAT working groups;
- Assisted with interpretive efforts and exemptive requests regarding the CAT NMS Plan;
- Oversaw the security of the CAT;
- Monitored the operation of the CAT, including with regard to Participant and Industry Member reporting;
- Provided support to subcontractors under the Plan Processor Agreement;
- Provided support in discussions with Participants and the SEC and its staff;
- Operated the FINRA CAT Helpdesk;

⁵⁶ As discussed above, with respect to certain costs that were "appropriately excluded," such excluded costs relate to the amortization of capitalized technology costs, which are amortized over the life of the Plan Processor Agreement. As

such costs have already been otherwise reflected in the filing, their inclusion would double count the capitalized technology costs. In addition, amortization is a non-cash expense.

⁵⁷ See definition of "Initial Industry Member Core Equity and Options Reporting" in Section 1.1 of the CAT NMS Plan.

⁵⁸ Note that the volume data described in this table does not include CAIS data.

- Facilitated communications with the industry, including via FAQs, CAT Alerts, meetings, presentations and webinars;

- Administered the CAT website and all of its content; and
- Provided technical support and assistance with connectivity, data access, and user support, including the use of CAT Data and query tools, for Participants and the SEC staff.

(III) Technology Costs—CAIS Operating Fees

Pursuant to the Plan Processor Agreement discussed above, Kingland continued in its role as a subcontractor for the development and implementation of CAIS during FAM Period 1. Accordingly, the \$254,998 in technology costs for CAIS operating fees represent costs incurred for services provided by Kingland during FAM Period 1. The fee arrangement for Kingland described above with regard to the Pre-FAM Period continued in place during FAM Period 1 pursuant to the Plan Processor Agreement. During FAM Period 1, Kingland continued the development of the CAIS Technical Specifications and building of CAIS. In addition, Kingland continued to work on the CAIS Technical Specifications and build related to CCID Alternative, as well as the acceleration of the reporting of LTIDs.

(IV) Technology Costs—Change Request Fees

CAT LLC did not incur costs related to change requests during FAM Period 1.

(V) Technology Costs—Capitalized Developed Technology Costs

Capitalized developed technology costs for FAM Period 1 of \$1,684,870 include capitalizable application development costs incurred in the development of the CAT by FCAT. Such costs include: (1) costs related to certain modifications, upgrades, or other changes to the CAT that were not contemplated by the agreement between CAT LLC and the Plan Processor, including separate production and industry test entitlements, and reprocessing of exchange event timestamps; (2) implementation fees; and (3) license fees.

(VI) Legal Costs

The legal costs of \$481,687 represent the fees paid for legal services provided by two law firms, WilmerHale and Pillsbury during FAM Period 1.

Law Firm: WilmerHale. CAT LLC continued to employ WilmerHale during FAM Period 1 based on, among

other things, their expertise and long history with the project. The hourly fee rates for this law firm were in line with market rates for specialized legal expertise. The legal fees during FAM Period 1 were paid by CAT LLC to WilmerHale. During FAM Period 1, WilmerHale provided legal assistance to the CAT including with regard to the following:

- Assisted with the development of the CAT funding model and drafted related amendments and fee filings;
- Drafted exemptive requests from CAT NMS Plan requirements regarding, for example, verbal activity, options market maker quote sent time, TRF linkages, and allocations;
- Provided interpretations related to CAT NMS Plan requirements, including the Financial Accountability Milestone amendment;
- Assisted with compliance with Regulation SCI;
- Provided support for the Operating Committee, Compliance Subcommittee, working groups and Leadership Team, including with regard to meetings with the SEC staff;
- Assisted with the drafting of the Implementation Plan required pursuant to Section 6.6(c)(i) of the CAT NMS Plan;
- Assisted with communications and presentations for the industry regarding CAIS;
- Drafted SRO rule filings related to the CAT Compliance Rule;
- Provided support for Compliance Subcommittee, including with regard to responses to OCIE examinations and the annual assessment;
- Provided guidance regarding CAT technical specifications;
- Assisted with third-party vendor agreements; and
- Provided support with regard to discussions with the SEC and its staff, including with respect to addressing interpretive and implementation issues.

Law Firm: Pillsbury. CAT LLC continued to employ Pillsbury during FAM Period 1 based on, among other things, their expertise and history with the project. The hourly fee rates for this law firm were in line with market rates for specialized legal expertise. The legal fees during FAM Period 1 were paid by CAT LLC to Pillsbury. During FAM Period 1, Pillsbury provided legal assistance to the CAT regarding the CAT Reporter Agreement. During that period, Pillsbury advised CAT LLC regarding applicable legal matters and drafted a proposed amendment to the CAT NMS Plan regarding liability matters. Liability issues related to the CAT are important matters that needed to be resolved and clarified. CAT LLC's efforts to seek such

resolution and clarity work to the benefit of Participants, Industry Members and other market participants.

(VII) Consulting Costs

The consulting costs of \$137,209 represent the fees paid to Deloitte as project manager during FAM Period 1. CAT LLC continued to employ Deloitte during FAM Period 1 based on, among other things, their expertise and cumulative experience with the CAT. The fee rates for Deloitte during FAM Period 1 were negotiated and in line with market rates for this type of specialized consulting work. The consulting fees during FAM Period 1 were paid by CAT LLC to the consulting firm. CAT LLC reviewed the consulting fees each month and approved the invoices. During FAM Period 1, Deloitte's CAT-related activities included the following:

- Implemented program operations for the CAT project;
- Provided support to the Operating Committee, the Chair of the Operating Committee and the Leadership Team, including project management support, coordination and planning for meetings and communications, and interfacing with law firms and the SEC;
- Assisted with cost and funding matters for the CAT, including the development of the CAT funding model and assistance with loans and the CAT bank account for CAT funding;
- Provided support for updating the SEC on the progress of the development of the CAT;
- Assisted with the transition from the Initial Plan Processor to the successor Plan Processor; and
- Provided support for third-party vendors for the CAT, including FCAT, Anchin and the law firms engaged by CAT LLC.

(VIII) Insurance

Although insurance was in effect during FAM Period 1, CAT LLC did not incur costs related to insurance during FAM Period 1.

(IX) Professional and Administration Costs

Financial Advisory Firm: Anchin. The professional and administration costs of \$69,077 represent the fees paid to Anchin during FAM Period 1. CAT LLC continued to employ Anchin during FAM Period 1 based on, among other things, their expertise and history with the project. The hourly fee rates for this firm were in line with market rates for these type of financial advisory services. The fees for these services during FAM Period 1 were paid by CAT LLC to Anchin. During FAM Period 1, Anchin

provided a variety of services, including the following:

- Maintained internal controls;
- Provided cash management and treasury functions;
- Facilitated bill payments;
- Provided monthly bookkeeping;
- Reviewed vendor invoices and documentation in support of cash disbursements;
- Provided accounting research and consultations on various accounting, financial reporting and tax matters;
- Addressed various accounting, financial reporting and operating inquiries from Participants;
- Developed and maintained quarterly and annual operating and financial budgets, including budget to actual fluctuation analyses;
- Supported compliance with the CAT NMS Plan;
- Worked with and provided support to the Operating Committee and various CAT working groups; and
- Prepared monthly and quarterly financial statements.

(X) Public Relations Costs

The public relations costs of \$7,700 represent the fees paid to Peak Strategies during FAM Period 1. CAT

LLC continued to employ Peak Strategies during FAM Period 1 based on, among other things, their expertise and history with the project. The fee rates for this firm were reasonable and in line with market rates for these types of services. The fees for these services during FAM Period 1 were paid by CAT LLC to Peak Strategies. During FAM Period 1, Peak Strategies continued to provide professional communications services to CAT LLC, including media relations consulting, strategy and execution. Specifically, the public relations firm provided services related to communications with the public regarding the CAT, including monitoring developments related to the CAT (e.g., congressional efforts, public comments and reaction to proposals, press coverage of the CAT), reporting such developments to CAT LLC, and drafting and disseminating communications to the public regarding such developments as well as reporting on developments related to the CAT (e.g., amendments to the CAT NMS Plan). As discussed above, such public relations services were important for various reasons, including monitoring comments made by market participants about the CAT and understanding issues

related to the CAT discussed on the public record. By engaging a public relations firm, CAT LLC was better positioned to understand and address CAT matters to the benefit of all market participants.

(c) Historical CAT Costs Incurred in Financial Accountability Milestone Period 2

Historical CAT Costs 1 would include costs incurred by CAT LLC and already funded by Participants during Period 2 of the Financial Accountability Milestones ("FAM Period 2"),⁵⁹ which covers the period from August 1, 2020–December 31, 2020. Historical CAT Costs 1 would include costs for FAM Period 2 of \$42,976,478. The Participants would remain responsible for one-third of this cost (which they have previously paid) (\$14,325,493), and Industry Members would be responsible for the remaining two-thirds, with CEBBs paying one-third (\$14,325,493) and CEBBs paying one-third (\$14,325,493). The following table breaks down Historical CAT Costs 1 for FAM Period 2⁶⁰ into the categories set forth in Section 11.3(b)(iii)(B)(II) of the CAT NMS Plan.

Operating expense	Historical CAT costs for FAM Period 2
Capitalized Developed Technology Costs *	\$6,761,094
Technology Costs	31,460,033
Cloud Hosting Services	20,709,212
Operating Fees	9,108,700
CAIS Operating Fees	1,590,298
Change Request Fees	51,823
Legal	2,766,644
Consulting	532,146
Insurance	976,098
Professional and administration	438,523
Public relations	41,940
Total Operating Expenses	42,976,478

* The non-cash amortization of these capitalized developed technology costs of \$1,892,505 incurred during FAM Period 2 have been appropriately excluded from the above table.⁶¹

By the completion of FAM Period 2, CAT LLC was required to implement the following with regard to the CAT:

(a) Industry Member reporting (excluding reporting by Small Industry Members that are not OATS reporters) for equities transactions, excluding Customer Account Information, CustomerID, and Customer Identifying Information, is developed, tested, and implemented at a 5% Error Rate or less and with sufficient intra-firm linkage, inter-firm

linkage, national securities exchange linkage, and trade reporting facilities linkage to permit the Participants and the Commission to analyze the full lifecycle of an order across the national market system, excluding linkage of representative orders, from order origination through order execution or order cancellation; and (b) the query tool functionality required by Section 6.10(c)(i)(A) and Appendix D, Sections 8.1.1–8.1.3 and Section 8.2.1 incorporates the Industry Member equities transaction data

described in condition (a) and is available to the Participants and to the Commission.⁶²

CAT LLC completed the requirements of FAM Period 2 by December 31, 2020. The following describes the costs for each of the categories for FAM Period 2.

(I) Technology Costs—Cloud Hosting Services

CAT LLC continued to utilize AWS in FAM Period 2 to provide a broad array

the filing, their inclusion would double count the capitalized technology costs. In addition, amortization is a non-cash expense.

⁶² See definition of "Full Implementation of Core Equity Reporting Requirements" in Section 1.1 of the CAT NMS Plan.

⁵⁹ Section 11.6(a)(i)(B) of the CAT NMS Plan.

⁶⁰ The costs described in this table of costs for FAM Period 2 were calculated based upon CAT LLC's review of applicable bills and invoices and related financial statements. CAT LLC financial statements are available on the CAT website.

⁶¹ As discussed above, with respect to certain costs that were "appropriately excluded," such excluded costs relate to the amortization of capitalized technology costs, which are amortized over the life of the Plan Processor Agreement. As such costs have already been otherwise reflected in

of cloud hosting services for the CAT, including data ingestion, data management, and analytic tools. AWS continued to provide storage services, databases, compute services and other services (such as networking, management tools and DevOps tools), as well as various environments for CAT, such as development, performance testing, test, and production environments, during the FAM 2 Period. Accordingly, the \$20,709,212 in technology costs for cloud hosting services represent costs incurred for

services provided by AWS, as the cloud services provider, during FAM Period 2. The fee arrangement for AWS described above with regard to the Pre-FAM Period and FAM Period 1 continued in place during FAM Period 2 pursuant to the Plan Processor Agreement.

The cost for AWS cloud services for the CAT continued to be a function of the volume of CAT Data. During the FAM 2 Period, the volume of CAT Data continued to far exceed the original predictions for the CAT as set forth in the CAT NMS Plan. During this period,

data submitted to the CAT included options and equities Participant Data, Phase 2a and Phase 2b Industry Member Data (including certain linkages) as well as SIP Data, and Other Data, including reference data. In addition, Industry Members began reporting LTID account information. The following chart provides data regarding the average daily volume, cumulative total events, total compute hours and storage footprint of the CAT during FAM Period 2.⁶³

Date range: 8/1/20–12/31/20	
Average Daily Volume in Billions:	
Participant—Equities	6
Participant—Options	116
Industry Member—Equities	11
Industry Member—Options	0.98
SIP—Options & Equities	80
Average Total Daily Volume	282
Cumulative Total Events for the Period	2,170
Total Compute Hours for the Period	15,660,392
Storage Footprint at End of Period (Petabytes)	114.59

(II) Technology Costs—Operating Fees

Pursuant to the Plan Processor Agreement discussed above, FCAT continued in its role as the Plan Processor for the CAT during FAM Period 2. Accordingly, the \$9,108,700 in technology costs for operating fees represent costs incurred for the services provided by FCAT under the Plan Processor Agreement during FAM Period 2. The fee arrangement for FCAT described above with regard to the Pre-FAM Period and FAM Period 1 continued in place during FAM Period 2 pursuant to the Plan Processor Agreement. During FAM Period 2, FCAT's activities with respect to the CAT included publishing the Technical Specifications for Phase 2d and overseeing the reporting of firm to firm and intrafirm linkages by Industry Members. In addition, FCAT also continued to engage in the following activities during FAM Period 2:

- Addressed compliance items, including drafting CAT policies and procedures, and addressing Regulation SCI requirements;
- Provided support to the Operating Committee, Compliance Subcommittee and CAT working groups;
- Assisted with interpretive efforts and exemptive requests regarding the CAT NMS Plan;

- Oversaw the development and implementation of the security of the CAT;
- Monitored the operation of the CAT, including with regard to Participant and Industry Member reporting;
- Provided support to subcontractors under the Plan Processor Agreement;
- Provided support in discussions with the Participants and the SEC and its staff;
- Operated the FINRA CAT Helpdesk;
- Facilitated communications with the industry, including via FAQs, CAT Alerts, meetings, presentations and webinars;
- Administered the CAT website and all of its content; and
- Provided technical support and assistance with connectivity, data access, and user support, including the use of CAT Data and query tools, for Participants and the SEC staff.

(III) Technology Costs—CAIS Operating Fees

Pursuant to the Plan Processor Agreement discussed above, Kingland continued in its role as a subcontractor for the development and implementation of CAIS during FAM Period 2. Accordingly, the \$1,590,298 in technology costs for CAIS operating fees represent costs incurred for services provided by Kingland during FAM

Period 2. The fee arrangement for Kingland described above with regard to the Pre-FAM Period and FAM Period 1 continued in place during FAM Period 2 pursuant to the Plan Processor Agreement. During FAM Period 2, Kingland continued the development of the CAIS Technical Specifications and building of CAIS. In addition, Kingland continued to work on the CAIS Technical Specifications and build related to the CCID Alternative, as well as the acceleration of the reporting of LTIDs.

(IV) Technology Costs—Change Request Fees

During FAM Period 2, CAT LLC engaged FCAT to pursue certain change requests in accordance with the Plan Processor Agreement. The change request costs were paid by CAT LLC to FCAT. Specifically, during FAM Period 2, CAT incurred costs of \$51,823 related to a change request regarding the addition of functionality for exchange Participants to report rejected messages to the CAT.

(V) Technology Costs—Capitalized Developed Technology Costs

Capitalized developed technology costs for FAM Period 2 of \$6,761,094 include capitalizable application development costs incurred in the

⁶³ Note that the volume data described in this table does not include CAIS data.

development of the CAT by FCAT. Such costs include (1) development costs incurred during the application development stage to meet various agreed-upon milestones regarding the CAT, as defined in the agreement between CAT LLC and the Plan Processor; (2) costs related to certain modifications, upgrades, or other changes to the CAT that were not contemplated by the agreement between CAT LLC and the Plan Processor, including costs related to separate production and industry test entitlements, market maker reference data, and back-processing of exchange exception logic; (3) implementation fees; and (4) license fees.

(VI) Legal Costs

The legal costs of \$2,766,644 represent the fees paid for legal services provided by two law firms, WilmerHale and Pillsbury during FAM Period 2.

Law Firm: WilmerHale. CAT LLC continued to employ WilmerHale during FAM Period 2 based on, among other things, their expertise and long history with the project. The hourly fee rates for this law firm were in line with market rates for specialized legal expertise. The legal fees during FAM Period 2 were paid by CAT LLC to WilmerHale. During FAM Period 2, the legal assistance provided by WilmerHale included providing legal advice regarding the following:

- Assisted with the development of the CAT funding model and drafting related amendments and rule filings;
- Drafted exemptive requests from CAT NMS Plan requirements regarding, for example, allocations, exchange activity, OTQT, initial data validation, error corrections and recordkeeping;
- Provided interpretations related to CAT NMS Plan requirements, including with regard to the Financial Accountability Milestone amendment, FAQs and technical specifications;
- Provided support for the Operating Committee, Compliance Subcommittees, working groups and Leadership Team, including with regard to meetings with the SEC staff;
- Assisted with the Implementation Plan and Quarterly Progress Reports required pursuant to Section 6.6 of the CAT NMS Plan;
- Drafted SRO rule filings related to the CAT Compliance Rule;
- Provided support for the Compliance Subcommittee, including with regard to responses to OCIE examinations and the annual assessment;
- Provided guidance regarding the SEC's proposed security amendments to the CAT NMS Plan;

- Provided guidance regarding SRO rule filings for the retirement of systems;
- Provided legal support for Operating Committee meetings, including drafting resolutions and other materials and voting advice;
- Assisted with third-party vendor agreements (e.g., with regard to Anchin, Grant Thornton and insurance policies);
- Assisted with change requests; and
- Provided support with regard to discussions with the SEC and its staff, including with respect to addressing interpretive and implementation issues.

Law Firm: Pillsbury. CAT LLC continued to employ Pillsbury during FAM Period 2 based on, among other things, their expertise and history with the project. The hourly fee rates for this law firm were in line with market rates for specialized legal expertise. The legal fees during FAM Period 2 were paid by CAT LLC to Pillsbury. During FAM Period 2, Pillsbury provided legal assistance to the CAT regarding the CAT Reporter Agreement. During that period, Pillsbury advised CAT LLC regarding applicable legal matters and drafted and filed a proposed amendment to the CAT NMS Plan regarding liability matters. As discussed above, liability issues related to the CAT are important matters that needed to be resolved and clarified. CAT LLC's efforts to seek such resolution and clarity work to the benefit of Participants, Industry Members and other market participants.

(VII) Consulting Costs

The consulting costs of \$532,146 represent the fees paid to Deloitte as project manager during FAM Period 2. CAT LLC continued to employ Deloitte during FAM Period 2 based on, among other things, their expertise and long history with the project. The fee rates for Deloitte during FAM Period 2 were negotiated and in line with market rates for this type of specialized consulting work. The consulting fees during FAM Period 2 were paid to Deloitte by CAT LLC. CAT LLC reviewed the consulting fees each month and approved the invoices. During FAM Period 2, Deloitte's CAT-related activities included the following:

- Implemented program operations for the CAT project;
- Provided support to the Operating Committee, the Chair of the Operating Committee and the Leadership Team, including project management support, coordination and planning for meetings and communications, and interfacing with law firms and the SEC;
- Assisted with cost and funding matters for the CAT, including the development of the CAT funding model

and assistance with loans and the CAT bank account for CAT funding;

- Provided support for updating the SEC on the progress of the development of the CAT; and
- Provided support for third-party vendors for the CAT, including FCAT, Anchin and the law firms engaged by CAT LLC.

(VIII) Insurance

The insurance costs of \$976,098 represent the fees paid for insurance during FAM Period 2. CAT LLC continued to maintain cyber security liability insurance, directors' and officers' liability insurance, and errors and omissions liability insurance offered by USI. After engaging in a process for renewing the coverage, CAT LLC determined to purchase these insurance policies from USI. The annual premiums for these policies were competitive for the coverage provided. The annual premiums were paid by CAT LLC to USI.

(IX) Professional and Administration Costs

The professional and administration costs of \$438,523 represent the fees paid to Anchin and Grant Thornton for financial services provided during FAM Period 2.

Financial Advisory Firm: Anchin. CAT LLC continued to engage Anchin during FAM Period 2 based on, among other things, their expertise and history with the project. The hourly fee rates for this firm were in line with market rates for these types of financial advisory services. The fees for these services during FAM Period 2 were paid by CAT LLC to Anchin. During FAM Period 2, Anchin provided a variety of services, including the following:

- Updated and maintained internal controls;
- Provided cash management and treasury functions;
- Facilitated bill payments;
- Provided monthly bookkeeping;
- Reviewed vendor invoices and documentation in support of cash disbursements;
- Provided accounting research and consultations on various accounting, financial reporting and tax matters;
- Addressed not-for-profit tax and accounting considerations;
- Prepared tax returns;
- Addressed various accounting, financial reporting and operating inquiries from the Participants;
- Developed and maintained quarterly and annual operating and financial budgets, including budget to actual fluctuation analyses;
- Supported compliance with the CAT NMS Plan;

- Worked with and provided support to the Operating Committee and various CAT working groups;

- Prepared monthly, quarterly and annual financial statements;

- Supported the annual financial statement audit by an independent auditor; and

- Reviewed historical costs from inception.

Accounting Firm: Grant Thornton. CAT LLC continued to employ the accounting firm Grant Thornton during FAM Period 2 based on, among other things, its expertise and cumulative knowledge of CAT LLC. CAT LLC continued to believe that Grant Thornton was well qualified for its role and its fee rates were in line with market rates for these accounting services. The fees for these services during FAM Period 2 were paid by CAT LLC to Grant Thornton. During FAM Period 2, Grant Thornton performed a financial statement audit for CAT LLC as an independent accounting firm.

(X) Public Relations Costs

The public relations costs of \$41,940 represent the fees paid to Peak Strategies during FAM Period 2. CAT LLC continued to employ Peak

Strategies during FAM Period 2 based on, among other things, their expertise and history with the project. The fee rates for this firm were in line with market rates for these types of services. The fees for these services during FAM Period 2 were paid by CAT LLC to Peak Strategies. During FAM Period 2, Peak Strategies continued to provide professional communications services to CAT, including media relations consulting, strategy and execution. Specifically, the public relations firm provided services related to communications with the public regarding the CAT, including monitoring developments related to the CAT (e.g., congressional efforts, public comments and reaction to proposals, press coverage of the CAT), reporting such developments to CAT LLC, and drafting and disseminating communications to the public regarding such developments as well as reporting on developments related to the CAT (e.g., amendments to the CAT NMS Plan). As discussed above, such public relations services were important for various reasons, including monitoring comments made by market participants about the CAT and understanding issues

related to the CAT discussed on the public record. By engaging a public relations firm, CAT LLC was better positioned to understand and address CAT matters to the benefit of all market participants.

(d) Historical CAT Costs Incurred in Financial Accountability Milestone Period 3

Historical CAT Costs 1 would include costs incurred by CAT and already funded by the Participants during Period 3 of the Financial Accountability Milestones ("FAM Period 3"),⁶⁴ which covers the period from January 1, 2021–December 31, 2021. Historical CAT Costs 1 would include costs for FAM Period 3 of \$144,415,268. The Participants would remain responsible for one-third of this cost (which they have previously paid) (\$48,138,423), and Industry Members would be responsible for the remaining two-thirds, with CEBBs paying one-third (\$48,138,423) and CEBBs paying one-third (\$48,138,423). The following table breaks down Historical CAT Costs 1 for FAM Period 3⁶⁵ into the categories set forth in Section 11.3(b)(iii)(B)(II) of the CAT NMS Plan.

Operating expense	Historical CAT costs for FAM Period 3 (Prior to June 22, 2020) **
Capitalized Developed Technology Costs *	\$10,763,372
Technology Costs *	123,639,402
Cloud Hosting Services	94,574,759
Operating Fees	23,106,091
CAIS Operating Fees	5,562,383
Change Request Fees	396,169
Legal	6,333,248
Consulting	1,408,209
Insurance	1,582,714
Professional and administration	595,923
Public relations	92,400
Total Operating Expenses	144,415,268

* The non-cash amortization of these capitalized developed technology costs of \$5,108,044 incurred during FAM Period 3 have been appropriately excluded from the above table.⁶⁶

By the completion of FAM Period 3, CAT LLC was required to implement the following requirements with regard to the CAT:

(a) reporting to the Order Audit Trail System ("OATS") is no longer required for new orders; (b) Industry Member reporting for equities transactions and simple electronic options transactions, excluding Customer Account Information, Customer-ID, and Customer Identifying Information, with

sufficient intra-firm linkage, inter-firm linkage, national securities exchange linkage, trade reporting facilities linkage, and representative order linkages (including any equities allocation information provided in an Allocation Report) to permit the Participants and the Commission to analyze the full lifecycle of an order across the national market system, from order origination through order execution or order cancellation, is developed, tested, and implemented at a 5% Error Rate or less; (c)

Industry Member reporting for manual options transactions and complex options transactions, excluding Customer Account Information, Customer-ID, and Customer Identifying Information, with all required linkages to permit the Participants and the Commission to analyze the full lifecycle of an order across the national market system, from order origination through order execution or order cancellation, including any options allocation information provided in an Allocation Report, is developed, tested, and

⁶⁴ Section 11.6(a)(i)(C) of the CAT NMS Plan.

⁶⁵ The costs described in this table of costs for FAM Period 3 were calculated based upon CAT LLC's review of applicable bills and invoices and related financial statements. CAT LLC financial statements are available on the CAT website.

⁶⁶ As discussed above, with respect to certain costs that were "appropriately excluded," such excluded costs relate to the amortization of capitalized technology costs, which are amortized over the life of the Plan Processor Agreement. As such costs have already been otherwise reflected in

the filing, their inclusion would double count the capitalized technology costs. In addition, amortization is a non-cash expense.

fully implemented; (d) the query tool functionality required by Section 6.10(c)(i)(A) and Appendix D, Sections 8.1.1–8.1.3, Section 8.2.1, and Section 8.5 incorporates the data described in conditions (b)–(c) and is available to the Participants and to the Commission; and (e) the requirements of Section 6.10(a) are met.⁶⁷

CAT LLC completed the requirements of FAM Period 3 by December 31, 2021. The following describes the costs for each of the categories for FAM Period 3.

(I) Technology Costs—Cloud Hosting Services

CAT LLC continued to utilize AWS in FAM Period 3 to provide a broad array of cloud hosting services for the CAT, including data ingestion, data

management, and analytic tools. AWS continued to provide storage services, databases, compute services and other services (such as networking, management tools and DevOps tools), as well as various environments for CAT, such as development, performance testing, test, and production environments, during the FAM 3 Period. Accordingly, the \$94,574,759 in technology costs for cloud hosting services represents costs incurred for services provided by AWS, as the cloud services provider, during FAM Period 3. The fee arrangement for AWS described above for the earlier periods continued in place during FAM Period 3 pursuant to the Plan Processor Agreement.

The cost for AWS cloud services for the CAT continued to be a function of the volume of CAT Data. During FAM Period 3, the volume of CAT Data continued to far exceed the original predictions for the CAT as set forth in the CAT NMS Plan. During this period, data submitted to the CAT included options and equities Participant Data, Phase 2a, Phase 2b, Phase 2c and Phase 2d Industry Member Data (including certain linkages), SIP Data, Other Data, including reference data, and LTID account information. The following chart provides data regarding the average daily volume, cumulative total events, total compute hours and storage footprint of the CAT during FAM Period 3.⁶⁸

	Date range: 1/1/21 to 4/25/21	Date range: 4/26/21 to 12/31/21 *
Average Daily Volume in Billions:		
Participant—Equities	9	9
Participant—Options	135	136
Industry Member—Equities	20	19
Industry Member—Options	2	2
SIP—Options & Equities	129	137
Average Total Daily Volume	297	304
Cumulative Total Events for the Period	7,480	5,310
Total Compute Hours for the Period	15,860,304	33,487,318
Storage Footprint at End of Period (Petabytes)	180.22	284.62

* Start of Participant Equities in CAT format and SIP Equities on 4/26/21.

(II) Technology Costs—Operating Fees

Pursuant to the Plan Processor Agreement discussed above, FCAT continued in its role as the Plan Processor for the CAT during FAM Period 3. Accordingly, the \$23,106,091 in technology costs for operating fees represent costs incurred for the services provided by FCAT under the Plan Processor Agreement during FAM Period 3. The fee arrangement for FCAT described above with regard to the prior Periods continued in place during FAM Period 3 pursuant to the Plan Processor Agreement. During FAM Period 3, FCAT's activities with respect to the CAT included the following:

- Facilitated Phase 2c and Phase 2d testing for Industry Members;
- Oversaw creation of linkages of the lifecycle of order events based on the received data through Phase 2d;
- Addressed compliance items, including drafting CAT policies and procedures, and addressing Regulation SCI requirements;
- Provided support to the Operating Committee, the Compliance

Subcommittee and CAT working groups;

- Assisted with interpretive efforts and exemptive requests regarding the CAT NMS Plan;
- Oversaw the security of the CAT;
- Monitored the operation of the CAT, including with regard to Participant and Industry Member reporting;
- Provided support to subcontractors under the Plan Processor Agreement;
- Provided support in discussions with the Participants and the SEC and its staff;
- Operated the FINRA CAT Helpdesk;
- Facilitated communications with the industry, including via FAQs, CAT Alerts, meetings, presentations and webinars;
- Administered the CAT website and all of its content; and
- Provided technical support and assistance with connectivity, data access, and user support, including the use of CAT Data and query tools, for Participants and the SEC staff.

(III) Technology Costs—CAIS Operating Fees

Pursuant to the Plan Processor Agreement with FCAT discussed above, Kingland continued in its role as a subcontractor for the development and implementation of CAIS during FAM Period 3. Accordingly, the \$5,562,383 in technology costs for CAIS operating fees represents costs incurred for services provided by Kingland during FAM Period 3. The fee arrangement for Kingland described above with regard to the prior Periods continued in place during FAM Period 3 pursuant to the Plan Processor Agreement. During FAM Period 3, Kingland continued the development of the CAIS Technical Specifications and building of CAIS. In addition, Kingland continued to work on the CAIS Technical Specifications and build related to the CCID Alternative, as well as the acceleration of the reporting of LTIDs. The full CAIS Technical Specifications were published during FAM Period 3.

⁶⁷ See definition of “Full Availability and Regulatory Utilization of Transactional Database Functionality” in Section 1.1 of the CAT NMS Plan.

⁶⁸ Note that the volume data described in this table does not include CAIS data.

(IV) Technology Costs—Change Request Fees

During FAM Period 3, CAT LLC engaged FCAT to pursue certain change requests in accordance with the Plan Processor Agreement. The change request costs were paid by CAT LLC to FCAT. Specifically, during FAM Period 3, CAT incurred costs of \$396,169 related to change requests, including the following: (1) the addition of functionality for exchange Participants to report rejected messages to the CAT; (2) the migration of MIRS query engine to AWS to reduce operational costs and increase resiliency; and (3) updating the Participant Technical Specifications to allow for two-sided Participant option quote reporting.

(V) Technology Costs—Capitalized Developed Technology Costs

Capitalized developed technology costs for FAM Period 3 of \$10,763,372 include capitalizable application development costs incurred in the development of the CAT by FCAT. Such costs include (1) development costs incurred during the application development stage to meet various agreed-upon milestones regarding the CAT, as defined in the agreement between CAT LLC and the Plan Processor, including the transition from equity data received by FINRA pursuant to various regulatory services agreements between FINRA and Participant exchanges to the equity CAT Data, and the completion of the Industry Member Phase 2d options manual and complex orders go-live requirements; (2) costs related to certain modifications, upgrades, or other changes to the CAT that were not contemplated by the agreement between CAT LLC and the Plan Processor, including costs related to off-exchange volume concentration, Participant 24-hour trading and an external metastore; (3) implementation fees; and (4) license fees.

(VI) Legal Costs

The legal costs of \$6,333,248 represent the fees paid for legal services provided by three law firms, WilmerHale, Pillsbury and Covington & Burling LLP (“Covington”) during FAM Period 3.

Law Firm: WilmerHale. CAT LLC continued to employ WilmerHale during FAM Period 3 based on, among other things, their expertise and long history with the project. The hourly fee rates for this law firm were in line with market rates for specialized legal expertise. The legal fees during FAM Period 3 were paid by CAT LLC to WilmerHale. During FAM Period 3, the

legal assistance provided by WilmerHale included providing legal advice regarding the following:

- Assisted with the development of the CAT funding model and drafting related amendments and rule filings;
 - Drafted exemptive requests from CAT NMS Plan requirements, including, for example, verbal activity regarding Phase 2c cutover, error reports, error corrections, Phase 2d Reporting, unique Order-ID on internal route events, reporting addresses, recordkeeping, and unique CCID for foreign customers;
 - Provided interpretations related to CAT NMS Plan requirements, including with regard to the Financial Accountability Milestone amendment, FAQs, CAIS requirements, ADF, and technical specifications;
 - Provided support for the Operating Committee, Compliance Subcommittee, working groups and Leadership Team, including with regard to meetings with the SEC staff;
 - Assisted with the Implementation Plan and Quarterly Progress Reports required pursuant to Section 6.6(c) of the CAT NMS Plan;
 - Drafted SRO rule filings related to the CAT Compliance Rule;
 - Provided support for the Compliance Subcommittee, including with regard to responses to OCIE examinations and the annual assessment;
 - Provided guidance regarding the SEC’s proposed security amendments to the CAT NMS Plan;
 - Provided guidance regarding SRO rule filings for the retirement of systems;
 - Provided legal support for Operating Committee meetings, including drafting resolutions and other materials and voting advice;
 - Provided assistance with change requests;
 - Provided guidance and regulatory support for litigation regarding the response to the SEC’s exemptive orders;
 - Assisted with communications with the industry, including CAT Alerts and presentations;
 - Provided guidance regarding the confidentiality of CAT Data, including third-party information requests;
 - Assisted with cost management analysis and proposals; and
 - Provided support with regard to discussions with the SEC and its staff, including with respect to addressing interpretive and implementation issues.
- Law Firm: Pillsbury.* CAT LLC continued to employ Pillsbury during FAM Period 3 based on, among other things, their expertise and history with the project. The hourly fee rates for this law firm were in line with market rates for specialized legal expertise. The legal

fees during FAM Period 3 were paid by CAT LLC to Pillsbury. During FAM Period 3, Pillsbury provided legal assistance to the CAT regarding the CAT Reporter Agreement. During this period, Pillsbury advised CAT LLC regarding applicable legal matters, reviewed and responded to comment letters regarding the proposed Plan amendment, participated in meetings with senior SEC staff, responded to comments submitted following the SEC’s April 6, 2021 order instituting proceedings,⁶⁹ and assessed legal matters regarding the SEC’s October 29, 2021 order denying the proposed Plan amendment.⁷⁰

Law Firm: Covington. CAT LLC hired Covington for litigation with the SEC regarding certain exemptive orders related to the CAT, including orders issued in December 2020.⁷¹ CAT LLC interviewed this law firm as well as other potential law firms, considering a variety of factors in its analysis for choosing legal assistance, including the relevant expertise and fees of the potential lawyers. CAT LLC approved the engagement of Covington in January 2021. The fee rates for this law firm, which were calculated based on hourly rates, were in line with market rates for specialized services. The legal fees for FAM Period 3 for this firm were paid by CAT LLC to Covington.

After Covington was hired in 2021 through the end of 2021, the firm provided legal assistance regarding the litigation with the SEC regarding the 2020 Orders. These services included researching, drafting, and filing motions to stay the 2020 orders and related materials in proceedings before the SEC, as well as researching, drafting, and filing petitions for judicial review of the 2020 Orders in proceedings before the U.S. Court of Appeals for the D.C. Circuit. Covington oversaw ongoing litigation proceedings on these matters, and also supported WilmerHale with respect to settlement negotiations with the SEC staff regarding the 2020 Orders.

In addition to these services, CAT LLC engaged Covington in November 2021 to provide assistance with respect to the SEC’s disapproval of CAT NMS Plan amendments concerning a proposed limitation on liability in the event of a data breach or similar event. Covington provided advice concerning CAT’s response to the SEC’s disapproval

⁶⁹ Securities Exchange Act Rel. No. 91487 (Apr. 6, 2021), 86 FR 19054 (Apr. 12, 2021).

⁷⁰ Securities Exchange Act Rel. No. 93484 (Oct. 29, 2021), 86 FR 60933 (Nov. 4, 2021).

⁷¹ See Securities Exchange Act Rel. No. 90688 (Dec. 16, 2020), 85 FR 83634 (Dec. 22, 2020); and Securities Exchange Act Rel. No. 90689 (Dec. 16, 2020), 85 FR 83667 (Dec. 22, 2020) (collectively, the “2020 Orders”).

order. This work accounted for a minority of Covington's fees in 2021.⁷²

(VII) Consulting Costs

The consulting costs of \$1,408,209 represent the fees paid to Deloitte as project manager during FAM Period 3. CAT LLC continued to employ Deloitte during FAM Period 3 based on, among other things, their expertise and long history with the project. The fee rates for Deloitte during FAM Period 3 were negotiated and in line with market rates for this type of specialized consulting work. The consulting fees during FAM Period 3 were paid to Deloitte by CAT LLC. CAT LLC reviewed the consulting fees each month and approved the invoices. During FAM Period 3, Deloitte's CAT-related activities included the following:

- Implemented program operations for the CAT project;
- Provided support to the Operating Committee, the Chair of the Operating Committee and the Leadership Team, including project management support, coordination and planning for meetings and communications, and interfacing with law firms and the SEC;
- Assisted with cost and funding matters for the CAT, including the development of the CAT funding model and assistance with loans and the CAT bank account for CAT funding;
- Provided support for updating the SEC on the progress of the development of the CAT; and
- Provided support for third-party vendors for the CAT, including FCAT, Anchin and the law firms engaged by CAT LLC.

(VIII) Insurance

The insurance costs of \$1,582,714 represent the fees paid for insurance during FAM Period 3. CAT LLC continued to maintain cyber security liability insurance, directors' and officers' liability insurance, and errors and omissions liability insurance offered by USI. After engaging in a process for renewing the coverage, CAT LLC determined to purchase these insurance policies from USI. The annual premiums for these policies were competitive for the coverage provided. The annual premiums were paid by CAT LLC to USI.

⁷² As discussed above with regard to Pillsbury's work on liability matters, liability issues related to the CAT are important matters that needed to be resolved and clarified. CAT LLC's efforts to seek such resolution and clarity work to the benefit of Participants, Industry Members and other market participants. Moreover, such activity is a necessary part of the operation of the CAT.

(IX) Professional and Administration Costs

The professional and administration costs of \$595,923 represent the fees paid to Anchin and Grant Thornton for financial services during FAM Period 3.

Financial Advisory Firm: Anchin. CAT LLC continued to employ Anchin during FAM Period 3 based on, among other things, their expertise and history with the project. The hourly fee rates for this firm were in line with market rates for these financial advisory services. The fees for these services during FAM Period 3 were paid by CAT LLC to Anchin. During FAM Period 3, Anchin provided a variety of services, including the following:

- Updated and maintained internal controls;
- Provided cash management and treasury functions;
- Facilitated bill payments;
- Provided monthly bookkeeping;
- Reviewed vendor invoices and documentation in support of cash disbursements;
- Provided accounting research and consultations on various accounting, financial reporting and tax matters;
- Addressed not-for-profit tax and accounting considerations;
- Prepared tax returns;
- Addressed various accounting, financial reporting and operating inquiries from Participants;
- Developed and maintained quarterly and annual operating and financial budgets, including budget to actual fluctuation analyses;
- Supported compliance with the CAT NMS Plan;
- Worked with and provided support to the Operating Committee and various CAT working groups;
- Prepared monthly, quarterly and annual financial statements;
- Supported the annual financial statement audits by an independent auditor;
- Reviewed historical costs from inception; and
- Provided accounting and financial information in support of SEC filings.

Accounting Firm: Grant Thornton. CAT LLC continued to employ the accounting firm Grant Thornton during FAM Period 3 based on, among other things, their expertise and cumulative knowledge of CAT LLC. CAT LLC determined that Grant Thornton was well qualified for its role and that its fixed fee rates were in line with market rates for these accountant services. The fees for these services during FAM Period 3 were paid by CAT LLC to Grant Thornton. During FAM Period 3, Grant Thornton provided audited financial statements for CAT LLC.

(X) Public Relations Costs

The public relations costs of \$92,400 represent the fees paid to Peak Strategies during FAM Period 3. CAT LLC continued to employ Peak Strategies during FAM Period 3 based on, among other things, their expertise and history with the project. The fee rates for this firm were in line with market rates for these types of services. The fees for these services during FAM Period 3 were paid by CAT LLC to Peak Strategies. During FAM Period 3, Peak Strategies continued to provide professional communications services to CAT, including media relations consulting, strategy and execution. Specifically, the public relations firm provided services related to communications with the public regarding the CAT, including monitoring developments related to the CAT (e.g., congressional efforts, public comments and reaction to proposals, press coverage of the CAT), reporting such developments to CAT LLC, and drafting and disseminating communications to the public regarding such developments as well as reporting on developments related to the CAT (e.g., amendments to the CAT NMS Plan). As discussed above, such public relations services were important for various reasons, including monitoring comments made by market participants about the CAT and understanding issues related to the CAT discussed on the public record. By engaging a public relations firm, CAT LLC was better positioned to understand and address CAT matters to the benefit of all market participants.

(e) Excluded Costs

Historical CAT Costs 1 would not include three categories of CAT costs ("Excluded Costs"): (1) \$14,749,362 of costs related to the termination of the relationship with the Initial Plan Processor; (2) \$48,874,937, which are all CAT costs incurred from November 15, 2017 through November 15, 2018; and (3) \$19,628,791, which are costs paid to the Initial Plan Processor from November 16, 2018 through February 2019 when the relationship with the Initial Plan Processor was concluded. The Participants would remain responsible for 100% of these costs, which total \$83,253,090. CAT LLC determined to exclude these Excluded Costs from Historical CAT Costs 1 because these costs relate to the delay in the start of reporting to the CAT and the conclusion of the relationship with the Initial Plan Processor.⁷³

⁷³ In approving the CAT Funding Model, the Commission states that "the proposed exclusion of

(I) Costs Related To Conclusion of Relationship With Initial Plan Processor

First, Historical CAT Costs 1 would not include \$14,749,362 of costs related to the conclusion of the relationship with the Initial Plan Processor. Such costs include costs related to the American Arbitration Association, the legal assistance of Pillsbury with regard to the arbitration with the Initial Plan

Processor, and the settlement costs related to the arbitration with the Initial Plan Processor. The Participants would remain responsible for 100% of these \$14,749,362 in costs.

(II) Costs Incurred From November 15, 2017 Through November 15, 2018

Second, Historical CAT Costs 1 would not include all CAT costs incurred from November 15, 2017 through November

15, 2018. CAT LLC determined to exclude all costs during this one-year period of \$48,874,937 from fees charged to Industry Members due to the delay in the start of reporting to the CAT. The Participants would remain responsible for 100% of these \$48,874,937 in costs. The following table⁷⁴ breaks down these costs into the categories set forth in Section 11.3(b)(iii)(B)(II) of the CAT NMS Plan.

Operating expense	Excluded costs for November 15, 2017–November 15, 2018
Capitalized Developed Technology Costs	\$37,852,083
<i>Technology Costs</i>	
Cloud Hosting Services	
Operating Fees	
CAIS Operating Fees	
Change Request Fees	
Legal	6,143,278
Consulting	4,452,106
Insurance	
Professional and administration	340,145
Public relations	87,325
Total Operating Expenses	48,874,937

The following provides additional detail regarding the Excluded Costs.

(a) Technology Costs—Cloud Hosting Services, Operating Fees, CAIS Operating Fees and Change Request Fees

CAT LLC did not incur technology costs related to the categories of cloud hosting services, operating fees, CAIS operating fees or change requests during the period from November 15, 2017 through November 15, 2018.

(b) Technology Costs—Capitalized Developed Technology Costs

Capitalized developed technology costs for the period from November 15, 2017 through November 15, 2018 include capitalizable application development costs of \$37,852,083 incurred in the development of the CAT by the Initial Plan Processor. Such costs include development costs incurred during the application development stage to meet various agreed-upon milestones regarding the CAT, as defined in the agreement between CAT LLC and the Initial Plan Processor. Such costs include costs related to Industry Member technical specifications for orders and transactions, the system security plan, testing and production for Participant CAT reporting, third-party

security assessment and response, query portal, onboarding of the Chief Information Security Officer, and ingestion of FINRA TRF data and FINRA data related to halts and corporate actions.

(c) Legal Costs

The legal costs of \$6,143,278 represent the fees paid to WilmerHale for legal services from November 15, 2017 through November 15, 2018. During this period, WilmerHale provided legal assistance to the CAT, including with regard to the following:

- Provided legal support for the governance of the CAT, including governance support for the Operating Committee, Advisory Committee, Compliance Subcommittee, and CAT working groups;
- Assisted with the development of the CAT funding model and drafted related amendments of the CAT NMS Plan;
- Provided assistance related to CAT security;
- Drafted exemptive requests, including requests related to PII;
- Assisted with the Implementation Plan required pursuant to Section 6.6(c)(i) of the CAT NMS Plan;
- Provided interpretations of and related to the CAT NMS Plan;

- Provided advice with regard to regulator access to the CAT;
- Assisted with the Plan Processor transition;
- Provided assistance regarding communications with the industry regarding the CAT;
- Provided advice regarding Customer Account Information and PII;
- Provided support for litigation related to SEC exemptive orders; and
- Provided support with regard to discussions with the SEC and its staff, including with respect to addressing interpretative and implementation issues.

(d) Consulting Costs

The consulting costs of \$4,452,106 represent the fees paid to Deloitte for their role as project manager for the CAT from November 15, 2017 through November 15, 2018. During this period, Deloitte engaged in the following activities with respect to the CAT:

- Implemented program operations for the CAT project;
- Provided governance support to the Operating Committee, including support for Subcommittees and working groups of the Operating Committee (e.g., Compliance Subcommittee, Cost and Funding Working Group, Technical Working Group, Industry Outreach

the excluded costs from Past CAT Costs is appropriate in the Commission's view because it would not require all costs incurred by the Participants to be recovered from Industry Members through the Historical CAT Assessment, specifically

excluding those costs related to the delay in the start of reporting to the CAT and costs related to the conclusion of the relationship with the Initial Plan Processor." CAT Funding Model Approval Order at 13450.

⁷⁴ The costs described in this table of Excluded Costs were calculated based upon CAT LLC's review of applicable bills and invoices and related financial statements. CAT LLC financial statements are available on the CAT website.

Working Group, Security Working Group and Steering Committee);

- Assisted with cost and funding issues for the CAT, including the development of the CAT funding model and assistance with loans and the CAT bank account for CAT funding;

- Provided support for updating the SEC on the progress of the development of the CAT; and

- Provided active planning and coordination with and support for the Initial Plan Processor with regard to the development of the CAT, and reported to the Participants on the progress.

(e) Insurance

CAT LLC did not incur costs related to insurance during the period from November 15, 2017 through November 15, 2018.

(f) Professional and Administration Costs

The professional and administration costs of \$340,145 represent the fees paid to Anchin, Exegy and RSM from November 15, 2017 through November 15, 2018.

Financial Advisory Firm: Anchin. From the commencement of its engagement in April 2018 through November 15, 2018, Anchin engaged in the following activities with respect to the CAT:

- Developed, updated and maintained internal controls;
- Provided cash management and treasury functions;
- Facilitated bill payments;
- Provided monthly bookkeeping;
- Reviewed vendor invoices and documentation in support of cash disbursements;
- Provided accounting research and consultations on various accounting, financial reporting and tax matters;
- Addressed not-for-profit tax and accounting considerations;
- Prepared tax returns;
- Addressed various accounting, financial reporting and operating inquiries from Participants;
- Developed and maintained quarterly and annual operating and financial budgets, including budget to actual fluctuation analyses;
- Addressed accounting and financial matters relating to the transition from CAT NMS, LLC to Consolidated Audit Trail, LLC, including supporting the dissolution of CAT NMS, LLC;
- Supported compliance with the CAT NMS Plan;

- Worked with and provided support to the Operating Committee and various CAT working groups;

- Prepared monthly, quarterly and annual financial statements;

- Supported the annual financial statement audits by an independent auditor;

- Reviewed historical costs from inception; and

- Provided accounting and financial information in support of SEC filings.

Market Data Provider: Exegy. From July 2018 through November 15, 2018, CAT LLC purchased market data from Exegy (as described in more detail above).

Security Assessment: RSM. From October 2018 through November 15, 2018, CAT LLC incurred costs for RSM's performance of a security assessment (as described in more detail above).

(g) Public Relations Costs

The public relations costs of \$87,325 represent the fees paid to Sloane from November 15, 2017 through November 15, 2018. From the commencement of its engagement in March 2018 through November 15, 2018, Sloane provided professional communications services to CAT, including media relations consulting, strategy and execution. Specifically, Sloane provided services related to communications with the public regarding the CAT, including monitoring developments related to the CAT (e.g., congressional efforts, public comments and reaction to proposals, press coverage of the CAT), reporting such developments to CAT LLC, and drafting and disseminating communications to the public regarding such developments as well as reporting on developments related to the CAT (e.g., amendments to the CAT NMS Plan).

(III) Costs Paid to Initial Plan Processor From November 16, 2018 Through February 2019

Third, Historical CAT Costs 1 would not include the \$19,628,791 in costs paid to the Initial Plan Processor from November 16, 2018 through February 2019 when CAT LLC's relationship with the Initial Plan Processor concluded. CAT LLC determined that Historical CAT Costs 1 would not include any fees paid to the Initial Plan Processor after November 15, 2017,⁷⁵ which was the date by which Participants were required to begin reporting to the CAT.⁷⁶ As discussed above, the

⁷⁵ As discussed below, CAT LLC believes that it is appropriate to recover costs related to the services performed by the Initial Plan Processor prior to November 15, 2017. See Section 3(a)(10)(E) below.

⁷⁶ The SEC approved the CAT NMS Plan on November 15, 2016, and Participant reporting was required to begin on the first anniversary of this date, November 15, 2017. See Section 6.3 of the CAT NMS Plan and CAT NMS Plan Approval Order.

Participants determined that Historical CAT Costs 1 would not include all CAT costs incurred from November 15, 2017 through November 15, 2018, which includes \$37,852,083 in Initial Plan Processor costs incurred from November 15, 2017 through November 15, 2018 (as well as other CAT costs during this period). The remaining Initial Plan Processor costs incurred after November 15, 2018 are the \$19,628,791 in costs for the period from November 16, 2018 through February 2019 incurred in the development of the CAT by the Initial Plan Processor, as well as a transition fee for the transition from the Initial Plan Processor to the successor Plan Processor. The Participants would remain responsible for 100% of these \$19,628,791 in costs.

(ii) Previously Invoiced Costs for Historical CAT Costs 1

CEBBs and CEBBs collectively have been invoiced for \$173,075,024 of the \$212,039,879.34 of Historical CAT Costs 1 via Historical CAT Assessment 1, where \$86,537,512 was invoiced collectively to CEBBs and \$86,537,512 was invoiced collectively to CEBBs. Accordingly, Historical CAT Assessment 1A would seek to recover the remaining \$38,964,855.34 of Historical CAT Costs 1 collectively from CEBBs and CEBBs, where CEBBs collectively will be responsible for \$19,482,427.67, and CEBBs collectively will be responsible for \$19,482,427.67.

(C) Historical Recovery Period 1A

Under the CAT NMS Plan, the Operating Committee is required to reasonably establish the length of the Historical Recovery Period used in calculating each Historical Fee Rate based upon the amount of the Historical CAT Costs to be recovered by the Historical CAT Assessment, and to describe the reasons for its length.⁷⁷ The Historical Recovery Period used in calculating the Historical Fee Rate may not be less than 24 months or more than five years.⁷⁸ The Operating Committee has determined to establish a Historical Recovery Period 1A of 24 months for Historical CAT Assessment 1A.

The Operating Committee determined that the length of Historical Recovery Period 1A appropriately weighs the need for a reasonable Historical Fee Rate

⁷⁷ Section 11.3(b)(i)(D)(I) and Section 11.3(b)(iii)(B)(II) of the CAT NMS Plan.

⁷⁸ Section 11.3(b)(i)(D)(I) of the CAT NMS Plan. In the CAT Funding Model Approval Order, the SEC stated that "[i]n the Commission's view, it is appropriate for the Operating Committee to establish the length of the Historical Recovery Period to be no less than 24 months and no more than five years." CAT Funding Model Approval Order at 13451.

1A that spreads the Historical CAT Costs over an appropriate amount of time and the need to repay the loans to the Participants in a timely fashion. The Operating Committee determined that 24 months for Historical Recovery Period 1A would establish a fee rate that is lower than other transaction-based fees, including fees assessed pursuant to Section 31.⁷⁹ In addition, in establishing a Historical Recovery Period of 24 months, the Operating Committee recognized that the total costs for Historical CAT Assessment 1A were less than the total costs for 2022 and 2023,⁸⁰ and therefore it would be reasonable and appropriate to recover costs subject to this filing over an approximate two-year period.⁸¹

The length of the Historical Recovery Period 1A and the reasons for its length are provided in this filing in accordance with the requirement in the CAT NMS Plan to provide such information in a fee filing for a Historical CAT Assessment.⁸²

(D) Projected Total Executed Equivalent Share Volume

The calculation of the fee rate for Historical CAT Assessment 1A also requires the determination of the projected total executed equivalent share volume of transactions in Eligible Securities for Historical Recovery Period 1A. Under the CAT NMS Plan, the Operating Committee is required to “reasonably determine the projected total executed equivalent share volume of all transactions in Eligible Securities for each Historical Recovery Period based on the executed equivalent share volume of all transactions in Eligible Securities for the prior twelve months.”⁸³ The Operating Committee is required to base its projection on the prior twelve months, but it may use its discretion to analyze the likely volume for the upcoming year. Such discretion would allow the Operating Committee to use its judgment when estimating projected total executed equivalent share volume if the volume over the prior twelve months was unusual or

otherwise unfit to serve as the basis of a future volume estimate.⁸⁴

The total executed equivalent share volume of transactions in Eligible Securities for the 12-month period from March 2025 through February 2026 was 5,980,937,549,360.49 executed equivalent shares. The Operating Committee has determined to calculate the projected total executed equivalent share volume for the 24 months of Historical Recovery Period 1A by doubling the executed equivalent share volume for the prior 12 months. The Operating Committee determined that such an approach was reasonable as the CAT’s annual executed equivalent share volume has increased from prior years (e.g., the executed equivalent share volume for 2024 was 4,295,884,600,069.4), and the Operating Committee believes that it is reasonable to conclude that the annual executed equivalent share volume will remain at the higher level. Accordingly, the projected total executed equivalent share volume for Historical Recovery Period 1A is projected to be 11,961,875,098,720.98 executed equivalent shares.⁸⁵

The projected total executed equivalent share volume of all transactions in Eligible Securities for Historical Recovery Period 1A and a description of the calculation of the projection is provided in this filing in accordance with the requirement in the CAT NMS Plan to provide such information in a fee filing for a Historical CAT Assessment.⁸⁶

(E) Fee Rate for Historical CAT Assessment 1A

The fee rate for Historical CAT Assessment 1A would be calculated by dividing the total amount of costs to be recovered by Historical CAT Assessment 1A by the reasonably projected total executed equivalent share volume of all transactions in Eligible Securities for Historical Recovery Period 1A, and dividing by 2. Specifically, the fee rate for Historical CAT Assessment 1A would be calculated by dividing \$38,964,855.34 by 11,961,875,098,720.98, and then dividing by 2, which equals \$0.00000162871017371542 per executed equivalent shares. Rounding this to six decimal places results in a fee rate of \$0.000002 per executed equivalent

share.⁸⁷ This fee rate is provided in this filing in accordance with the requirement in the CAT NMS Plan to provide the Historical Fee Rate in a fee filing for a Historical CAT Assessment.⁸⁸

(3) Past CAT Costs and Participants

Participants would not be required to pay any fees associated with Historical CAT Assessment 1A as the Participants previously have paid all Past CAT Costs. The CAT NMS Plan explains that:

Because Participants previously have paid Past CAT Costs via loans to the Company, Participants would not be required to pay any Historical CAT Assessment. In lieu of a Historical CAT Assessment, the Participants’ one-third share of Historical CAT Costs and such other additional Past CAT Costs as reasonably determined by the Operating Committee will be paid by the cancellation of loans made to the Company on a pro rata basis based on the outstanding loan amounts due under the loans.⁸⁹

The CAT NMS Plan further states that “Historical CAT Assessments are designed to recover two-thirds of the Historical CAT Costs.”⁹⁰

(4) Monthly Fees

CEBBs and CEBBs would be required to pay fees for Historical CAT Assessment 1A on a monthly basis for the period in which Historical CAT Assessment 1A is in effect.⁹¹ A CEBB or CEBB’s fee for each month would be calculated based on the transactions in Eligible Securities executed by the CEBB or CEBB from the prior month.⁹² Proposed paragraph (a)(2)(A) of the fee schedule would state that each CAT Executing Broker would receive its first invoice in June 2026, and “would receive an invoice each month thereafter in which Historical CAT Assessment 1A is in effect.” Proposed paragraph

⁸⁷ As the SEC noted in approving the CAT Funding Model, the fee filing would provide the exact fee per executed equivalent share and describe the relevant number of decimal places for the fee rate. CAT Funding Model Approval Order at 13445, n.677. The Operating Committee determined to use six decimal places to balance the accuracy of the calculation with the potential systems and other impracticalities of using additional decimal places in the calculation.

⁸⁸ Section 11.3(b)(iii)(B)(II)(A) of the CAT NMS Plan.

⁸⁹ Section 11.3(b)(ii) of the CAT NMS Plan.

⁹⁰ *Id.* In approving the CAT Funding Model, the Commission stated that the proposed allocation of the Historical CAT Assessment solely to CEBBs and CEBBs is appropriate. The Historical CAT Assessment will still be divided into thirds, as the Participants’ one-third share of Historical CAT Costs will be paid by the cancellation of loans made to the Company. CAT Funding Model Approval Order at 13453.

⁹¹ See Section 11.3(b)(iii)(A) of the CAT NMS Plan.

⁹² See proposed paragraph (a)(2)(B) of the fee schedule.

⁷⁹ For example, as the SEC noted in the CAT Funding Model Approval Order, recent Section 31 fees ranged from \$0.00007 per share to \$0.00072 per share. CAT Funding Model at 13469.

⁸⁰ The total CAT costs for 2022 were approximately \$186 million and the total CAT costs for 2023 were approximately \$233 million.

⁸¹ Note that the proposed 24-month recovery period also recognizes the prohibition on the collection of Historical CAT Assessments after March 31, 2028 as set forth in Section 11.3(f) of the CAT NMS Plan.

⁸² Section 11.3(b)(iii)(B)(II)(C) of the CAT NMS Plan.

⁸³ Section 11.3(b)(i)(E) of the CAT NMS Plan.

⁸⁴ CAT Funding Model Approval Order at 13452.

⁸⁵ This projection was calculated by multiplying 5,980,937,549,360.49 executed equivalent shares by two.

⁸⁶ Section 11.3(b)(iii)(B)(II)(D) of the CAT NMS Plan.

(a)(2)(B) of the fee schedule would state that “Consolidated Audit Trail, LLC shall provide each CAT Executing Broker with an invoice for Historical CAT Assessment 1A on a monthly basis.” In addition, paragraph (b)(1) of the fee schedule states that each CEBB and CEBS is required to pay its CAT fees “each month.”

(5) Actual Recovery Period for Historical CAT Assessment 1A

The CAT NMS Plan states that, “[n]otwithstanding the length of the Historical Recovery Period used in calculating the Historical Fee Rate, each Historical CAT Assessment calculated using the Historical Fee Rate will remain in effect until all Historical CAT Costs for the Historical CAT Assessment are collected.”⁹³ Accordingly, Historical CAT Assessment 1A will remain in effect until the remaining \$38,964,855.34 of Historical CAT Costs 1 have been collected.⁹⁴ The actual recovery period for Historical CAT Assessment 1A may be shorter or longer than Historical Recovery Period 1A depending on the actual executed equivalent share volumes during the time that Historical CAT Assessment 1A is in effect and subject to any time limitation in the CAT NMS Plan.⁹⁵

(6) Consolidated Audit Trail Funding Fees

To implement Historical CAT Assessment 1A, a new section would be added to the Exchange’s fee schedule for “Consolidated Audit Trail Funding Fees”, and it would include the proposed paragraphs described below.

(A) Fee Schedule for Historical CAT Assessment 1A

The CAT NMS Plan states that:

Each month in which a Historical CAT Assessment is in effect, each CEBB and each CEBS shall pay a fee for each transaction in Eligible Securities executed by the CEBB or CEBS from the prior month as set forth in CAT Data, where the Historical CAT Assessment for each transaction will be calculated by multiplying the number of executed equivalent shares in the transaction by one-third and by the Historical Fee Rate reasonably determined pursuant to paragraph (b)(i) of this Section 11.3.⁹⁶

Accordingly, based on the factors discussed above, the Exchange proposes to add paragraph (a)(2) to the Consolidated Audit Trail Funding Fees section of its fee schedule. Proposed paragraph (a)(2) would state the following:

(A) Each CAT Executing Broker shall receive its first invoice for Historical CAT Assessment 1A in June 2026, which shall set forth the Historical CAT Assessment 1A fees calculated based on transactions in May 2026, and shall receive an invoice for Historical CAT Assessment 1A for each month thereafter in which Historical CAT Assessment 1A is in effect.

(B) Consolidated Audit Trail, LLC shall provide each CAT Executing Broker with an invoice for Historical CAT Assessment 1A on a monthly basis. Each month, such invoices shall set forth a fee for each transaction in Eligible Securities executed by the CAT Executing Broker in its capacity as a CAT Executing Broker for the Buyer (“CEBB”) and/or the CAT Executing Broker for the Seller (“CEBS”) (as applicable) from the prior month as set forth in CAT Data. The fee for each such transaction will be calculated by multiplying the number of executed equivalent shares in the transaction by the fee rate of \$0.000002 per executed equivalent share.

(C) Historical CAT Assessment 1A will remain in effect until \$38,964,855.34 is collected from CAT Executing Brokers collectively, which is estimated to be approximately two years, but could be for a longer or shorter period of time. Consolidated Audit Trail, LLC will provide notice when Historical CAT Assessment 1A will no longer be in effect.

(D) Each CAT Executing Broker shall be required to pay each invoice for Historical CAT Assessment 1A in accordance with paragraph (b).

Proposed paragraph (a)(2)(B) of the fee schedule would set forth the fee rate of \$0.000002 per executed equivalent share for Historical CAT Assessment 1A, which is calculated as discussed above.

The proposed language in paragraph (a)(2)(B) of the fee schedule would describe when CAT Executing Brokers would receive their first monthly invoice for Historical CAT Assessment 1A. Specifically, CAT Executing Brokers would receive their first monthly invoice for Historical CAT Assessment 1A in June 2026 and the fees set forth in that invoice would be calculated based on transactions executed in the prior month, that is, transactions executed in May 2026. The payment for the first invoice would be required within 30 days after the receipt of the first invoice (unless a longer period is indicated), as described in paragraph (b)(2) of the fee schedule.

Proposed paragraph (a)(2)(A) of the fee schedule also would describe the monthly cadence of the invoices for

Historical CAT Assessment 1A. Specifically, after the first invoices are provided to CAT Executing Brokers in June 2026, invoices will be sent to CAT Executing Brokers each month thereafter while Historical CAT Assessment 1A is in effect.

Proposed paragraph (a)(2)(B) of the fee schedule would describe the invoices for Historical CAT Assessment 1A.

Proposed paragraph (a)(2)(B) of the fee schedule would state that “Consolidated Audit Trail, LLC shall provide each CAT Executing Broker with an invoice for Historical CAT Assessment 1A on a monthly basis.” Proposed paragraph (a)(2)(B) of the fee schedule also would describe the fees to be set forth in the invoices for Historical CAT Assessment 1A. Specifically, it would state that “[e]ach month, such invoices shall set forth a fee for each transaction in Eligible Securities executed by the CAT Executing Broker in its capacity as a CAT Executing Broker for the Buyer (“CEBB”) and/or the CAT Executing Broker for the Seller (“CEBS”) (as applicable) from the prior month as set forth in CAT Data. The fee for each such transaction will be calculated by multiplying the number of executed equivalent shares in the transaction by the fee rate of \$0.000002 per executed equivalent share.”

Furthermore, proposed paragraph (a)(2)(C) of the fee schedule would describe how long Historical CAT Assessment 1A would remain in effect. It would state that “Historical CAT Assessment 1A will remain in effect until \$38,964,855.34 is collected from CAT Executing Brokers collectively, which is estimated to be approximately two years, but could be for a longer or shorter period of time.” This proposed paragraph would further state that “Consolidated Audit Trail, LLC will provide notice when Historical CAT Assessment 1A will no longer be in effect.”

Historical CAT Assessment 1A will be assessed for all transactions executed in each month through the end of the month in which \$38,964,855.34 is assessed, and then CAT LLC will provide notice that Historical CAT Assessment 1A is no longer in effect. Since Historical CAT Assessment 1A is a monthly fee based on transaction volume from the prior month, Historical CAT Assessment 1A may collect more than \$38,964,855.34. To the extent that occurs, any excess money collected during the final month in which Historical CAT Assessment 1A is in effect will be used to offset future fees and/or to fund the reserve for the CAT.

Finally, proposed paragraph (a)(2)(D) of the fee schedule sets forth the

⁹³ Section 11.3(b)(i)(D)(II) of the CAT NMS Plan.

⁹⁴ In approving the CAT Funding Model, the Commission stated that, “[i]n the Commission’s view, it is appropriate for Industry Members to be charged a Historical CAT Assessment until all Historical CAT Costs for the Historical CAT Assessment are collected.” CAT Funding Model Approval Order at 13452.

⁹⁵ Section 11.3(f) of the CAT NMS Plan would prohibit the billing of Historical CAT Assessments after March 31, 2028.

⁹⁶ Section 11.3(b)(iii)(A) of the CAT NMS Plan.

requirement for the CAT Executing Brokers to pay the invoices for Historical CAT Assessment 1A. It would state that “[e]ach CAT Executing Broker shall be required to pay each invoice for Historical CAT Assessment 1A in accordance with paragraph (b).”

(B) Manner of Payment

Paragraph (b)(1) of the “Consolidated Audit Trail Funding Fees” section of its fee schedule describes the manner of payment of Industry Member CAT fees. Paragraph (b)(1) states that “[e]ach CAT Executing Broker shall pay its CAT fees as required pursuant to paragraph (a) each month to the Consolidated Audit Trail, LLC in the manner prescribed by the Consolidated Audit Trail, LLC.” The CAT NMS Plan requires the Operating Committee to establish a system for the collection of CAT fees.⁹⁷ The Plan Processor has established a billing system for CAT fees.⁹⁸ Therefore, the Exchange proposes to require CAT Executing Brokers to pay Historical CAT Assessment 1A in accordance with such system.

(C) Failure to Pay CAT Fees

The CAT NMS Plan further states that:

Participants shall require each Industry Member to pay all applicable fees authorized under this Article XI within thirty (30) days after receipt of an invoice or other notice indicating payment is due (unless a longer payment period is otherwise indicated). If an Industry Member fails to pay any such fee when due (as determined in accordance with the preceding sentence), such Industry Member shall pay interest on the outstanding balance from such due date until such fee is paid at a per annum rate equal to the lesser of: (a) the Prime Rate plus 300 basis points; or (b) the maximum rate permitted by applicable law.⁹⁹

Accordingly, the Exchange previously has added this requirement to the Exchange’s fee schedule. Specifically, paragraph (b)(2) of the fee schedule states:

Each CAT Executing Broker shall pay the CAT fees required pursuant to paragraph (a) within thirty days after receipt of an invoice or other notice indicating payment is due (unless a longer payment period is otherwise indicated). If a CAT Executing Broker fails to pay any such CAT fee when due, such CAT Executing Broker shall pay interest on the

outstanding balance from such due date until such fee is paid at a per annum rate equal to the lesser of (i) the Prime Rate plus 300 basis points, or (ii) the maximum rate permitted by applicable law.

The requirements of paragraph (b)(2) would apply to Historical CAT Assessment 1A.

(7) Historical CAT Assessment Details

The CAT NMS Plan states that:

Details regarding the calculation of a CAT Executing Broker’s Historical CAT Assessment will be provided upon request to such CAT Executing Broker. At a minimum, such details would include each CAT Executing Broker’s executed equivalent share volume and corresponding fee by (1) Listed Options, NMS Stocks and OTC Equity Securities, (2) by transactions executed on each exchange and transactions executed otherwise than on an exchange, and (3) by buy-side transactions and sell-side transactions.¹⁰⁰

Such information would provide CEBBs and CEBs with the ability to understand the details regarding the calculation of their Historical CAT Assessment.¹⁰¹ CAT LLC will provide CAT Executing Brokers with these details regarding the calculation of their Historical CAT Assessments on their monthly invoice for the Historical CAT Assessment.

In addition, CAT LLC will make certain aggregate statistics regarding Historical CAT Assessments publicly available. Specifically, the CAT NMS Plan states that, “[f]or each Historical CAT Assessment, at a minimum, CAT LLC will make publicly available the aggregate executed equivalent share volume and corresponding aggregate fee by (1) Listed Options, NMS Stocks and OTC Equity Securities, (2) by transactions executed on each exchange and transactions executed otherwise on an exchange, and (3) by buy-side transactions and sell-side transactions.”¹⁰² Such aggregate statistics will be available on the CAT website.

Furthermore, CAT LLC will make publicly available on the CAT website

¹⁰⁰ Section 11.3(a)(iv)(A) of the CAT NMS Plan.

¹⁰¹ In approving 14MY3, the CAT Funding Model, the Commission stated that, “[i]n the Commission’s view, providing CAT Execut[ing] Brokers information regarding the calculation of their CAT Fees will aid in transparency and permit CAT Execut[ing] Brokers to confirm the accuracy of their invoices for CAT Fees.” CAT Funding Model Approval Order at 13454.

¹⁰² Section 11.3(a)(iv)(B) of the CAT NMS Plan. In approving the CAT Funding Model, the Commission stated that “[t]he publication of the aggregate executed equivalent share volume and aggregate fee is appropriate because it would allow Participants and CAT Executing Brokers a high-level validation of executed volume and fees.” CAT Funding Model Approval Order at 13454.

the total amount invoiced each month that Historical CAT Assessment 1A is in effect as well as the total amount invoiced for Historical CAT Assessment 1A for all months since its commencement. CAT LLC also will make publicly available on the CAT website the total costs to be collected from Industry Members for Historical CAT Assessment 1A. By reviewing statistics regarding how much has been invoiced and how much remains to be invoiced for Historical CAT Assessment 1A, Industry Members would have sufficient information to reasonably track how much longer Historical CAT Assessment 1A is likely to be in place.

(8) Billing Implementation

To date, CAT LLC, via FCAT, has billed Industry Members for Historical CAT Assessment 1 and certain Prospective CAT Fees. Industry Members will be billed for Historical CAT Assessment 1A via the same processes established for Historical CAT Assessment 1 and the Prospective CAT Fees. Accordingly, Industry Members have substantial experience with the CAT billing processes.

(9) Financial Accountability Milestones

The CAT NMS Plan states that “[n]o Participant will make a filing with the SEC pursuant to Section 19(b) of the Exchange Act regarding any Historical CAT Assessment until any applicable Financial Accountability Milestone described in Section 11.6 has been satisfied.”¹⁰³ The CAT NMS Plan further states that “in all filings submitted by the Participants to the Commission under Section 19(b) of the Exchange Act, to establish or implement Post-Amendment Industry Member Fees pursuant to this Article, . . . the Participants shall clearly indicate whether such fees are related to Post-Amendment Expenses incurred during Period 1, Period 2, Period 3, or Period 4.”¹⁰⁴ As discussed in detail below, all applicable Financial Accountability Milestones for Historical CAT Assessment 1A—that is, Period 1, Period 2 and Period 3 of the Financial Accountability Milestones—have been satisfied. Furthermore, as discussed below, this filing clearly indicates that Historical CAT Assessment 1A relates to Post-Amendment Expenses incurred during Periods 1, 2 and 3 of the Financial Accountability Milestones.

¹⁰³ Section 11.3(b)(iii)(B)(III) of the CAT NMS Plan.

¹⁰⁴ Section 11.6(b) of the CAT NMS Plan.

⁹⁷ Section 11.4 of the CAT NMS Plan.

⁹⁸ The billing process and system are described in CAT Alert 2023-02 as well as the CAT FAQs related to the billing of CAT fees, the Industry Member CAT Reporter Portal User Guide, the FCAT Industry Member Onboarding Guide, the FCAT Connectivity Supplement for Industry Members and the CAT Billing Webinars (dated Sept. 28, 2023, and Nov. 7, 2023), each available on the CAT website.

⁹⁹ Section 11.4 of the CAT NMS Plan.

(A) Period 1 of the Financial Accountability Milestones

In accordance with Section 11.6(b) of the CAT NMS Plan, Historical CAT Assessment 1A seeks to recover costs that are related to “all fees, costs, and expenses (including legal and consulting fees, costs, and expenses) incurred by or for the Company in connection with the development, implementation and operation of the CAT from the effective date of [Section 11.6 of the CAT NMS Plan] until such time as Full Implementation of CAT NMS Plan Requirements has been achieved”¹⁰⁵ (“Post-Amendment Expenses”) incurred during FAM Period 1. FAM Period 1 began on June 22, 2020, the effective date of Section 11.6 of the CAT NMS Plan, and concluded on July 31, 2020, the date of Initial Industry Member Core Equity and Options Reporting. Section 1.1 of the CAT NMS Plan defines “Initial Industry Member Core Equity and Options Reporting” as:

The reporting by Industry Members (excluding Small Industry Members that are not OATS reporters) of both: (a) equities transaction data, excluding Customer Account Information, Customer-ID, and Customer Identifying Information; and (b) options transaction data, excluding Customer Account Information, Customer-ID and Customer Identifying Information.

Under Section 1.1 of the CAT NMS Plan, this Financial Accountability Milestone is considered complete as of the date identified in the Participants’ Quarterly Progress Reports.¹⁰⁶ As indicated by the Participants’ Quarterly Progress Report for the third quarter of 2020,¹⁰⁷ Initial Industry Member Core Equity and Option Reporting was completed on schedule on July 22, 2020, which is prior to the July 31, 2020 deadline.

Under the FAM Period 1 requirement of Initial Industry Member Core Equity and Options Reporting, Industry Members—excluding Small Industry Members that are not OATS reporters—were required to report two categories of data to the CAT: equities transaction data and options transaction data (both excluding Customer Account Information, Customer-ID, and Customer Identifying Information) by July 31, 2020. Pursuant to exemptive relief provided by the Commission, the Commission authorized the Participants’ Compliance Rules to allow core equity reporting for Industry Members (Phase 2a) to begin on June 22,

2020 and core options reporting for Industry Members (Phase 2b) to begin on July 20, 2020.¹⁰⁸

In adopting the FAMs, the Commission stated that the equities transaction reporting required for FAM Period 1 “is consistent with the functionality that the Participants describe on the CAT NMS Plan website as ‘Production Go-Live for Equities 2a file submission and data integrity validations.’”¹⁰⁹ The Phase 2a Industry Member Data is described in detail in the SEC’s Phased Reporting Exemptive Relief Order, and includes the following data related to Eligible Securities that are equities:

- All events and scenarios covered by OATS, which includes information related to the receipt or origination of orders, order transmittal, and order modifications, cancellations and executions;

- Reportable Events for: (1) proprietary orders, including market maker orders, for Eligible Securities that are equities; (2) electronic quotes in listed equity Eligible Securities (*i.e.*, NMS stocks) sent to a national securities exchange or FINRA’s Alternative Display Facility (“ADF”); (3) electronic quotes in unlisted Eligible Securities (*i.e.*, OTC Equity Securities) received by an Industry Member operating an interdealer quotation system (“IDQS”); and (4) electronic quotes in unlisted Eligible Securities sent to an IDQS or other quotation system not operated by a Participant or Industry Member;

- Firm Designated IDs (“FDIDs”), which Industry Members must report to the CAT as required by Sections 6.3(d)(i)(A) and 6.4(d)(ii)(C) of the CAT NMS Plan;

- Industry Members would be required to report all street side representative orders, including both agency and proprietary orders and mark such orders as representative orders, except in certain limited exceptions as

described in the Industry Member Technical Specifications;

- The link between the street side representative order and the order being represented when: (1) the representative order was originated specifically to represent a single order received either from a customer or another broker-dealer; and (2) there is (a) an existing direct electronic link in the Industry Member’s system between the order being represented and the representative order and (b) any resulting executions are immediately and automatically applied to the represented order in the Industry Member’s system;

- Manual and Electronic Capture Time for Manual Order Events;

- Special handling instructions for the original receipt or origination of an order during Phase 2a; and

- When routing an order, whether the order was routed as an intermarket sweep order (“ISO”).

In Phase 2a, Industry Members were not required to report modifications of a previously routed order in certain limited instances, nor were they required to report a cancellation of an order received from a Customer after the order has been executed.¹¹⁰

The Quarterly Progress Report for the third quarter of 2020 states that “Interim Step: Production Go-Live for Equities 2a file submission and data integrity validation (Large Industry Members and Small OATS Reporters)” was completed on June 22, 2020. Accordingly, the FAM Period 1 requirement of reporting by Industry Members (excluding Small Industry Members that are not OATS reporters) of “equities transaction data, excluding Customer Account Information, Customer-ID, and Customer Identifying Information” was completed on June 22, 2020.

In adopting the FAMs, the Commission stated that the options transaction reporting required for FAM Period 1 is “consistent with the functionality that the Participants describe on the CAT NMS Plan website as ‘Production Go-Live for Options 2b file submission and data integrity validations.’”¹¹¹ The Phase 2b Industry Member Data is described in detail in the SEC’s Phased Reporting Exemptive Relief Order, and includes the Industry Member Data related to Eligible Securities that are options and related to simple electronic option orders, excluding electronic paired option orders. A simple electronic option order is an order to buy or sell a single option that is not related to or dependent on

¹⁰⁸ See Phased Reporting Exemptive Relief Order. Under the CAT NMS Plan as adopted, the Participants were required, through their Compliance Rules, to require their Large Industry Members to commence reporting Industry Member Data to the Central Repository by November 15, 2018, and to require their Small Industry Members to commence reporting Industry Member Data to the Central Repository by November 15, 2019. Sections 6.7(a)(v) and (vi) of the CAT NMS Plan. The SEC granted exemptive relief from these provisions of the CAT NMS Plan to allow for the phased implementation of Industry Member reporting via five phases addressing the reporting requirements for Phase 2a Industry Member Data, Phase 2b Industry Member Data, Phase 2c Industry Member Data, Phase 2d Industry Member Data and Phase 2e Industry Member Data.

¹⁰⁹ Securities Exchange Act Rel. No. 88890 (May 15, 2020), 85 FR 31322, 31330 n.97 (May 22, 2020) (“FAM Adopting Release”).

¹¹⁰ Phased Reporting Exemptive Relief Order at 23076–78.

¹¹¹ FAM Adopting Release at 31330, n.98.

¹⁰⁵ Section 11.6 of the CAT NMS Plan.

¹⁰⁶ The Quarterly Progress Reports are available at <https://www.catnmsplan.com/implementation-plan>.

¹⁰⁷ See Q3 2020 Quarterly Progress Report (Oct. 30, 2020) and Updated Q3 2020 Quarterly Progress Report (Jan. 29, 2021).

any other transaction for pricing and timing of execution that is either received or routed electronically by an Industry Member. Electronic receipt of an order is defined as the initial receipt of an order by an Industry Member in electronic form in standard format directly into an order handling or execution system. Electronic routing of an order is the routing of an order via electronic medium in standard format from one Industry Member's order handling or execution system to an exchange or another Industry Member. An electronic paired option order is an electronic option order that contains both the buy and sell side that is routed to another Industry Member or exchange for crossing and/or price improvement as a single transaction on an exchange. Responses to auctions of simple orders and paired simple orders would be reportable in Phase 2b. Furthermore, combined orders in options would be treated in Phase 2b in the same way as equity representative orders are treated in Phase 2a. A combined order would mean, as permitted by SRO rules, a single, simple order in Listed Options created by combining individual, simple orders in Listed Options from a customer with the same exchange origin code before routing to an exchange. During Phase 2b, the single combined order sent to an exchange must be reported and marked as a combined order, but the linkage to the underlying orders is not required to be reported until Phase 2d.¹¹²

The Quarterly Progress Report for the third quarter of 2020 states that "Interim Step: Production Go-Live for Options 2b file submission and data integrity validations" was completed on July 20, 2020. Accordingly, the FAM Period 1 requirement of reporting by Industry Members (excluding Small Industry Members that are not OATS reporters) of "options transaction data, excluding Customer Account Information, Customer-ID and Customer Identifying Information" was completed on July 20, 2020.

As discussed above, the remaining Historical CAT Costs 1 to be recovered via Historical CAT Assessment 1A would include fees, costs and expenses incurred by or for the Company in connection with the development, implementation and operation of the CAT during the period from June 22, 2020 through July 31, 2020. The total costs for this period, as discussed above, are \$6,377,343. Participants would remain responsible for one-third of this cost (which they have previously paid),

and Industry Members would be responsible for the remaining two-thirds, with CEBBs paying one-third (\$2,125,781) and CEBBs paying one-third (\$2,125,781) through Historical CAT Assessment 1 and Historical CAT Assessment 1A.

(B) Period 2 of the Financial Accountability Milestones

Historical CAT Assessment 1A seeks to recover costs that are related to Post-Amendment Expenses incurred during FAM Period 2. FAM Period 2 began on August 1, 2020, and concluded on December 31, 2020, the date of the Full Implementation of Core Equity Reporting. Section 1.1 of the CAT NMS Plan defines "Full Implementation of Core Equity Reporting" as:

the point at which: (a) Industry Member reporting (excluding reporting by Small Industry Members that are not OATS reporters) for equities transactions, excluding Customer Account Information, Customer-ID, and Customer Identifying Information, is developed, tested, and implemented at a 5% Error Rate or less and with sufficient intra-firm linkage, inter-firm linkage, national securities exchange linkage, and trade reporting facilities linkage to permit the Participants and the Commission to analyze the full lifecycle of an order across the national market system, excluding linkage of representative orders, from order origination through order execution or order cancellation; and (b) the query tool functionality required by Section 6.10(c)(i)(A) and Appendix D, Sections 8.1.1–8.1.3 and Section 8.2.1 incorporates the Industry Member equities transaction data described in condition (a) and is available to the Participants and to the Commission. This Financial Accountability Milestone shall be considered complete as of the date identified in a Quarterly Progress Report meeting the requirements of Section 6.6(c).

Under Section 1.1 of the CAT NMS Plan, this Financial Accountability Milestone is considered complete as of the date identified in the Participants' Quarterly Progress Reports. As indicated by the Participants' Quarterly Progress Report for the fourth quarter of 2020,¹¹³ Full Implementation of Core Equity Reporting was completed on schedule by December 31, 2020.

Specifically, the Full Implementation of Core Equity Reporting requires the satisfaction of two prongs. The first prong requires Participants to have fully implemented the first phase of equities transaction reporting for Industry Members (excluding Small Industry Members that are not OATS reporters) at an Error Rate of less than 5%. In addition, equities transaction data produced by the CAT at this stage must

also be sufficiently interlinked so as to permit full analysis of an order's lifecycle across the national market, excluding full linkage of representative orders. As CAT LLC reported on its Quarterly Progress Reports, Phase 2a was fully implemented as of October 26, 2020, including intra-firm, inter-firm, national securities exchange, and trade reporting facilities linkages.¹¹⁴ In addition to the reporting of Phase 2a Industry Member Data as described above with regard to FAM Period 1, the following linkage data was added to the CAT as described in the Quarterly Progress Reports for the third and fourth quarter of 2020:

- "Production Go-Live for Equities 2a Intrafirm Linkage validations" was completed on 7/27/2020;¹¹⁵
- "Production Go-Live for Firm to Firm Linkage validations for Equities 2a (Large Industry Members and Small OATS Reporters)" was completed on October 26, 2020; and
- "Production Go-Live for Equities 2a Exchange and TRF Linkage validations (Large Industry Members and Small OATS Reporters)" was completed on October 26, 2020.

Furthermore, as CAT LLC reported on its Quarterly Progress Report for the fourth quarter of 2020, the average overall error rate for Phase 2a Industry Member Data was less than 5% as of December 31, 2020. The average overall error rate was calculated by dividing the compliance errors by processed records.

The second prong of this FAM requires that the equities transaction data collected by the CAT at this stage be made available to regulators through two basic query tools required by the CAT NMS Plan—a targeted query tool that will enable regulators to retrieve data via an online query screen with a variety of predefined selection criteria, and a user-defined direct query tool that will provide regulators with the ability to query data using all available attributes and data sources.¹¹⁶ As CAT LLC reported on its Quarterly Progress Reports, the query tool functionality incorporating the data from Phase 2a

¹¹⁴ For a description of the requirements of Phases 2a, see Phased Reporting Exemptive Relief Order.

¹¹⁵ Q3 2020 Quarterly Progress Report (Oct. 20, 2021).

¹¹⁶ At the time of this FAM, Section 6.10(c)(i)(A) of the CAT NMS Plan required the Plan Processor to "provide Participants and the SEC with access to all CAT Data stored in the Central Repository" via an "online targeted query tool," and Appendix D, Sections 8.1.1–8.1.3 of the CAT NMS Plan described the required functionality associated with this regulatory tool. Appendix D, Section 8.2.1 describes the required functionality associated with a user-defined direct query tool that will "deliver large sets of data that can then be used in internal surveillance or market analysis applications."

¹¹² Phased Reporting Exemptive Relief Order at 23078.

¹¹³ Q4 2020 Quarterly Progress Report (Jan. 29, 2021).

was available to the Participants and the Commission as of December 31, 2020.¹¹⁷

The Commission has determined that the Participants have sufficiently complied with the conditions set forth in the 2020 Orders and with the technical requirements for Quarterly Progress Reports set forth in Section 6.6(c) of the CAT NMS Plan for purposes of determining compliance with this FAM.¹¹⁸

As discussed above, the remaining Historical CAT Costs 1 to be recovered via Historical CAT Assessment 1A would include fees, costs and expenses incurred by or for the Company in connection with the development, implementation and operation of the CAT during the period from August 1, 2020 through December 31, 2020. The total costs for this period, as discussed above, are \$42,976,478. Participants would remain responsible for one-third of this cost (which they have previously paid), and Industry Members would be responsible for the remaining two-thirds, with CEBBs paying one-third (\$14,325,492.70) and CEBs paying one-third (\$14,325,492.70) through Historical CAT Assessment 1 and Historical CAT Assessment 1A.

(C) Period 3 of the Financial Accountability Milestones

Historical CAT Assessment 1A seeks to recover costs that are related to Post-Amendment Expenses incurred during FAM Period 3. FAM Period 3 began on January 1, 2021, and concluded on December 31, 2021, the date of the Full Availability and Regulatory Utilization of Transactional Database Functionality. Section 1.1 of the CAT NMS Plan defines “Full Availability and Regulatory Utilization of Transactional Database Functionality” as:

the point at which: (a) reporting to the Order Audit Trail System (“OATS”) is no longer required for new orders; (b) Industry Member reporting for equities transactions and simple electronic options transactions, excluding Customer Account Information, Customer-ID, and Customer Identifying Information, with sufficient intra-firm linkage, inter-firm linkage, national securities exchange linkage, trade reporting facilities linkage, and representative order linkages (including any equities allocation information provided in an Allocation Report) to permit the Participants and the Commission to analyze the full lifecycle of an order across the national market system, from order origination through order execution or order

cancellation, is developed, tested, and implemented at a 5% Error Rate or less; (c) Industry Member reporting for manual options transactions and complex options transactions, excluding Customer Account Information, Customer-ID, and Customer Identifying Information, with all required linkages to permit the Participants and the Commission to analyze the full lifecycle of an order across the national market system, from order origination through order execution or order cancellation, including any options allocation information provided in an Allocation Report, is developed, tested, and fully implemented; (d) the query tool functionality required by Section 6.10(c)(i)(A) and Appendix D, Sections 8.1.1–8.1.3, Section 8.2.1, and Section 8.5 incorporates the data described in conditions (b)–(c) and is available to the Participants and to the Commission; and (e) the requirements of Section 6.10(a) are met. This Financial Accountability Milestone shall be considered complete as of the date identified in a Quarterly Progress Report meeting the requirements of Section 6.6(c).

Under Section 1.1 of the CAT NMS Plan, this Financial Accountability Milestone is considered complete as of the date identified in the Participants’ Quarterly Progress Reports. As indicated by the Participants’ Quarterly Progress Report for the fourth quarter of 2021,¹¹⁹ Full Availability and Regulatory Utilization of Transactional Database Functionality was completed on schedule by December 31, 2021.

Specifically, the “Full Availability and Regulatory Utilization of Transactional Database Functionality” requires the satisfaction of five prongs. The first prong requires that reporting to the Order Audit Trail System (“OATS”) is no longer required for new orders. As CAT LLC reported on its Quarterly Progress Report for the fourth quarter of 2021,¹²⁰ FINRA retired OATS effective September 1, 2021.¹²¹ Accordingly, after the retirement of OATS, reporting to OATS was no longer required.

In addition to Phase 2a and Phase 2b Industry Member Data, the second and third prongs of “Full Availability and Regulatory Utilization of Transactional Database Functionality” require Industry Member reporting of Phase 2c Industry Member Data and Phase 2d Industry Member Data. The Phase 2c Industry Member Data is described in detail in the SEC’s Phased Reporting Exemptive Relief Order. That Order states that “Phase 2c Industry Member Data” is Industry Member Data related to Eligible Securities that are equities other than Phase 2a Industry Member Data, Phase 2d Industry Member Data,

or Phase 2e Industry Member Data. Specifically, the Phase 2c Industry Member Data includes Industry Member Data that is related to Eligible Securities that are equities and that is related to:

(1) Allocation Reports as required to be recorded and reported to the Central Repository pursuant to Section 6.4(d)(ii)(A)(1) of the CAT NMS Plan; (2) quotes in unlisted Eligible Securities sent to an IDQS operated by a CAT Reporter (reportable by the Industry Member sending the quotes) (except for quotes reportable in Phase 2d, as discussed below); (3) electronic quotes in listed equity Eligible Securities (*i.e.*, NMS stocks) that are not sent to a national securities exchange or FINRA’s Alternative Display Facility; (4) reporting changes to client instructions regarding modifications to algorithms; (5) marking as a representative order any order originated to work a customer order in price guarantee scenarios, such as a guaranteed VWAP; (6) flagging rejected external routes to indicate a route was not accepted by the receiving destination; (7) linkage of duplicate electronic messages related to a Manual Order Event between the electronic event and the original manual route; (8) special handling instructions on order route reports (other than the ISO, which is required to be reported in Phase 2a); (9) quote identifier on trade events; (10) reporting of LTIDs (if applicable) for accounts with Reportable Events that are reportable to CAT as of and including Phase 2c; (11) reporting of date account opened or Account Effective Date (as applicable) for accounts and reporting of a flag indicating the Firm Designated ID type as account or relationship; (12) order effective time for orders that are received by an Industry Member and do not become effective until a later time; (13) the modification or cancellation of an internal route of an order; and (14) linkages to the customer orders(s) being represented for representative order scenarios, including agency average price trades, net trades, aggregated orders, and disconnected Order Management System (“OMS”)—Execution Management System (“EMS”) scenarios, as required in the Industry Member Technical Specifications.¹²²

Phase 2c Industry Member Data also includes electronic quotes that are provided by or received in a CAT Reporter’s order/quote handling or execution systems in Eligible Securities that are equities and are provided by an Industry Member to other market participants off a national securities

¹¹⁷ See Q3 2020 Quarterly Progress Report (Oct. 30, 2020); Updated Q3 2020 Quarterly Progress Report (Jan. 29, 2021); and Q4 2020 Quarterly Progress Report (Jan. 29, 2021).

¹¹⁸ Securities Exchange Act Rel. No. 98848 (Nov. 2, 2023), 88 FR 77128, 77129 n.13 (Nov. 8, 2023) (“Settlement Exemptive Order”).

¹¹⁹ Q4 2021 Quarterly Progress Report (Jan. 17, 2022).

¹²⁰ *Id.*

¹²¹ Securities Exchange Act Rel. No. 92239 (June 23, 2021), 86 FR 34293 (June 29, 2021).

¹²² Phase Reporting Exemptive Relief Order at 23078–79.

exchange under the following conditions: (1) an equity bid or offer is displayed publicly or has been communicated (a) for listed securities to the ADF operated by FINRA; or (b) for unlisted equity securities to an “interdealer quotation system,” as defined in FINRA Rule 6420(c); or (2) an equity bid or offer which is accessible electronically by customers or other market participants and is immediately actionable for execution or routing; *i.e.*, no further manual or electronic action is required by the responder providing the quote in order to execute or cause a trade to be executed). With respect to OTC Equity Securities, OTC Equity Securities quotes sent by an Industry Member to an IDQS operated by an Industry Member CAT Reporter (other than such an IDQS that does not match and execute orders) are reportable by the Industry Member sending them in Phase 2c. Accordingly, any response to a request for quote or other form of solicitation response provided in a standard electronic format (*e.g.*, FIX) that meets this quote definition (*i.e.*, an equity bid or offer which is accessible electronically by customers or other market participants and is immediately actionable for execution or routing) would be reportable in Phase 2c.¹²³

The Phase 2d Industry Member Data is described in detail in the SEC’s Phased Reporting Exemptive Relief Order. “Phase 2d Industry Member Data” is Industry Member Data that is related to Eligible Securities that are options other than Phase 2b Industry Member Data, Industry Member Data that is related to Eligible Securities that are equities other than Phase 2a Industry Member Data or Phase 2c Industry Member Data, and Industry Member Data other than Phase 2e Industry Member Data. Phase 2d Industry Member Data includes with respect to the Eligible Securities that are options: (1) simple manual orders; (2) electronic and manual paired orders; (3) all complex orders with linkages to all CAT-reportable legs; (4) LTIDs (if applicable) for accounts with Reportable Events for Phase 2d; (5) date account opened or Account Effective Date (as applicable) for accounts with an LTID and flag indicating the Firm Designated ID type as account or relationship for such accounts; (6) Allocation Reports as required to be recorded and reported to the Central Repository pursuant to Section 6.4(d)(ii)(A)(1) of the CAT NMS Plan; (7) the modification or cancellation of an internal route of an order; and (8) linkage between a combined order and the original

customer orders. Phase 2d Industry Member Data also would include electronic quotes that are provided by or received in a CAT Reporter’s order/quote handling or execution systems in Eligible Securities that are options and are provided by an Industry Member to other market participants off a national securities exchange under the following conditions: a listed option bid or offer which is accessible electronically by customers or other market participants and is immediately actionable (*i.e.*, no further action is required by the responder providing the quote in order to execute or cause a trade to be executed). Accordingly, any response to a request for quote or other form of solicitation response provided in standard electronic format (*e.g.*, FIX) that meets this definition is reportable in Phase 2d for options.¹²⁴

Phase 2d Industry Member Data also includes with respect to Eligible Securities that are options or equities (1) receipt time of cancellation and modification instructions through Order Cancel Request and Order Modification Request events; (2) modifications of previously routed orders in certain instances; and (3) OTC Equity Securities quotes sent by an Industry Member to an IDQS operated by an Industry Member CAT Reporter that does not match and execute orders. In addition, subject to any exemptive or other relief, Phase 2d Industry Member Data will include verbal or manual quotes on an exchange floor or in the over-the-counter market, where verbal quotes and manual quotes are defined as bids or offers in Eligible Securities provided verbally or that are provided or received other than via a CAT Reporter’s order handling and execution system (*e.g.*, quotations provided via email or instant messaging).¹²⁵

The Quarterly Progress Report for the fourth quarter of 2021 states that “Phase 2a was fully implemented as of October 26, 2020;” “Phase 2b was fully implemented as of January 4, 2021;” “Phase 2c was implemented as of April 26, 2021;” and “Phase 2d was fully implemented as of December 13, 2021.”¹²⁶ The Quarterly Progress Reports for 2021 provide additional detail regarding the implementation of these steps including the following:

- “Production Go-Live for Equities 2c reporting requirements (Large Industry Members)” was completed on April 26, 2021;

- “LTID Account Information Reporting Go-Live for Phases 2a, 2b and 2c (Large Industry Members)” was completed on April 26, 2021;

- “FCAT Plan Processor creates linkages of the lifecycle of order events based on the received data through Phase 2d Production Go-Live for Options 2d reporting requirements (Large Industry Members)” was completed on December 13, 2021;

- “Production Go-Live for Options 2d reporting requirements (Large Industry Members)” was completed on December 13, 2021;

- “Production Go-Live for Options 2b reporting requirements (Small OATS Reporters and Small Non-OATS Reporters)” was completed on December 13, 2021;

- “Production Go-Live for Equities 2c reporting requirements (Small OATS Reporters and Small Non-OATS Reporters)” was completed on December 13, 2021;

- “Production Go-Live for Options 2d reporting requirements (Small OATS Reporters and Small Non-OATS Reporters)” was completed on December 13, 2021;

- “LTID Account Information Reporting Go-Live for Phases 2d (Large Industry Members)” was completed on December 13, 2021; and

- “LTID Account Information Reporting Go-Live for Phases 2a, 2b, 2c and 2d (Small Industry Members)” was completed on December 13, 2021.¹²⁷

The third prong of “Full Availability and Regulatory Utilization of Transactional Database Functionality” also imposes an Error Rate requirement of 5% or less. The Quarterly Progress Report for the fourth quarter of 2021 states the average overall error rate was less than 5% as of December 31, 2021. The average overall error rate was calculated by dividing the compliance errors by processed records.

The fourth prong of “Full Availability and Regulatory Utilization of Transactional Database Functionality” requires that the data collected by the CAT at this stage be made available to regulators through an online targeted query tool and a user-defined direct query tool. As CAT LLC reported on its Quarterly Progress Report for the fourth quarter of 2021, the query tool functionality incorporating the data from Phases 2a, 2b, 2c and 2d was available to the Participants and to the Commission as of December 31, 2021.¹²⁸

¹²⁴ *Id.*

¹²⁵ *Id.* at 23079–80.

¹²⁶ See Q4 2021 Quarterly Progress Report (Jan. 17, 2022).

¹²⁷ See Q2 2021 Quarterly Progress Report (July 27, 2021); and Q4 2021 Quarterly Progress Report (Jan. 17, 2022).

¹²⁸ See Q4 2021 Quarterly Progress Report (Jan. 17, 2022).

¹²³ *Id.* at 23079.

The fifth prong requires the requirements of Section 6.10(a) of the CAT NMS Plan to have been met. Section 6.10(a) of the CAT NMS Plan requires the Participants to use the tools described in Appendix D to “develop and implement a surveillance system, or enhance existing surveillance systems, reasonably designed to make use of the consolidated information contained in the Central Repository.” The Exchange implemented a surveillance system, or enhanced existing surveillance systems, reasonably designed to make use of the consolidated information contained in the Central Repository as of December 31, 2021 in accordance with Section 6.10(a) of the CAT NMS Plan.¹²⁹

The Commission has determined that the Participants have sufficiently complied with the conditions set forth in the 2020 Orders and with the technical requirements for Quarterly Progress Reports set forth in Section 6.6(c) of the CAT NMS Plan for purposes of determining compliance with this FAM.¹³⁰

As discussed above, the remaining Historical CAT Costs 1 to be recovered via Historical CAT Assessment 1A would include fees, costs and expenses incurred by or for the Company in connection with the development, implementation and operation of the CAT during the period from January 1, 2021 through December 31, 2021. The total costs for this period, as discussed above, are \$144,415,268. Participants would remain responsible for one-third of this cost (which they have previously paid), and Industry Members would be responsible for the remain two-thirds, with CEBBs paying one-third (\$48,138,422.70) and CEBs paying one-third (\$48,138,422.70) through Historical CAT Assessment 1 and Historical CAT Assessment 1A.

(D) Additional Considerations Related to the Financial Accountability Milestones

As discussed above, CAT LLC has satisfied the Financial Accountability Milestones (“FAMs”) for Periods 1 through 3.¹³¹ As discussed below, none of the circumstances related to NIA

Electronic RFQ Responses, the 2023 Verbal Quotes Exemption, the November 2023 Order, or Executing Broker reporting, affect the conclusion that the FAMs for Periods 1 through 3 were satisfied in a timely fashion.

(i) NIA Electronic RFQ Responses

CAT LLC does not believe that the exemptive relief relating to the reporting of electronic responses for quotes (“RFQs”) that are not immediately actionable (“NIA Electronic RFQ Responses”) affect the conclusion that FAMs 1 through 3 have been satisfied. The only reason CAT LLC pursued this relief is because certain Industry Members introduced concerns that NIA Electronic RFQ Responses could be considered “orders” reportable pursuant to Rule 613(j)(8) and some Industry Members were not prepared to report such orders to CAT. Thus, the relief was requested on behalf of Industry Members. CAT LLC itself has not taken any position on whether NIA Electronic RFQ Responses are “orders,” as the definition of “order” is an SEC rule and the trading processes for NIA Electronic RFQ Responses are the Industry Members’, not those of the Participants or CAT LLC. Accordingly, CAT LLC stated in its letter that “Industry Members must determine whether trading interest falls within the definition of an ‘order’ for CAT purposes. To the extent an NIA Electronic RFQ Response is not considered an ‘order’ as defined in Rule 613(j)(8) and the CAT NMS Plan, it would not be reportable to CAT.”¹³²

Only “orders” as defined in SEC Rule 613(j)(8) are reportable to CAT. There is no agreement across the industry or among regulators as to whether NIA Electronic RFQ Responses are “orders” reportable to CAT. Certain Industry Members have raised the question as to whether NIA Electronic RFQ Responses are orders, but others have argued that they are not orders under Rule 613(j)(8).¹³³ Indeed, members of the Advisory Committee, which CAT LLC relies upon for guidance with regard to Industry Member issues, have not had a definitive view on whether NIA Electronic RFQ Responses are orders. As Rule 613(j)(8) is an SEC rule, CAT LLC believes that only the SEC can provide a definitive determination as to if, and under what circumstances, an NIA

Electronic RFQ Response is considered an “order” reportable to CAT. The issue has persisted for some time. As a result, CAT LLC filed an exemptive request regarding NIA Electronic RFQ Responses for clarity on the interpretive issue. As recently as April 2024, Industry Members have re-raised this issue stating that the SEC agrees that it must provide additional guidance on this interpretive issue to resolve the CAT reporting issue for NIA Electronic RFQ Responses:

As further discussed in the prior FIF letters, even if the Commission had the legal authority to require the reporting of NIA RFQ responses to CAT without an amendment to Rule 613, the Commission has not provided guidance to industry members as to the conditions under which NIA RFQ responses would be reportable to CAT. In subsequent discussions with industry members, Commission representatives have agreed that, prior to NIA RFQ responses being reportable to CAT, it would be necessary for the Commission to provide further guidance to industry members as to the conditions under which NIA RFQ responses would be reportable to CAT.¹³⁴

On May 20, 2024, the Commission granted CAT LLC’s request for exemptive relief from certain CAT reporting requirements pertaining to NIA Electronic RFQ Responses to the extent such responses are considered “orders” reportable pursuant to Rule 613(j)(8).¹³⁵ The Commission, however, did not provide additional guidance regarding the conditions under which NIA Electronic RFQ Responses would be reportable to CAT. The Commission stated in its exemptive order that “[t]o the extent that the Participants are availing themselves of exemptive relief from a CAT NMS Plan requirement, such requirement shall not be included in the requirements for the Financial Accountability Milestones, provided that any conditions of the exemption are satisfied.”¹³⁶

When the Commission proposed the FAMs, the Participants expressed concern that, “by conditioning the ability of CAT LLC and the Participants to collect Post-Amendment Industry Member Fees on factors dependent on the efforts of Industry Members, the Commission’s proposals inadvertently establish a perverse incentive for Industry Members to devote less than maximum efforts to comply with their obligations related to the CAT as they will pay less fees in such instances.”¹³⁷

¹²⁹ See Q1 2021 Quarterly Progress Report (Apr. 30, 2021); Q2 2021 Quarterly Progress Report (July 27, 2021); Q3 2021 Quarterly Progress Report (Nov. 1, 2021); and Q4 2021 Quarterly Progress Report (Jan. 17, 2022).

¹³⁰ Settlement Exemptive Order at 77129 n.13.

¹³¹ In May 2020, the Commission adopted amendments to the CAT NMS Plan that establish four Financial Accountability Milestones and set target deadlines by which these milestones must be achieved. These amendments also reduce the amount of any fees, costs, and expenses that may be recovered from Industry Members if the Participants fail to meet the target deadlines. FAM Adopting Release.

¹³² See Letter from Brandon Becker, Chair, CAT NMS Plan Operating Committee to Vanessa Countryman, Secretary, Commission (Feb. 13, 2024) at 2.

¹³³ See, e.g., Letter from Howard Meyerson, Managing Director, FIF, to Sai Rao, Counsel for Trading and Markets, Office of the Chair (Apr. 25, 2024).

¹³⁴ *Id.*

¹³⁵ Securities Exchange Act Rel. No. 100181 (May 20, 2024), 89 FR 45715 (May 23, 2024).

¹³⁶ *Id.* at n.11.

¹³⁷ See Letter from Michael Simon, CAT NMS Plan Operating Committee Chair, to Vanessa

The Participants further warned that “Industry Members may request or require unanticipated reporting delays to address Industry Member implementation issues or concerns,” but that, “[f]aced with financial penalties for missed deadlines, the Participants may not be able to fully address legitimate industry concerns or accommodate requests for delays with respect to future deadlines.”¹³⁸ CAT LLC has engaged in good faith to help address NIA Electronic RFQ Responses and other concerns relevant to the ability of Industry Members to meet their CAT reporting obligations. CAT LLC should not be penalized financially for seeking in good faith to resolve a difficult interpretive issue for the benefit of Industry Members.

(ii) 2023 Verbal Quotes Exemption

CAT LLC does not believe that the Commission’s May 19, 2023 order granting temporary exemptive relief relating to certain verbal floor activity and unstructured verbal and electronic upstairs activity (the “2023 Verbal Quotes Exemption”) affects the conclusion that FAMS 1 through 3 have been satisfied. The 2023 Verbal Quotes Exemption, which was issued on May 19, 2023, is not relevant for purposes of FAM Periods 1 through 3, which only cover the period through December 31, 2021. The relevant exemption for this time period is the Commission’s November 12, 2020 order, which granted relief for the same activity through July 31, 2023 (the “2020 Verbal Quotes Order”).¹³⁹ The Commission has stated that, “to the extent that the Participants are availing themselves of exemptive relief from a CAT NMS Plan requirement, such requirement shall not be included in the requirements for a Financial Accountability Milestone, provided that the conditions of the exemption are satisfied.”¹⁴⁰ Here, the 2020 Verbal Quotes Order was in effect and the conditions of the exemption were satisfied as of December 31, 2021, and therefore may be relied upon for purposes of determining compliance with FAM Periods 1 through 3.¹⁴¹

Countryman, Secretary, Commission at 9 (Oct. 28, 2019).

¹³⁸ *Id.* at 10.

¹³⁹ Securities Exchange Act Rel. No. 90405, 85 FR 73544 (Nov. 18, 2020) (the “2020 Verbal Quotes Exemption”).

¹⁴⁰ *See, e.g.*, Securities Exchange Act Rel. No. 89051 (June 11, 2020), 85 FR 36631, 36633 (June 17, 2020). The straightforward reading of the Commission’s statement is that compliance with the conditions of an exemption will be measured as of the deadline for a particular FAM Period.

¹⁴¹ As a condition to the 2020 Verbal Quotes Exemption, the Commission required that the Participants provide a written status update on the

(iii) November 2023 Order

CAT LLC does not believe that the Commission’s November 2, 2023 order granting relief from certain CAT NMS Plan requirements (the “November 2023 Order”) affects the conclusion that FAMS 1 through 3 have been satisfied. The November 2023 Order is not relevant for purposes of FAM Periods 1 through 3, which only cover the period through December 31, 2021. As described in the November 2023 Order, the relevant exemptive orders for this time period were issued on December 16, 2020, which also states that “the Commission has determined that the Participants have sufficiently complied with the conditions set forth in the prior Orders and with the technical requirements for Quarterly Progress Reports set forth in section 6.6(c) of the CAT NMS Plan, including for purposes of determining compliance with any applicable Financial Accountability Milestones.”¹⁴² The November 2023 Exemption Order is consistent with the Commission’s repeated statements in the FAM adopting release that it would have “authority to grant exemptive relief from any requirement associated with a particular Financial Accountability Milestone,” citing Section 36 of the Exchange Act and Rule 608.¹⁴³ Similarly, the CAT NMS Plan expressly contemplates the Commission’s ability to grant exemptive relief from any CAT NMS Plan requirement.¹⁴⁴

reporting of these quotes and orders by July 31, 2022, including the estimated costs of reporting these quotes and orders and an implementation plan for the reporting of these quotes and orders. As noted, the 2020 Verbal Quotes Order was in effect and the conditions of the exemption were satisfied as of December 31, 2021, and therefore may be relied upon for purposes of determining compliance with FAM Periods 1 through 3. In any event, on June 3, 2022, the Participants provided the required written status update. *See* Letter from Michael Simon, CAT NMS Plan Operating Committee Chair, to Vanessa Countryman, Secretary, Commission (June 3, 2022).

¹⁴² *Id.* at 77129 n.12.

¹⁴³ FAM Adopting Release at 31335 (May 22, 2020). Section 36 of the Exchange Act grants the Commission the authority to “conditionally or unconditionally exempt any person, security, or transaction . . . from any provision or provisions of [the Exchange Act] or of any rule or regulation thereunder, to the extent that such exemption is necessary or appropriate in the public interest, and is consistent with the protection of investors.” 15 U.S.C. 78mm(a)(1). Under Rule 608(e) of Regulation NMS, the Commission may “exempt from [Rule 608], either unconditionally or on specified terms and conditions, any self-regulatory organization, member thereof, or specified security, if the Commission determines that such exemption is consistent with the public interest, the protection of investors, the maintenance of fair and orderly markets and the removal of impediments to, and perfection of the mechanism of, a national market system.” 17 CFR 242.608(e).

¹⁴⁴ Section 12.3 of the CAT NMS Plan (“[T]o the extent the SEC grants exemptive relief applicable to

(iv) Executing Broker Reporting

CAT LLC also completed the requirements of FAM Period 2, including the required linkages, by December 31, 2020. Although Participant exchanges may report the Executing Broker to CAT differently in certain situations, these reporting differences are irrelevant for linkage purposes as the fields used for CAT Executing Broker are not used for linkage.

(10) Additional Support for Reasonableness of Historical CAT Costs

The CAT Funding Model approved by the Commission permits the recovery of reasonable costs in each of the categories of CAT costs sought to be recovered via Historical CAT Assessment 1A.¹⁴⁵ As described in detail above and in further detail below, the CAT costs to be recovered for each category are reasonable. The following discusses in further detail how each of the following costs are reasonable: (1) costs incurred prior to the effective date of the CAT NMS Plan; (2) cloud hosting services costs; (3) costs related to funding model filings; (4) costs related to litigation with the SEC regarding the CAT NMS Plan; (5) costs related to the Initial Plan Processor; (6) CAIS implementation costs; (7) public relations costs; (8) legal costs related to the limitation of liability provision in the CAT Reporter agreements; and (9) costs for the Chair of CAT Operating Committee. As discussed in detail below, each of these costs is reasonable and should be recoverable in accordance with the CAT Funding Model.

(A) Costs Incurred Prior to the Effective Date of CAT NMS Plan

CAT LLC believes that it is reasonable to seek recovery of costs incurred prior to when the CAT NMS Plan became effective in November 2016, such as legal and consulting fees incurred to create the CAT NMS Plan. Rule 613 specifically mandates that the CAT be created, implemented and maintained, and further provides that the CAT NMS Plan include a proposed allocation of estimated costs to fund the creation, implementation and maintenance of the CAT among the Participants (referred to as “plan sponsors”), and between the Participants and Industry Members

any provision of this Agreement, Participants and Industry Members shall be entitled to comply with such provision pursuant to the terms of the exemptive relief so granted at the time such relief is granted irrespective of whether this Agreement has been amended.”)

¹⁴⁵ *See* Sections 11.1(a)(i) and 11.3(b)(iii)(B)(II) of the CAT NMS Plan.

(referred to as “members of the plan sponsors”).¹⁴⁶ Consistent with Rule 613, the CAT NMS Plan, as approved by the Commission, specifically authorizes charging Industry Members fees for costs reasonably incurred prior to the date of the approval of the CAT NMS Plan by the Commission in November 2016, including legal and consulting costs. Section 11.1(c) of the CAT NMS Plan states that:

[i]n determining fees on Participants and Industry Members the Operating Committee shall take into account fees, costs and expenses (including legal and consulting fees and expenses) reasonably incurred by Participants on behalf of the Company prior to the Effective Date in connection with the creation and implementation of the CAT.

Accordingly, the CAT NMS Plan specifically permits the recovery of costs, including legal and consulting costs, reasonably incurred prior to November 2016 in connection with the creation and implementation of the CAT.

Furthermore, the costs incurred to create and implement the CAT prior to the effective date of the CAT NMS Plan (“Pre-Formation Costs”) were reasonable both in scope and amount, in accordance with the requirements of Section 11.1(c) of the CAT NMS Plan. During the four-year period from 2012 to 2016, a total of \$13,842,881 in Pre-Formation Costs were incurred. This is an average of approximately \$3.5 million per year over this period. The Pre-Formation Costs fell into three categories: legal costs, consulting costs and public relations costs. This includes legal costs of \$3,196,434; consulting costs of \$10,589,273; and public relations costs of \$57,174. The legal, consulting and public relations services were performed by WilmerHale, Deloitte and Peppercomm, respectively. The selection considerations and fees for these three firms are described in detail above and are described further below. The Pre-Formation Costs are direct costs of CAT, which have been funded entirely by the Participants through non-interest-bearing notes. The Pre-Formation Costs do not include the significant costs incurred by each of the individual Participants in responding to the adoption of Rule 613.

The Pre-Formation Costs are reasonable and appropriate as they reflect the extensive efforts that were necessary to create the CAT NMS Plan as mandated after the SEC’s adoption of Rule 613. As described in more detail below, these efforts included, among other things, developing a plan for

selecting the Plan Processor, soliciting and evaluating bids, engaging a diverse set of market participants and the SEC in the development of the Plan, interacting with the SEC in their oversight of the development of the Plan, and seeking appropriate exemptive relief to address areas of concern in Rule 613.¹⁴⁷

(i) Request for Proposal (“RFP”)

The Participants determined to utilize an RFP to ensure that potential alternative solutions for creating the Plan could be presented and considered, and that a detailed and meaningful cost-benefit analysis could be performed. The SEC supported the use of an RFP, and approved its use as it is described in extensive detail in the CAT NMS Plan.¹⁴⁸

In the context of the SEC’s adoption of Rule 613, commenters urged the Commission to utilize an RFP process to assist in the planning and design of the NMS plan.¹⁴⁹ Specifically, the Commission explained:

In this regard, several commenters suggested that the Commission undergo a RFP or request for information (“RFI”) process to create and implement a consolidated audit trail. Specifically, FIF urged the Commission to perform a RFP process “to determine the best technical solution for developing a consolidated audit trail.” FIF suggested that the Commission “should outline a set of goals and guiding principles they are striving to achieve as part of the adopted CAT filing and leave the determination of data elements and other technical requirements to [an] industry working group.” Similarly, Direct Edge suggested that Commission staff should form and engage in a working group to develop an RFP for publication by the Commission. DirectEdge explained that an RFP process would facilitate the identification of the costs and benefits of the audit trail, as well as the consideration of a wider range of technological solutions. Further, commenters, including Broadridge Financial Solutions, Inc., a technology provider, also requested more specific information about the audit trail system to better assess the Commission’s initial cost estimates and to

determine the best approach to the consolidated audit trail.¹⁵⁰

In response to these comments, the Commission modified Rule 613 to require the Participants to address certain important considerations regarding the features and details of the NMS plan and to extend the timeframe for submission of the CAT NMS Plan by the Participants from the 90 days as originally proposed to 270 days, in part, to accommodate a process that would address these considerations.¹⁵¹ As the SEC noted, “[i]n light of the numerous specific requirements of Rule 613, the Participants concluded that publication of a request for proposal (‘RFP’) was necessary to ensure that potential alternative solutions to creating the consolidated audit trail can be presented and considered by the Participants and that a detailed and meaningful cost/benefit analysis can be performed, both of which are required considerations to be addressed in the CAT NMS Plan.”¹⁵²

The SEC specifically recognized that the Participants planned to use an RFP when it approved the Selection Plan, and stated that the RFP was a reasonable approach.¹⁵³ As the SEC described in its approval order for the Selection Plan, “[t]he Participants filed the [Selection] Plan to govern how the SROs will proceed with formulating and submitting the CAT NMS Plan—and, as part of that process, how to review, evaluate, and narrow down the bids submitted in response to the RFP (‘Bids’)—and ultimately choosing the plan processor that will build, operate, and maintain the consolidated audit trail (‘Plan Processor’).”¹⁵⁴ After evaluating the Selection Plan, including the use of an RFP process, the Commission stated that it “believes the [Selection] Plan is reasonably designed to govern the process by which the SROs will formulate and submit the CAT NMS Plan, including the review, evaluation, and narrowing down of Bids in response to the RFP, and ultimately choosing the Plan Processor that will build, operate, and maintain the consolidated audit trail.”¹⁵⁵

On February 26, 2013, the Participants published an RFP soliciting bids from parties interested in serving as the plan processor for the CAT. Initially, 31 firms submitted intentions to bid. In

¹⁴⁷ The Participants described in detail the process for drafting the CAT NMS Plan in its original filing of the CAT NMS Plan. See Letter from Mike Simon, on behalf of the Participants of the CAT NMS Plan, to Brent J. Fields, Secretary, Commission (Sept. 30, 2014). A non-exclusive list of filings and activities associated with CAT, including certain pre-2016 filings, are available on the SEC’s website: <https://www.sec.gov/divisions/marketreg/rule613-info>.

¹⁴⁸ See detailed discussion of RFP questions in Appendix C of the CAT NMS Plan, and incorporation of RFP requirements in Appendix D at D–2.

¹⁴⁹ For example, in its comments on proposed Rule 613, FIF suggested “that the SROs should select the processor through a ‘request for proposal.’” Rule 613 Adopting Release at 45785.

¹⁵⁰ Rule 613 Adopting Release at 45738–39.

¹⁵¹ Rule 613 Adopting Release at 45739.

¹⁵² Securities Exchange Act Rel. No. 71596 (Feb. 21, 2014), 79 FR 11152, 11152 (Feb. 27, 2014) (“Selection Plan Approval Order”).

¹⁵³ *Id.*

¹⁵⁴ *Id.* at 11153

¹⁵⁵ *Id.* at 11159.

¹⁴⁶ See, e.g., Rule 613(a)(1)(vii)(D) of the CAT NMS Plan.

the following months, the Participants engaged with potential bidders with respect to, among other things, the selection process, selection criteria, and potential bidders' questions and concerns. On March 21, 2014, the Participants received ten bids in response to the RFP.

(ii) Selection Plan

On September 4, 2013, the Participants filed with the Commission a national market system plan to govern the process for Participant review of the bids submitted in response to the RFP, the procedures for evaluating the bids, and, ultimately, selection of the plan processor (the "Selection Plan").¹⁵⁶ The Commission approved the Selection Plan as filed on February 21, 2014.¹⁵⁷ In approving the Selection Plan, the Commission concluded that "it is reasonably designed to achieve its objective of facilitating the development of the CAT NMS Plan and the selection of the Plan Processor."¹⁵⁸

The Selection Plan divided the review and evaluation of bids, and the selection of the plan processor, into various stages. Specifically, pursuant to the Selection Plan, a selection committee reviewed all bids and determined which bids contained sufficient information to allow the Participants to meaningfully assess and evaluate the bids. The ten submitted bids were deemed "Qualified Bids," and so passed to the next stage, in which each bidder presented its bids to the Participants on a confidential basis. On July 1, 2014, after conducting careful analysis and comparison of the bids, the Selection Committee voted and selected a shortlist of six eligible bidders. The Selection Committee determined which shortlisted bidders would be provided the opportunity to revise their bids. After the Selection Committee assessed and evaluated the revised bids, the Selection Committee selected the plan processor via two rounds of voting by the Participants, as described in the Selection Plan.

The Selection Plan established an Operating Committee responsible for formulating, drafting, and filing with the Commission the CAT NMS Plan and for ensuring that the Participants' joint obligations under Rule 613 were met in a timely and efficient manner. In formulating the CAT NMS Plan, the Participants also engaged multiple persons across a wide range of roles and expertise, engaged the consulting firm Deloitte as project manager, and

engaged the law firm WilmerHale to serve as legal counsel in drafting the Plan. Within this structure, the Participants focused on, among other things, comparative analyses of the proposed technologies and operating models, development of funding models to support the building and operation of the CAT, and detailed review of governance considerations. Given the complexity and scope of developing the CAT NMS Plan, these efforts were extensive.

When it approved the CAT NMS Plan in 2016, the Commission reiterated its belief that the Selection Plan remains a "reasonable approach," that "the competitive bidding process to select the Plan Processor is a reasonable and effective way to choose a Plan Processor," and that "the process set forth in the Selection Plan should be permitted to continue":

In approving the Selection Plan, the Commission stated that the Selection Plan is reasonably designed to achieve its objective of facilitating the development of the CAT NMS Plan and the selection of the Plan Processor. The Commission also found that the Selection Plan is reasonably designed to govern the process by which the SROs will formulate and submit the CAT NMS Plan, including the review, evaluation, and narrowing down of Bids in response to the RFP, and ultimately choosing the Plan Processor that will build, operate, and maintain the consolidated audit trail. The Commission believes that the process set out in the Selection Plan for selecting a Plan Processor remains a reasonable approach, which will facilitate the selection of Plan Processor through a fair, transparent and competitive process and that no modifications to the Selection Plan are required to meet the approval standard. . . . In response to the comment that offered support for a specific Bidder, the Commission agrees with the Participants that the competitive bidding process to select the Plan Processor is a reasonable and effective way to choose a Plan Processor and thus believes that the process set forth in the Selection Plan should be permitted to continue.¹⁵⁹

(iii) Engagement With Market Participants and SEC

During the process of developing the CAT NMS Plan, the Participants engaged in extensive and meaningful dialogue with market participants and the SEC. To this end, the Participants created a website to update the public on the progress of the CAT NMS Plan, published a request for comment on multiple issues related to the Plan, held multiple public events to inform the industry of the progress of the CAT and to address inquiries, and formed, and

later expanded, a DAG to solicit more input from a representative industry group.¹⁶⁰

The DAG included representatives of Participants and Industry Members and conducted meetings to discuss, among other things, technical and operational aspects the Participants were considering for the Plan. The Participants issued press releases soliciting participants for the DAG, and a wide spectrum of firms was deliberately chosen to provide insight from various industry segments affected by CAT. The DAG meetings included discussions of topics such as option market maker quote reporting, requirements for capturing Customer IDs, timestamps and clock synchronization, reporting requirements for order handling scenarios, costs and funding, error handling and corrections, and potential elimination of systems made redundant by the CAT. From the inception of the DAG through September 2014, the DAG participated in 36 meetings, as well as a variety of DAG subcommittee meetings.

(iv) Request for Exemption From Certain Requirements Under Rule 613

Following multiple discussions between the Participants and both the DAG and the bidders, as well as among the Participants themselves, the Participants recognized that some provisions of Rule 613 would not permit certain solutions to be included in the Plan that the Participants, in coordination with the DAG, determined advisable to effectuate the most efficient and cost-effective CAT. Specifically, "the SROs reached the conclusion that additional flexibility in certain of the minimum requirements specified in Rule 613 would allow them to propose a more efficient and cost-effective approach without adversely affecting the reliability or accuracy of CAT Data, or its security and confidentiality."¹⁶¹ Consequently, the Participants submitted a request for exemptive relief from certain provisions of Rule 613 regarding: (1) options market maker quotes; (2) Customer-IDs; (3) CAT-Reporter-IDs; (4) CAT-Order-IDs on allocation reports; and (5) timestamp granularity.¹⁶² The Participants filed

¹⁶⁰ See Section D(11) of Appendix C of the CAT NMS Plan.

¹⁶¹ Securities Exchange Rel. No. 77265 (Mar. 1, 2016), 81 FR 11856 (Mar. 7, 2016) ("2016 Exemptive Order").

¹⁶² Letter from Robert Colby, FINRA, on behalf of the SROs, to Brent J. Fields, Secretary, Commission (Jan. 30, 2015).

¹⁵⁶ See Securities Exchange Act Rel. No. 70892 (Nov. 15, 2013), 78 FR 69910 (Nov. 21, 2013).

¹⁵⁷ See Selection Plan Approval Order.

¹⁵⁸ Selection Plan Approval Order at 11160.

¹⁵⁹ See CAT NMS Plan Approval Order at 84737.

two supplements to the request for exemptive relief.¹⁶³

After reviewing the exemptive request, the Commission determined that it was appropriate in the public interest and consistent with the protection of investors to grant the

requested exemptive relief.¹⁶⁴ In granting the exemptive relief, the Commission stated:

[T]he Commission is persuaded to provide flexibility in the discrete areas discussed in the Exemption Request so that the alternative approaches can be included in the CAT NMS Plan and subject to notice and comment. Doing so could allow for more efficient and cost-effective approaches than otherwise would be permitted. The Commission at this stage is not deciding whether the proposed approaches detailed below are more efficient or effective than those in Rule 613. However, the Commission believes the proposed approaches should be within the permissible range of alternatives available to the SROs.¹⁶⁵

The Commission further stated that the requested exemptive relief is consistent with the protection of investors. The Commission noted that:

Doing so will provide the public an opportunity to consider and comment on whether these proposed alternative approaches would indeed be more efficient and cost-effective than those otherwise required by Rule 613, and whether such approaches would adversely affect the reliability or accuracy of CAT Data or otherwise undermine the goals of Rule 613. Moreover, if—as the SROs represent—efficiency gains and cost savings would result from including the proposed approaches in the CAT NMS Plan without adverse effects, then the resultant benefits could potentially flow to investors (e.g., lower broker-dealer reporting costs resulting in fewer costs passed on to Customers).¹⁶⁶

The Participants incorporated the exemptive relief into the proposed CAT NMS Plan, which was noticed for comment, and the Commission ultimately approved the CAT NMS Plan with the more efficient and cost-effective alternative approaches described in the exemptive relief. Accordingly, the Participants believe that the costs incurred in developing the exemptive request were critical to the creation of a better CAT than was originally contemplated by Rule 613, and therefore should be recoverable as part of Historical CAT Assessment 1A.

(v) Request for Extensions for Filing the CAT NMS Plan

Rule 613(a)(1) under Regulation NMS required the Participants to jointly file the CAT NMS Plan on or before April 28, 2013, less than a year after the adoption of Rule 613. In recognition of the complexity of the project to create the CAT NMS Plan as well as industry interest in limiting or eliminating certain requirements of Rule 613 (e.g., addressing the reporting of options market maker quotes), the Participants requested two extensions of the deadline to file the CAT NMS Plan. The Participants described the need for additional time as follows:

The SROs stated in their Request Letter that they do not believe that the 270-day time period provided for in Rule 613(a)(1) provides sufficient time for the development of the RFP, formulation and submission of bids, and review and evaluation of such bids. The SROs also stated that they believe additional time beyond the 270 days provided for in Rule 613(a)(1) is necessary in order to provide sufficient time for effective consultation with and input from the industry and the public on the proposed solution chosen by the SROs for the creation of the consolidated audit trail at the conclusion of the RFP process and the NMS plan itself.¹⁶⁷

In recognition of the need for additional time to refine the technical description of and requirements for the CAT and to allow for additional evaluation of the proposed cost and funding considerations, the SEC granted two extensions of this deadline.¹⁶⁸ The SEC determined that both extensions were appropriate, in the public interest, and consistent with the protection of investors.¹⁶⁹ In reaching this conclusion, the Commission stated that “it understands that the creation of a consolidated audit trail is a significant undertaking and that a proposed NMS plan must include detailed information and discussion about many things.”¹⁷⁰ The SEC also noted the following:

This additional time to complete the RFP process should allow the SROs to engage in a more thoughtful and comprehensive process for the development of an NMS plan. In this regard, the Commission notes that the additional time to solicit comment from the industry and the public at certain key points in the development of the NMS plan could identify issues that can be resolved earlier in

the development of the consolidated audit trail and prior to filing the NMS plan with the Commission.¹⁷¹

Given the Commission’s recognition of the reasonableness and value of the extension of the deadline to file the CAT NMS Plan, the Participants believe that the costs incurred in developing the extension request were important to the process of developing the CAT NMS Plan, and therefore should be recoverable as part of Historical CAT Assessment 1A.

(vi) Submission and Approval of the CAT NMS Plan

After extensive analyses and discussions with the DAG, bidders, market participants and the SEC staff, the Participants finalized the draft of the CAT NMS Plan and filed the CAT NMS Plan with the SEC on September 30, 2014. Following additional discussions, the Participants filed several amendments to the CAT NMS Plan during 2015 and 2016. With these additional changes, the SEC published the CAT NMS Plan for notice and comment in May 2016.¹⁷² Following the comment period, the SEC approved the Plan in November 2016.¹⁷³

(vii) Legal Costs Incurred Prior to the Effective Date of the CAT NMS Plan

The Pre-Formation Costs include legal costs of \$3,196,434. The legal services were performed by WilmerHale. The selection considerations and fees for WilmerHale were described in detail above. Prior to the creation of CAT LLC, WilmerHale was engaged to represent the consortium of SROs, not the individual Participants. For administrative purposes, FINRA agreed to receive such legal bills, although such costs were shared among the Participants. Therefore, the legal costs incurred with respect to WilmerHale do not include legal costs incurred by the individual Participants. These pre-formation legal costs are described in detail above and are further described below:

- Analyzed various legal matters associated with the Selection Plan and drafted an amendment to Selection Plan;
- Assisted with the RFP and bidding process for the CAT Plan Processor;
- Analyzed legal matters related to the DAG;
- Drafted the CAT NMS Plan, analyzed various items related to the CAT NMS Plan, and responded to comment letters on the CAT NMS Plan;

¹⁷¹ *Id.* at 15773.

¹⁷² See Securities Exchange Act Rel. No. 77724 (Apr. 27, 2016), 81 FR 30614 (May 17, 2016).

¹⁷³ See CAT NMS Plan Approval Order.

¹⁶³ See Letter from Robert Colby, FINRA, on behalf of the SROs, to Brent J. Fields, Secretary, Commission (Apr. 3, 2015); Letter from the SROs to Brent J. Fields, Secretary, Commission (Sept. 2, 2015).

¹⁶⁴ See 2016 Exemptive Order.

¹⁶⁵ *Id.* at 11857.

¹⁶⁶ *Id.*

¹⁶⁷ Securities Exchange Act Rel. No. 69060 (Mar. 7, 2013), 78 FR 15771, 15772 (Mar. 12, 2013) (“March 2013 Exemptive Order”).

¹⁶⁸ See March 2013 Exemptive Order; Securities Exchange Act Rel. No. 71018 (Dec. 6, 2013), 78 FR 75669 (Dec. 12, 2013) (“December 2013 Exemptive Order”).

¹⁶⁹ March 2013 Exemptive Order at 15772; December 2013 Exemptive Order at 75670.

¹⁷⁰ March 2013 Exemptive Order at 15772.

- Provided legal support for the formation of the legal entity, the governance of the CAT, including governance support prior to the adoption of the CAT NMS Plan, which involved support for the full committee of exchanges and FINRA as well as subcommittees of this group (e.g., Joint Subcommittee Group, Technical, Industry Outreach, Cost and Funding, and Other Products) and the DAG, and governance support during the transition to the new governance structure under the CAT NMS Plan;

- Drafted exemptive requests;
- Provided interpretations related to the CAT NMS Plan;
- Provided support with regard to discussions among the exchanges, FINRA and other third parties, such as Deloitte;

- Provided tax advice with regard to CAT's status as a tax-exempt organization; and

- Provided support with regard to discussions with the SEC and its staff, including with respect to addressing interpretive and implementation issues.

(viii) Consulting Costs Incurred Prior to the Effective Date of the CAT NMS Plan

The Pre-Formation Costs include consulting costs of \$10,589,273. The consulting services were performed by Deloitte. The selection considerations and fees for Deloitte were described in detail above. Prior to the creation of CAT LLC, for administrative purposes, Deloitte was engaged by FINRA to provide consulting services related to CAT, but the costs were shared by the consortium of SROs per agreement. Therefore, the consulting costs incurred with respect to Deloitte do not include consulting costs incurred by the individual Participants. The pre-formation consulting costs include the following:

- Established and implemented program operations for the CAT project, including the program management office and workstream design;

- Assisted with the Plan Processor selection process, including but not limited to, the development of the RFP and the bidder evaluation process, and facilitation and consolidation of the Participants' independent reviews;

- Assisted with the development and drafting of the CAT NMS Plan, including conducting cost-benefit studies, reviewing technical requirements of other NMS plans, analyzing OATS and CAT requirements, and drafting appendices to the Plan;

- Provided governance support to the CAT, including governance support prior to the adoption of the CAT NMS Plan, which involved support for the

full committee of exchanges and FINRA as well as subcommittees of this group (e.g., Joint Subcommittee Group, Technical, Industry Outreach, Cost and Funding, and Other Products) and the DAG;

- Provided support for updating the SEC on the progress of the development of the CAT;

- Provided support for industry outreach sessions, including with regard to program design and agenda development, program support and logistics and coordination; and

- Provided support in fact finding, drafting content and meeting coordination for WilmerHale with regard to the CAT and the development of the CAT NMS Plan.

Such Pre-Formation Costs did not include costs related to the Chair of the CAT NMS Plan Operating Committee, as the CAT NMS Plan had not yet been adopted.

(ix) Public Relations Costs Incurred Prior to the Effective Date of the CAT NMS Plan

The Pre-Formation Costs include public relations costs of \$57,174. The public relations services were performed by Peppercomm. The selection considerations and fees for Peppercomm are described in detail above. The costs related to Peppercomm were shared among the SROs. Therefore, the public relations costs do not include public relations costs incurred by the individual Participants. The pre-formation public relations costs include services related to communications with the public regarding the CAT, including monitoring developments related to the CAT (e.g., congressional efforts, public comments and reaction to proposals, press coverage of the CAT), reporting such developments to CAT LLC, and drafting and disseminating communications to the public regarding such developments as well as reporting on developments related to the CAT.

(B) Cloud Hosting Services

In approving the CAT Funding Model, the Commission recognized that it is appropriate to recover reasonable costs related to cloud hosting services as a part of Historical CAT Assessments. CAT LLC believes that the costs related to cloud hosting services described in detail above are reasonable and appropriate given the strict data processing timelines and storage requirements imposed by the Commission-approved CAT NMS Plan and should be recoverable as a part of Historical CAT Assessment 1A.

(i) Reasonableness of AWS Costs Given the Requirements of the CAT NMS Plan

CAT LLC believes that the costs for the cloud hosting services are reasonable, both in terms of the level of the fees paid by CAT LLC for cloud hosting services provided by AWS and the scope of the services performed by AWS for CAT LLC. CAT LLC believes that both the scope and amount of the costs for cloud hosting services are reasonable given the current requirements of the CAT NMS Plan adopted pursuant to Rule 613, including the strict data processing timeline, storage and other technical requirements under the Commission-approved CAT NMS Plan.

CAT LLC believes that the level of fees for the cloud hosting services is reasonable, taking into consideration a variety of factors, including the expected volume of data and the breadth of services provided and market rates for similar services.

CAT LLC also believes that the scope of services provided by AWS for the CAT are appropriate given the current requirements of the Commission-approved CAT NMS Plan. As described above, the cloud hosting services costs reflect a variety of factors including, among other things:

- *Breadth of Cloud Activities.* AWS was engaged by FCAT, the Plan Processor, to provide a broad range of services to the CAT, including data ingestion, data management, and analytic tools. Services provided by AWS necessary to the CAT include storage services, databases, compute services, and other services (such as networking, management tools and development operations ("DevOps") tools). AWS also was engaged to provide the various environments for CAT, such as the development, performance testing, test and production environments, which are required by the CAT NMS Plan.

- *High Data Volume.* The cost for AWS services for the CAT is a function of the volume of CAT Data. While it is not linear, the greater the amount of CAT Data, the greater the cost of AWS services to the CAT. The data volume handled by AWS now far exceeds the original volume estimates for the CAT.

- *Plan Requirements.* The cost for AWS services also reflects the technical requirements necessary to meet the stringent performance and other requirements for processing CAT Data. These Plan-dictated processing timelines, storage, testing, security and other technical requirements are significant drivers of AWS costs.

• *Cost Avoidance Efforts.* CAT LLC and FCAT have engaged in ongoing efforts to seek to avoid and minimize AWS costs where permissible under the Plan. Accordingly, these cost avoidance efforts have limited the extent of AWS costs.

In addition, various requirements of the CAT NMS Plan adopted pursuant to Rule 613 contribute to the significant cloud hosting services costs, and that various Plan requirements could be amended or removed without affecting the regulatory purpose of the CAT. Indeed, CAT LLC has repeatedly sought exemptive relief and filed amendments to the CAT NMS Plan, and has even filed suit against the Commission, to seek to revise or eliminate certain costly requirements related to the CAT. However, despite these efforts, absent the Commission granting exemptive relief or approving cost savings amendments to the CAT NMS Plan, CAT LLC, the Participants and Industry Members are all required to comply with such requirements.

(ii) Effect of CAT Design on CAT Costs

(a) Efficient CAT Design

CAT is reasonably designed to efficiently and effectively utilize cloud computing and storage services, given the requirements of the Commission-approved CAT NMS Plan, including requirements related to security, operational reliance and quality assurance, and maintainability.

The Plan Processor uses state-of-the-art software that meets the strict security standards of the CAT NMS Plan. CAT utilizes a big data processing framework that is extensively used by large data processing companies, such as Apple, Meta, Netflix, IBM and Google. As such, it has substantial commercial support and support in the open-source community. It is also well suited for use with regard to iterative types of algorithms and query functions and analytics that the CAT requires, and it provides the heightened security necessary for the CAT.

The development and implementation of the design of CAT is not and has not been static. CAT LLC and the Plan Processor are always evaluating new innovations and service offerings from AWS and other providers to seek to maximize efficiency and cost avoidance while still satisfying the requirements of the CAT NMS Plan. These efforts have led to substantial savings to date. The cloud hosting costs for 2023 were less than the cloud hosting costs for 2022 by \$8 million despite processing seven trillion more events in 2023 due to the efficiency and cost avoidance efforts for

cloud hosting services. For example, when AWS introduced new storage options, FCAT adopted the cost-efficient new storage option after establishing that the new offering would satisfy the security and other standards of the CAT NMS Plan. This change led to millions of dollars of savings in storage costs. Similarly, when AWS introduced a new compute processor, FCAT adopted this new compute processor, which led to millions of dollars in savings in compute costs. However, in other cases, new cloud technology developments could not be implemented in CAT because they would not satisfy the security or other requirements of the CAT NMS Plan.

When evaluating the design of the CAT, it must be kept in mind that the CAT is not a typical commercial technology project. The ability to make use of technology approaches that may lead to cost avoidance is also subject to the restrictive requirements of the CAT NMS Plan, such as processing timeframes, requirements for retention of data versions, query requirements, and security standards. Because such requirements are set forth in the CAT NMS Plan, any modification of such requirements are subject to the time-consuming process of amending the CAT NMS Plan or seeking an exemption from the relevant requirement. For example, CAT LLC recently has filed an amendment to address several of these expensive Plan requirements.¹⁷⁴

(b) CAT Was Designed To Minimize Industry Member Effort

The CAT System also was designed to minimize the extent to which Industry Members would need to alter their systems to report to CAT. During the design process, Industry Member groups argued that it would make more sense financially for the CAT to accommodate differences in industry systems, than for all Industry Members to change their systems. Moreover, such design choices would facilitate consistency, uniformity and accuracy in reporting. Requiring the CAT to make such accommodations may increase CAT costs while accommodating CAT Reporters.

Based on the requirements in the CAT NMS Plan and/or in response to industry requests for functionality to be embedded with the Plan Processor to streamline or limit Industry Member system changes, the CAT has been

designed to limit the effect on Industry Members. The following provides examples of such accommodations:

- *Industry Member Reporting.* In light of the complexity of Industry Member market activity, the CAT's order reporting and linkage scenarios document for Industry Members is over 800 pages in length, addressing nearly 200 scenarios.¹⁷⁵ The Industry Member Technical Specifications allow for dozens of specific event types, which drive complexity for the Plan Processor, but streamline reporting for Industry Members. Furthermore, the Plan Processor greatly expanded Industry Member linkage requirements to support, among other things, child events and supplemental events, allowing for "stateless as-you-go" and "batch end-of-day" reporting when all data is available. Accordingly, CAT takes on the significant cost and effort of providing the required linkages between CAT events; correspondingly, Industry Members are not required to perform this costly task.

- *File Submission Process.* The CAT was designed to accommodate the varying needs of CAT Reporters with regard to the file submission process. For example, in a 2018 letter, FIF stated that "[t]he SFTP-based submission process is cumbersome, exposes industry members to unnecessary complexity, and puts the burden of support on the CAT Reporter rather than imbedding more functionality into the Plan Processor."¹⁷⁶ Currently, FCAT provides two mechanisms for submitting files: SFTP via a private network, and the Web via Reporter Web Portal.

- *Error Corrections.* The industry also emphasized the need for the CAT to provide error correction tools and functionalities to identify, rectify and re-submit corrections within the required timeframe. For example, FIF stated in a 2018 letter the following:

To be clear, if OATS-like error correction tools are not made available on Day 1, hundreds of firms will be required to create and test their own tools or obtain vendor alternatives prior to the CAT Go-Live Date. Proprietary tools will require additional system builds, access to and ingestion of CAT data to perform system validation, and testing which will further stress the limited number of subject matter experts ("SMEs") dedicated to the implementation of CAT reporting. Should this occur, inevitably firms (especially small firms who lack the necessary IT staff to write code and develop proprietary systems), may be put in the

¹⁷⁴ See, e.g., Securities Exchange Act Rel. No. 99938 (Apr. 10, 2024), 89 FR 26983 (Apr. 16, 2024); Letter from Brandon Becker, CAT NMS Plan Operating Committee Chair, to Vanessa Countryman, Secretary, Commission (Mar. 27, 2024) (proposing amendments to the CAT NMS Plan for \$23 million in annual savings).

¹⁷⁵ See CAT Industry Member Reporting Scenarios v.4.10 (Oct. 21, 2022).

¹⁷⁶ Letter from Janet Early, FIF, to Thesys CAT (Mar. 29, 2018).

position of passing onto investors the cost required to build hundreds of redundant systems.¹⁷⁷

CAT provides various tools to help Industry Members identify and rectify errors.

- *Data Ingestion Format.* The industry also recommended that CAT adopt a flexible input format that provides an option for Industry Members to submit data in formats that are already in use to reduce costs and potential reporting errors. For example, FIF argued the following:

FIF CAT WG is not proposing a specific format; rather, we are proposing flexibility of input formats which includes support of existing formats (e.g., OATS, FIX) as well as a baseline specification where all fields are defined, and normalized. The input formats must be clearly and thoroughly defined in Technical Specifications, including FAQs.

Mandating a uniform format for reporting data to the CAT simplifies the task for the Central Repository of consolidating/storing data, but it puts the burden on each CAT Reporter to accurately translate their current (e.g., OATS) reporting information into a uniform CAT interface. However, that is likely to yield more errors because it is very dependent on accurate, complete and timely information (Technical Specifications, FAQs, meta-data, competent CAT help desk) available to CAT Reporters, availability of sophisticated CAT test tools to validate interface protocols, and the skill levels of the estimated 300+ unique CAT Reporters/Submitters during Phase 1 of CAT. Concentrating the responsibility of data conversions with the Central Repository is a reasonable trade-off that should yield fewer errors, and greater accuracy.¹⁷⁸

CAT provides such a flexible input format.

(c) Effect of Initial Plan Processor Design

The costs for cloud hosting services are appropriate and have not been adversely affected by the original design and approaches of the Initial Plan Processor. FCAT's design costs are the result of the requirements of the Commission-approved CAT NMS Plan.

When FCAT took over as the Plan Processor from Thesys, it utilized certain aspects of the technical specifications created by Thesys in its design. However, FCAT has not maintained aspects of the original design that would not be appropriate for the CAT. FCAT revised and enhanced the original technical specifications of the CAT System to increase its efficiency and efficacy, and to ensure its compliance with the CAT NMS Plan.

For example, the Initial Plan Processor's approach utilized many more fields than FCAT's approach, which relies on additional linkages. With the additional linkages, the CAT System takes on more of the CAT-related burdens than the Industry Members. Such an approach serves to facilitate consistency, uniformity and accuracy in reporting.

Moreover, FCAT did not utilize the system built by the Initial Plan Processor; it rebuilt the CAT System based on revised technical specifications. For example, the Initial Plan Processor used an on-premises processing approach which was not geared toward the huge amounts of data stored in the CAT, while FCAT adopted a cloud-based solution in response to such data demands.

Furthermore, given the very short timeframe to develop the CAT System and the prior optimization of certain query tools (e.g., Diver) for regulatory use with significant amounts of data, FCAT determined to rely upon certain existing FINRA tools and adapt them for use with the CAT.

(iii) Consideration of AWS Alternatives

CAT LLC continues to support the selection of AWS as the cloud hosting services provider for CAT given the compliance, operational, and security requirements of the CAT. Independent analyses confirm these conclusions, noting that "AWS is an excellent choice for either strategic or tactical use and recommends considering AWS for almost all cloud IaaS or IaaS+PaaS scenarios."¹⁷⁹ AWS provides the following benefits to CAT, among others:

- *Broad Suitability.* AWS has a long track record of successfully serving cloud customers with mission-critical projects.
- *Proven Scalability.* AWS has demonstrated that it is capable of building and delivering services on a large scale.
- *Track Record of Innovation.* AWS continues to rapidly innovate, both in terms of new domains of capability and at a fundamental level, thereby facilitating innovation for its customers.
- *Resiliency/Dependability.* Another benefit of AWS is its resiliency; it has a strong track record of stable services. As noted in a review of cloud service providers, "[c]ustomers like to have a broad set of options for resilience and for their cloud providers to have a strong track record of stable services

(continuously available, without operational quirks). Only AWS fulfills both desires."¹⁸⁰

- *Technical and Customer Support.* AWS consistently provides high-quality technical and customer support and engagement. Given the size, scope and regulatory importance of CAT, customer support and engagement that CAT has with the highest levels of AWS are very important to the success of the CAT.

- *Scale.* AWS is capable of supporting large-scale solutions, which is critical given the size and magnitude of the CAT.

- *Security.* AWS provides the security features necessary for the CAT.

In addition, the nature of the CAT, including the amount of data it must process and the size of its data footprint, does not allow for a multi-cloud solution as this would be cost prohibitive and greatly increase the security boundary and associated risk profile of the CAT. For example, a multi-cloud hosting option would increase costs, complexity, and risk for operations with regard to, for example, DevOps, production support, and networking. Similarly, with regard to security, a multi-cloud solution would increase risk, including with regard to the need for data transfers between cloud providers and the expansion of the security boundary. With regard to labor, a multi-cloud solution would lose economies of scale due to the need to support unique cloud requirements. Accordingly, the use of a single-cloud solution continues to provide advantages with regard to cost, complexity, and risk. Indeed, "[t]he best practice is to focus on a single primary strategic provider."¹⁸¹

Furthermore, if another cloud service provider were determined to be a better match for the CAT at some future date, switching cloud service providers would be a very significant, expensive and time-consuming effort. Such an effort would likely be a 10-to-15-year commitment at a substantial expense. Such a move would require the replication or redesign of the underlying cloud environments (e.g., organizational setup, identify management, accounts, environments, DevOps tooling likes release management/config management/network management), as the new provider likely would not have the same infrastructure and software. Once that process has been completed, an exabyte of CAT data would need to be securely migrated to the new platform.

¹⁷⁷ Letter from Christopher Bok, FIF, to Jay Clayton, Chair, Commission at 4 (Dec. 11, 2018).

¹⁷⁸ Letter from Mary Lou Von Kaenel, Managing Director, FIF, to Brent Fields, Secretary, Commission at 92 (July 18, 2016), <https://www.sec.gov/comments/4-698/4698-13.pdf>.

¹⁷⁹ See, e.g., Lydia Leong and Adrian Wong, Solution Comparison for Strategic Cloud Integrated IaaS and PaaS Providers (July 28, 2023) ("Strategic Cloud Assessment Article").

¹⁸⁰ Strategic Cloud Assessment Article.

¹⁸¹ *Id.*

(C) Funding Model Filings

CAT LLC believes that the recovery of costs related to the development of the funding model is appropriate, and that the amount and scope of such costs, as described above, are reasonable.

Funding the CAT is a critical aspect of Rule 613 and the CAT NMS Plan. Article XI of the CAT NMS Plan describes in detail the requirements for funding the CAT, and the Participants are required to comply with and enforce compliance with the funding requirements of the CAT NMS Plan, just as with other aspects of the Plan. Accordingly, the development and implementation of a funding model for the CAT is as much a part of the requirements of the CAT NMS Plan as the development and operation of the CAT System. CAT LLC sees no reason to distinguish the efforts to develop a funding model from, for example, efforts to develop the CAT System, in seeking to recover reasonable CAT costs.

Moreover, in approving the CAT Funding Model, the Commission recognized that it is appropriate to recover reasonable costs for legal services as a part of Historical CAT Assessments. As approved by the SEC, the CAT NMS Plan states that “the reasonably budgeted CAT costs shall include . . . legal costs.”¹⁸² In addition, the CAT NMS Plan also requires Participants to include in their fee filings “a brief description of the amount and type of the Historical CAT Costs, including . . . legal . . . costs.”¹⁸³ In keeping with these provisions, this filing provides a brief description of reasonably budgeted legal costs above. These legal costs include costs related to the development of the CAT Funding Model.

In addition, the legal costs incurred for the assistance in developing the CAT Funding Model are reasonable in both amount and scope and should be recoverable as a part of Historical CAT Assessment 1A. As described above, the specialized services were performed by experienced counsel at negotiated rates for such services that reflect both the extent of the services and market rates. Moreover, the scope of the legal costs associated with the development of the funding model reflect the complexity of the task in satisfying the detailed requirements of the CAT NMS Plan, the standards of the Exchange Act, and the many perspectives of the different market constituents potentially affected by or interested in the funding model, including Industry Members,

Participants and investors. The many and varied comments by market participants on CAT funding over the years demonstrate the complexity of the task.

(D) Costs Related to Litigation With the SEC

CAT LLC believes that the recovery of legal costs related to the litigation with the SEC regarding the CAT NMS Plan is appropriate, and that the amount and scope of such costs, as described above, are reasonable.

As a preliminary matter, as discussed above, the Commission recognized that it is appropriate to recover reasonable costs for legal services as a part of Historical CAT Assessments.¹⁸⁴ Moreover, CAT LLC initiated such litigation, and incurred the related legal costs, because it was critical to address the Commission’s interpretations of the CAT NMS Plan. Among other things, such interpretations threatened to impose unnecessary costs on the CAT, which would be borne by the Participants and Industry Members. Indeed, in response to the litigation, the Commission provided exemptive relief that allowed alternative, more cost-effective approaches to the implementation of the CAT. Specifically, in the 2023 exemptive order, the Commission stated:

The conditional exemptive relief in this Order allows for the implementation of alternative regulatory solutions that continue to advance the regulatory goals that Rule 613 and the CAT NMS Plan were intended to promote, while reducing the implementation and operational costs, burdens, and/or difficulties that would otherwise be incurred by the Participants and Industry Members that must fund the CAT.¹⁸⁵

CAT LLC believes it is reasonable and appropriate to incur costs to limit the need to incur even greater costs due to certain interpretations of the Plan.

In addition, the legal costs incurred during the litigation are reasonable in both amount and scope and should be recoverable as a part of Historical CAT Assessment 1A. As described above, the specialized services were performed by experienced counsel at market rates for such services. As such, the legal costs related to this litigation incurred during the period covered by Historical CAT Assessment 1A were reasonable.

Finally, Industry Members will directly benefit from the result of the litigation because it has addressed CAT NMS Plan requirements that would have imposed significantly greater costs

on the CAT. Accordingly, it is reasonable and appropriate that the costs of such litigation be included in Historical CAT Costs 1.

(E) Costs Related to the Initial Plan Processor

CAT LLC believes that it is appropriate to recover costs related to the services performed by the Initial Plan Processor prior to November 15, 2017, which was the date by which Participants were required to begin reporting to the CAT, due to the delay in the commencement of reporting to the CAT. As discussed above, the Participants determined to exclude all CAT costs incurred from November 15, 2017 through November 15, 2018, which includes \$37,852,083 in Thesys costs incurred from November 15, 2017 through November 15, 2018 (as well as other CAT costs during this period). The remaining Thesys costs incurred after November 15, 2018 are the \$19,628,791 in capitalized developed technology costs for the period from November 16, 2018 through February 2019 incurred in the development of the CAT by the Initial Plan Processor, as well as a transition fee for the transition from the Initial Plan Processor to the successor Plan Processor. The Participants would remain responsible for 100% of these \$19,628,791 in costs.

CAT LLC believes that it is appropriate to recover costs related to the services performed by the Initial Plan Processor prior to November 15, 2017. CAT LLC notes that the development and implementation of the CAT System, while unprecedented in scope and design, is like any other large and innovative technology project in that, inevitably, there were adjustments and refinements in the technical approach as the project developed, even with substantial planning efforts and oversight prior to the build. This is even more likely when the project faces a very tight implementation schedule, such as the one imposed by the Commission in Rule 613 and the CAT NMS Plan. However, an adjusted approach does not mean that the funds were not valid expenditures and should not be recovered.

The reasonableness of Thesys costs should be evaluated by the Commission as of the time they were incurred, not in hindsight. As detailed above, the Commission concluded in 2016 that “the competitive bidding process to select the Plan Processor is a reasonable and effective way to choose a Plan Processor,” and that “the process set forth in the Selection Plan should be

¹⁸² Section 11.1(a)(i) of the CAT NMS Plan.

¹⁸³ Section 11.3(b)(iii)(B)(II) of the CAT NMS Plan.

¹⁸⁴ See Sections 11.1(a)(i) and 11.3(b)(iii)(B)(II) of the CAT NMS Plan.

¹⁸⁵ Settlement Exemptive Order at 77129–30.

permitted to continue.”¹⁸⁶ Following this process, the Participants notified the Commission of the selection of Thesys as the Initial Plan Processor on January 17, 2017.¹⁸⁷ At the time, neither the Commission nor the industry argued that the selection of the Initial Plan Processor was unreasonable or otherwise inconsistent with the CAT NMS Plan, nor did they predict the selection would result in unanticipated delays in the implementation of the CAT System. On the contrary, on April 4, 2017, the President of SIFMA wrote that “SIFMA looks forward to commencing work with the SROs and Thesys.”¹⁸⁸

As noted in the CAT Funding Model Approval Order, the Commission recognized that “[t]he CAT NMS Plan contemplates that the costs of the CAT are to be allocated between the Participants and Industry Members.”¹⁸⁹ If the CAT Funding Model had existed on Day 1, the risk of any unanticipated costs or challenges associated with the Initial Plan Processor would have been fairly and reasonably shared among the Participants and Industry Members on an ongoing basis. Given that the Commission concluded in 2012 that the costs of the CAT would be shared by the Participants and Industry Members, it is not fair or reasonable to determine in hindsight that all of the risk involved in developing the CAT should be allocated entirely to the Participants.

(F) CAIS Implementation Costs

CAT LLC believes that the recovery of CAIS-related costs is appropriate, and that the amount and scope of such costs, as described above, are reasonable, and that the reasonableness of historical costs should be evaluated by the Commission as of the time they were incurred, not in hindsight.

In approving the CAT Funding Model, the Commission recognized that it is appropriate to recover reasonable CAIS operating costs as a part of Historical CAT Assessments. As approved by the SEC, the CAT NMS Plan states that “the reasonably budgeted CAT costs shall include . . . CAIS operating fees.”¹⁹⁰ In addition, the CAT NMS Plan also requires Participants to include in their

fee filings “a brief description of the amount and type of the Historical CAT Costs, including . . . CAIS operating fees.”¹⁹¹ In keeping with these provisions, this filing provides a brief description of reasonably budgeted CAIS operating fees.

In addition, CAT LLC determined that the CAIS operating fees described above are reasonable in both amount and scope and should be recoverable as a part of Historical CAT Assessment 1A. The “CAIS Operating Costs” for Historical CAT Costs 1 total \$9,480,587, with Pre-FAM costs of \$2,072,908, FAM 1 costs of \$254,998, FAM 2 costs of \$1,590,298, and FAM 3 costs of \$5,562,383. As described above, the CAIS operating fees were incurred with regard to two categories of CAIS-related efforts: (1) the acceleration of the reporting of LTIDs; and (2) the development of the CAIS Technical Specifications and the building of CAIS. These two categories of costs are discussed in more detail below.

(i) LTID Reporting

During the period covered by Historical CAT Assessment 1A, the CAIS operating costs included costs related to the acceleration of the reporting of LTIDs earlier than originally contemplated during this period at the request of the SEC and in accordance with exemptive relief granted by the SEC.¹⁹² As the SEC approved in this exemptive relief, the Participants proposed “to require the reporting of LTIDs to the CAT in Phases 2c and 2d, instead of with the rest of Customer Account Information in Phase 2e, which potentially could result in an earlier elimination of broker-dealer recordkeeping, reporting and monitoring requirements of the Large Trader Rule.”¹⁹³ To implement the reporting of LTIDs to the CAT, the following steps were taken during the period covered by Historical CAT Assessment 1A:

- After FCAT developed the LTID Technical Specifications, the LTID Technical Specifications were published on January 31, 2020, with additional updates provided to the LTID Technical Specifications through April 2021.¹⁹⁴

- The LTID account information testing environment opened on August 24, 2020.

- The LTID account information reporting production environment opened on December 14, 2020. CAT Reporters were required to request their production readiness certification for account information related to LTIDs by the deadline of April 9, 2021.

- The LTID account information reporting for Phases 2a, 2b and 2c for Large Industry Members went live on April 26, 2021.

- The LTID account information reporting for Phases 2d for Large Industry Members went live on December 13, 2021.

- The LTID account information reporting for Phases 2a, 2b, 2c and 2d for Small Industry Members went live on April 26, 2021.

Throughout this project, FCAT and CAT LLC worked closely with the industry on LTID and CAIS reporting. Between December 2019 and December 2021, at least 57 checkpoint calls, webinars, and technical working group meetings with industry representatives were hosted to address issues and to educate CAT Reporters regarding LTID and CAIS reporting.¹⁹⁵

The LTID reporting project was successfully completed in a timely fashion, and the fees related to the project were reasonable. Accordingly, CAT LLC appropriately seeks to recover such costs via Historical CAT Assessment 1A.

(ii) CAIS Reporting

During the period covered by Historical CAT Assessment 1A, FCAT began the development of the full CAIS Technical Specifications and the building of CAIS. The CAIS Technical Specifications were developed during this period as follows:

- Iterative drafts of the CAIS Technical Specifications were published on June 30, 2020, December 1, 2020, and January 1, 2021.¹⁹⁶

- The full, final CAIS Technical Specifications were published on January 29, 2021.

- Updated versions of the CAIS Technical Specifications were published throughout 2021.¹⁹⁷

¹⁸⁶ CAT NMS Plan Approval Order at 84737.

¹⁸⁷ Letter from the Participants to Brent J. Fields, Secretary, SEC (Jan. 18, 2017), <https://www.sec.gov/divisions/marketreg/rule613-info-notice-of-plan-processor-selection.pdf>.

¹⁸⁸ Letter from Kenneth E. Bentsen, Jr., SIFMA, to Participants re: Selection of Thesys as CAT Processor (Apr. 4, 2017), <https://www.sifma.org/wp-content/uploads/2017/05/SIFMA-Submits-Comment-Letter-to-SRO-on-the-selection-of-Thesys-as-the-CAT-Processor.pdf>.

¹⁸⁹ CAT Funding Model Approval Order at 13421.

¹⁹⁰ Section 11.1(a)(i) of the CAT NMS Plan.

¹⁹¹ Section 11.3(b)(iii)(B)(II) of the CAT NMS Plan.

¹⁹² See Phased Reporting Exemptive Relief Order at 23079–80.

¹⁹³ *Id.* at 23078–79, n.70.

¹⁹⁴ The LTID Technical Specifications, including original drafts and updated versions, are available on the Industry Member Specifications page of the CAT website (<https://www.catnmsplan.com/specifications/im>).

¹⁹⁵ Such contact points with the industry are described in detail on the Events web page of the CAT website (<https://www.catnmsplan.com/events>).

¹⁹⁶ The CAIS Technical Specifications, including original drafts and updated versions, are available on the Industry Member Specifications page of the CAT website (<https://www.catnmsplan.com/specifications/im>).

¹⁹⁷ Six updated versions of the CAIS Technical Specifications were published during 2021, in March, May, June, August, October and December.

As discussed above, FCAT and CAT LLC frequently engaged with the industry regarding the development of CAIS, hosting regular checkpoint calls, webinars, and technical working group meetings with industry representatives to address any issues, including addressing the interplay between Industry Members' existing customer systems and CAIS, and to educate CAT Reporters regarding LTID and CAIS reporting. Such engagement was critical to the CAIS development process as the CAIS project was unprecedented in terms of its content, scope and complexity.

During this period, FCAT also commenced the building of the CAIS system in accordance with the CAIS Technical Specifications during the period covered by Historical CAT Assessment 1A. The CAIS system was ready for industry testing shortly after the end of this period in January 2022.

The CAIS Technical Specifications and the CAIS system, as developed during this period, continue to be used. Industry Members have been required to report, and have continuously reported, required data to CAIS on a daily basis since November 7, 2022, consistent with interim reporting obligations. The CAIS system accepts and validates the CAIS data submitted by Industry Members and provides Industry Members with initial feedback on data errors. In light of the unprecedented nature of the CAIS system, certain changes to the system, such as changes related to error corrections and the CAIS regulatory portal, were necessary to finalize CAIS reporting. FCAT worked to address these remaining issues,¹⁹⁸ and, as of May 31, 2024, FCAT indicated that it had achieved the final CAIS reporting milestone. Accordingly, CAT LLC appropriately seeks to recover CAIS operating costs via Historical CAT Assessment 1A.

(G) Public Relations Costs

CAT LLC believes that the recovery of public relations costs is appropriate and that the amount and scope of such costs, as described above, are reasonable.

The Commission has long recognized that external public relations costs are reasonably associated with creating, implementing and maintaining the CAT. In the CAT NMS Plan Approval Order, the Commission estimated that the Participants had collectively spent approximately \$2,400,000 in preparation of the CAT NMS Plan on

external public relations, legal, and consulting costs, and estimated that the Participants would continue to incur external public relations costs associated with maintaining the CAT upon approval of the CAT NMS Plan.¹⁹⁹

In approving the CAT Funding Model, the Commission recognized that it is appropriate to recover reasonable costs for public relations services as a part of Historical CAT Assessments. As approved by the SEC, the CAT NMS Plan states that "the reasonably budgeted CAT costs shall include . . . public relations costs."²⁰⁰ In addition, the CAT NMS Plan also requires Participants to include in their fee filings "a brief description of the amount and type of the Historical CAT Costs, including . . . public relations costs."²⁰¹ In keeping with these provisions, a brief description of reasonable public relations costs are described above.

In addition, CAT LLC determined that the public relations costs described above are reasonable in both amount and scope and should be recoverable as a part of Historical CAT Assessment 1A. The services performed by the public relations firms through 2021 were limited in scope to assist CAT LLC, which has no employees of its own, to be better positioned to understand and address CAT matters to the benefit of all market participants and to communicate on important CAT topics with the public. In addition, the costs for these services were appropriately limited. During the 10-year period covered by Historical CAT Assessment 1A, the average cost per year for these services was approximately \$36,000.

(H) Legal Costs Related to the Limitation of Liability Provision in CAT Reporter Agreements

CAT LLC believes that the recovery of legal costs related to the limitation of liability provision, including costs related to the proceedings before the SEC and costs related to the proposed amendment to the Consolidated Audit Trail Reporter Agreement and the Consolidated Audit Trail Reporting Agent Agreement (the "Reporting Agreements") is appropriate and that the amount and scope of such costs as described above are reasonable.

As a preliminary matter, as discussed above, the Commission recognized that it is appropriate to recover reasonable costs for legal services as a part of

Historical CAT Assessments.²⁰² In addition, CAT LLC determined that the legal costs incurred for the assistance with regard to the limitation of liability provisions are reasonable in both amount and scope and should be recoverable as a part of Historical CAT Assessment 1A.

Moreover, it is critical that CAT LLC, which has no employees of its own, have the ability to fund a legal defense in litigation and other legal proceedings against it. In response to CAT LLC requiring Industry Members to agree to the limitation of liability provision to submit data to the CAT, SIFMA filed an application for review of actions taken by CAT LLC and the Participants pursuant to Sections 19(d) and 19(f) of the Exchange Act. Contemporaneously with the filing of this proceeding, SIFMA moved for a stay of the requirement that Industry Members sign a Reporter Agreement, or in the alternative, asked the Commission to further delay the launch of CAT reporting on June 22, 2020. CAT LLC must have the resources to defend itself from litigious actions by others, like these.

Although a limitation of liability provision ultimately was not adopted as proposed, it was a reasonable provision to propose for the CAT Reporter Agreements, given that such provisions are in accordance with industry norms. Limitations of liability are ubiquitous within the securities industry and have long governed the economic relationships between self-regulatory organizations and the entities that they regulate. For example, U.S. securities exchanges have adopted rules to limit their liability for losses that Industry Members incur through their use of exchange facilities.²⁰³ Similarly, FINRA's former order audit trail, OATS, which has functioned as an integrated audit trail of order, quote, and trade data for equity securities, required FINRA members to acknowledge an agreement that includes a limitation of liability provision.²⁰⁴ In addition, such a provision was intended to ensure the financial stability of the CAT. Accordingly, it was reasonable for CAT

²⁰² See Sections 11.1(a)(i) and 11.3(b)(iii)(B)(II) of the CAT NMS Plan.

²⁰³ See, e.g., NASDAQ Equities Rule 4626.

²⁰⁴ FINRA Rule 1013(a)(1)(R) requires all applicants for FINRA Membership to acknowledge the FINRA Entitlement Program Agreement and Terms of Use, which applies to OATS. Industry Members click to indicate that they agree to its terms—including its limitation of liability provision—every time they access FINRA's OATS system to report trade information (*i.e.*, repeatedly over the course of a trading day for many Industry Members).

¹⁹⁸ See, e.g., CAT Q4 2023 Quarterly Progress Report (Jan. 30, 2024) (<https://www.catnmsplan.com/sites/default/files/2024-01/CAT-Q4-2023-QPR.pdf>).

¹⁹⁹ CAT NMS Plan Approval Order at 84917–18.

²⁰⁰ Section 11.1(a)(i) of the CAT NMS Plan.

²⁰¹ Section 11.3(b)(iii)(B)(II) of the CAT NMS Plan.

LLC to propose the use of such a provision.²⁰⁵

Furthermore, as described above, the specialized services were performed by experienced counsel at market rates for such services. Accordingly, the legal costs for the efforts related to the limitation of liability provision were reasonable.

(I) Costs for the Chair of the CAT Operating Committee

CAT LLC believes that the recovery of consulting costs related to the Chair of the CAT Operating Committee is appropriate and that the amount and scope of such costs are reasonable.

As a preliminary matter, the selection of the Chair of the Operating Committee complies with the requirements of Section 4.2 of the CAT NMS Plan. The initial Chair that served during the period covered by Historical CAT Assessment 1A was designated by a Participant as the Participant's alternate voting member. Accordingly, the Chair is a representative of the Participants, as required by the CAT NMS Plan.

In addition, in approving the CAT Funding Model, the Commission recognized that it is appropriate to recover reasonable costs for consulting as a part of Historical CAT Assessments. As approved by the SEC, the CAT NMS Plan states that "the reasonably budgeted CAT costs shall include . . . consulting . . ." costs.²⁰⁶ In addition, the CAT NMS Plan also requires Participants to include in their fee filings "a brief description of the amount and type of the Historical CAT Costs, including . . . consulting"²⁰⁷ costs. In keeping with these provisions, a brief description of reasonable consulting costs is included in this filing, and such reasonable consulting costs include the costs related to the Chair position.

The Participants determined that the position of the Chair was a critical role for the implementation of the CAT, and an independent Chair would appropriately consider and address the views of each of the Participants. The Participants also determined that it was important to have a Chair with a strong background regarding issues related to the regulatory obligations of self-regulatory organizations, including their obligations under national market system plans. The compensation paid to the Chair is appropriate for a person with such background and skills. The

average annual amount paid to the Chair from 2017 through the end of FAM 3 was \$292,733.30. Separate from the Chair, CAT LLC relies upon a Leadership Team of representatives of the SROs to oversee the day-to-day implementation of the CAT NMS Plan. CAT LLC does not compensate any member of the Leadership Team.

(11) Fee Implementation Assistance for Industry Members

(A) Reconciliation of CAT Invoices

(i) Reconciliation of CAT Invoices to Underlying Trades Provided by CAT

CAT LLC understands that there are three types of reconciliation processes related to the invoices:

- *Reconciliation of CAT Invoices to Underlying Trades:* Reconciling the CAT invoice amount to the underlying trades provided by CAT;
- *Matching Trades to Books and Records:* Providing the means to match the underlying trades provided by CAT with CAT invoices to other books and records independently maintained by individual CAT Reporters (e.g., exchange trade journals/ acknowledgements) and data sources of self-regulatory organizations independent of CAT; and
- *Order Originator Identification:* Providing the ability to identify the order originator for the underlying trades provided by CAT with CAT invoices, which would facilitate firms' ability to pass through CAT Fees to their customers.

As discussed further below, CAT LLC only considers the first type of process to be a "reconciliation" and the only type of process that is required under the CAT NMS Plan. CAT LLC provides the means to reconcile the CAT invoice amount to the underlying trades provided by CAT.

The CAT NMS Plan does not require CAT LLC to facilitate the second type of process: matching underlying trades for a CAT invoice with a firm's internal books and records. CAT LLC has access only to the underlying trades provided by CAT; it does not have access to a firm's internal books and records. Although beyond the requirements of the CAT NMS Plan and involving firm specific considerations, CAT LLC voluntarily has provided guidance and processes to assist CAT Reporters in their efforts to match the underlying trades with their own books and records.

The CAT NMS Plan also does not require CAT LLC to provide the ability to identify the order originator for the underlying trades for the CAT invoices. Accordingly, the billing guidance and

processes do not provide CAT Reporters with the ability to identify the order originator for the underlying trades provided by CAT with CAT invoices. CAT LLC has been working closely with CAT Reporters to explain its billing approach and to address any outstanding billing questions. But, it should not be lost that CAT LLC provides information sufficient to allow CAT Reporters to reconcile CAT invoice amounts with the underlying trades provided by CAT LLC.

(ii) Match the Underlying Trades Provided by CAT With CAT Invoices to Firms' Internal Books and Records Independent of CAT

The CAT NMS Plan does not require CAT LLC to facilitate the matching of underlying trades for a CAT invoice with a firm's internal books and records, which may consist of trading data from various sources external to CAT. Although beyond the requirements of the CAT NMS Plan and involving firm specific considerations, CAT LLC voluntarily has provided guidance and processes to assist CAT Reporters in their efforts to match the underlying trades with their own books and records.

In this regard, it is important to recognize that CAT LLC has developed a billing approach that greatly improves upon existing billing practices for similar regulatory fees (e.g., fees related to Section 31). Accordingly, with the additional information voluntarily provided by CAT LLC, CAT Reporters generally will have sufficient information to match their underlying trades provided by CAT with their own internal books and records that are independent of CAT or to SRO data that is independent of CAT data. However, CAT LLC emphasizes that providing such additional information is not required by the CAT NMS Plan.

To facilitate the introduction of CAT fees, CAT LLC has worked with FCAT to develop an approach to CAT billing that is consistent with existing billing constructs used with regard to Section 31-related sales values fees, subject to certain enhancements. Under this billing approach, FCAT is providing additional linkage elements, not necessarily provided in the Section 31-sales value fee context, to facilitate CAT Reporters' ability to match the underlying trades provided by CAT with their internal books and records and to reduce the complexity of that process. Specifically, FCAT is providing various key elements of the trade itself, such as the tradeID and branch

²⁰⁵ See Letter from Michael Simon, Chair, CAT Operating Committee, to Vanessa Countryman, Secretary, Commission (Dec. 18, 2020).

²⁰⁶ Section 11.1(a)(i) of the CAT NMS Plan.

²⁰⁷ Section 11.3(b)(iii)(B)(II) of the CAT NMS Plan.

sequence,²⁰⁸ to CAT Reporters in the trade billing details provided with their CAT invoices (“Additional Trade Details”). As a result, CAT Reporters now have numerous alternative methods for matching a trade with their internal books and records where they previously did not have such matching methods in other fee contexts.

With the Additional Trade Details, CAT LLC and FCAT believe that the overwhelming majority of underlying trades provided by CAT bills can be matched with a CAT Reporter’s internal books and records. CAT LLC recognizes that there may be certain cases in which such matching is more difficult given various firm-specific considerations, but believes that such instances are significantly more limited than with regard to the SRO fees charged in relation to Section 31.²⁰⁹ By providing Additional Trade Details that are not available in other fee contexts, FCAT enhances the Industry Members’ ability to match the underlying trades provided with CAT invoices with books and records and SRO data, both of which are independent of CAT data.

(iii) CAT LLC Is Not Required To Facilitate CAT Reporters’ Ability To Pass Through Fees to Their Customers

Similar to other regulatory fees, the CAT NMS Plan does not address the manner or extent to which CAT Executing Brokers may seek to pass any CAT fees on to their customers, nor does it impose any obligation on CAT LLC or the Plan Processor to facilitate firms’ ability to do so. Accordingly, Historical CAT Assessment 1A does not address the process by which any CAT Reporters may pass through the fee to their customers. Likewise, the CAT billing approach provided by the Plan Processor is designed to address the needs of CAT Reporters with regard to the reconciliation of CAT invoices with

the underlying trades provided by CAT LLC with the invoices; they are not designed to address issues related to any pass-through fees. Accordingly, facilitating CAT Reporters’ ability to pass through fees to their clients is outside the scope of this fee filing. Nevertheless, as described below, CAT LLC and the Plan Processor have expended significant efforts to provide technical assistance to Industry Members regarding the implementation of Historical CAT Assessment 1A, including providing Additional Trade Details that provide significant details about each underlying trade.

(a) Originating Brokers Versus Executing Brokers

In its approval of the CAT Funding Model, the Commission approved charging CAT fees to the CAT Executing Broker, rather than the originating broker. This fee filing must comply with the requirements of the CAT Funding Model, and, therefore, charges the Historical CAT Assessment 1A to CAT Executing Brokers.

Moreover, charging originating brokers would introduce significant complexity to the billing process from the CAT’s perspective, and would increase the costs of implementing CAT fees. Charging the CAT Executing Broker is simple and straightforward, and leverages a one-to-one relationship between billable events (trades) and billable parties, similar to other transaction-based fees. In contrast, for a single trade event, there may be many originating brokers, and each trade must be broken down on a pro-rata basis, to account for one or more layers of aggregation, disaggregation, and representation of the underlying orders. While CAT is indeed designed to capture and unwind complex aggregation scenarios, the data and linkages are structured to facilitate regulatory use, and not a billing mechanism that assesses fees on a distinct set of executed trades; it is not simply a matter of using existing CAT linkages. Furthermore, charging originating brokers would implicate issues related to lifecycle linkage rates, and issues related to corrections, cancellations and allocations, while charging CAT Executing Brokers would avoid such issues.

(b) Identification of Order Originator for Underlying Trades

As noted, the CAT NMS Plan does not address the manner or extent to which CAT Executing Brokers may seek to pass any CAT Fees on to their customers, nor does it impose any obligation on CAT LLC or the Plan Processor to facilitate

firms’ ability to do so. Nevertheless, the Additional Trade Details provided with regard to the underlying trades on CAT invoices may assist with this process. Like with Section 31-related sales value fees, however, it is not always possible to trace every fee on a transaction back to the originating party. Industry Members have faced these issues under Section 31-related sales values fees for many years.²¹⁰ However, with the Additional Trade Details provided under the CAT billing approach, in many cases, CAT Reporters will be able to identify the order originator for the underlying trades provided by CAT with CAT invoices. In some cases, CAT LLC believes that certain issues related to certain types of market activity may implicate CAT Reporters’ ability to identify the order originator for a limited set of underlying trades for the CAT invoices. Although CAT LLC does not believe that it is required to address these issues, CAT LLC and FCAT have been carefully researching and analyzing these types of issues as they are identified, and have been working voluntarily to assist CAT Reporters with these issues as necessary and when possible. In addition, CAT LLC intends to continue to provide CAT Reporters with billing guidance through FAQs, CAT Alerts and Helpdesk responses to address outstanding billing questions.

(B) Significant Technical Assistance

CAT LLC has worked with FCAT to provide significant technical assistance to Industry Members to allow the Industry Members to understand how Historical CAT Assessments will be implemented and billed, including webinars, CAT alerts, mock invoices, and responses to questions posed to the FCAT Help Desk.

- *Technical Specifications and Scenarios.* CAT LLC has provided detailed technical documentation for CAT billing, including (1) technical specifications, which describe the CAT Billing Trade Details Files associated with monthly CAT invoices, including detailed information about data elements and file formats as well as access instructions, network and

²⁰⁸ See CAT Technical Specifications for Billing Trade Details; Trade Details Schema (<https://catnmsplan.com/sites/default/files/2024-02/02.05.24-Billing-Trade-Details-Schema.json>); CAT Billing Scenarios, Version 1.0 (Nov. 30, 2023) (<https://www.catnmsplan.com/sites/default/files/2024-01/01.12.2024-CAT-Billing-Scenarios-v1.0.pdf>).

²⁰⁹ For years, broker-dealers have faced similar reconciliation issues with regard to SRO fees related to Section 31. Broker-dealers have responded to this issue in the Section 31 context by exercising their discretion as to whether and the manner and extent to which they pass on those fees (e.g., by rounding up its fees to the nearest cent, or decide to charge for, or not charge for, certain transactions, or assess a specific fee or incorporate the costs into other fee programs). See, e.g., Securities Exchange Act Rel. No. 49928 (June 28, 2004), 69 FR 41060, 41072 (July 7, 2004) (noting that broker-dealers may “over-collect” Section 31-related fees charged to their clients due to rounding practices, and double-counting with regard to certain transactions).

²¹⁰ “FINRA charges a Regulatory Transaction Fee (‘RTF’) to industry members to reimburse FINRA for the Section 31 fees that FINRA pays to the Commission. FINRA does not currently provide industry members with the data that industry members require for proper reconciliation of RTF fees. This has been a major problem for the industry for many years.” Letter from Howard Meyerson, Managing Director, FIF, to Robert Cook, Chief Executive Officer, FINRA at 2 (Dec. 15, 2023) (<https://fif.com/index.php/working-groups/category/271-comment-letters?download=2820:fif-letter-to-finra-on-pass-through-of-finra-cat-fees&view=category>).

transport options;²¹¹ (2) trade details schemas;²¹² and (3) CAT billing scenarios.²¹³

- *Industry Webinars.* CAT LLC has hosted two industry webinars specifically dedicated to CAT billing. The first webinar, hosted on September 28, 2023, discussed the operational implementation of the CAT Reporter billing process.²¹⁴ The second webinar, hosted on November 7, 2023, provided (1) a demonstration of the CAT Reporter Portal and how to access CAT billing documents, including CAT invoices; and (2) additional information on underlying trade details in relation to the CAT Reporter billing process and an overview of the CAT Contact Management System.²¹⁵ 485 participants and 394 participants attended the two webinars, respectively.

- *CAT Alert.* CAT LLC has published a detailed CAT Alert that describes how FCAT, as the Plan Processor acting on behalf of CAT LLC, will calculate applicable fees, issue invoices to and collect payment from CAT Executing Brokers.²¹⁶

- *Frequently Asked Questions (FAQs).* CAT LLC also has continued to engage with the industry on billing issues by making responses to billing FAQs available on the CAT website. The FAQs address a broad range of frequently asked questions, including, for example, which Industry Members will receive invoices, how fees are calculated, when and how fees are required to be paid, how to access invoices, and how to update the billing contact. To date, responses to 31 FAQs are available on the CAT website, and CAT LLC will provide additional responses to FAQs as warranted.²¹⁷

- *Substantial Past Experience with CAT Billing Processes.* To date, CAT LLC, via FCAT, has billed Industry

Members for Historical CAT Assessment 1 and certain Prospective CAT Fees. Industry Members will be billed for Historical CAT Assessment 1A via the same processes established for Historical CAT Assessment 1 and the Prospective CAT Fees. Accordingly, Industry Members have substantial experience with the CAT billing processes.

- *Help Desk Assistance.* CAT LLC also provides detailed, individualized assistance to Industry Members regarding CAT fees and the billing process through the FCAT Help Desk.²¹⁸ For example, the Help Desk assisted with 406 cases related to the billing of CAT fees from July 2023 through March 2024.

By providing such detailed and sustained assistance to Industry Members regarding CAT fees and billing, CAT LLC has successfully addressed questions raised by Industry Members regarding the CAT fees and billing processes.

(C) Notice to Industry Members

In keeping with past practice, CAT LLC provided notice of the proposed Historical CAT Assessment 1A via CAT Fee Alert on April 1, 2026,²¹⁹ one month prior to the effective date of Historical CAT Assessment 1A on May 1, 2026. Such notice provides Industry Members with sufficient time to address any technological or other requirements necessary for implementing Historical CAT Assessment 1A.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the requirements of the Exchange Act. The Exchange believes that the proposed rule change is consistent with Section 6(b)(5) of the Act,²²⁰ which requires, among other things, that the Exchange's rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest, and not designed to permit unfair discrimination between customers, issuers, brokers and dealers. The Exchange also believes that the proposed rule change is consistent with the provisions of Section 6(b)(4) of the

Act,²²¹ because it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers. The Exchange further believes that the proposed rule change is consistent with Section 6(b)(8) of the Act,²²² which requires that the Exchange's rules not impose any burden on competition that is not necessary or appropriate in furtherance of the purpose of the Exchange Act. These provisions also require that the Exchange be "so organized and [have] the capacity to be able to carry out the purposes" of the Act and "to comply, and . . . to enforce compliance by its members and persons associated with its members," with the provisions of the Exchange Act.²²³ Accordingly, a reasonable reading of the Act indicates that it intended that regulatory funding be sufficient to permit an exchange to fulfill its statutory responsibility under the Act, and contemplated that such funding would be achieved through equitable assessments on the members, issuers, and other users of an exchange's facilities.

(1) Implementation of CAT Funding Model in CAT NMS Plan

Section 11.1(b) of the CAT NMS Plan states that "[t]he Participants shall file with the SEC under Section 19(b) of the Exchange Act any such fees on Industry Members that the Operating Committee approves." Per Section 11.1(b) of the CAT NMS Plan, the Exchange has filed this fee filing to implement the Industry Member CAT fees included in the CAT Funding Model. The Exchange believes that this proposal is consistent with the Exchange Act because it is consistent with, and implements, the CAT Funding Model in the CAT NMS Plan, and is designed to assist the Exchange and its Industry Members in meeting regulatory obligations pursuant to the CAT NMS Plan. In approving the CAT NMS Plan, the SEC noted that the Plan "is necessary and appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanism of a national market system, or is otherwise in furtherance of the purposes of the Act."²²⁴ Similarly, in approving the CAT Funding Model, the SEC concluded that the CAT Funding Model

²¹¹ CAT Technical Specifications for Billing Trade Details, Version 1.0 r1 (Dec. 8, 2023) (https://catnmsplan.com/sites/default/files/2023-12/12.07.2023-CAT-Technical-Specifications-for-Billing-Trade-Details-v1.0r1_CLEAN.pdf).

²¹² Trade Details Schema (<https://catnmsplan.com/sites/default/files/2024-02/02.05.24-Billing-Trade-Details-Schema.json>).

²¹³ CAT Billing Scenarios, Version 1.0 (Nov. 30, 2023) (<https://www.catnmsplan.com/sites/default/files/2024-01/01.12.2024-CAT-Billing-Scenarios-v1.0.pdf>).

²¹⁴ CAT Billing Webinar, Part 1 (Sept. 28, 2023) (<https://www.catnmsplan.com/events/part-1-cat-billing-webinar>).

²¹⁵ CAT Billing Webinar, Part 2 (Nov. 7, 2023) (<https://www.catnmsplan.com/events/part-2-cat-billing-webinar>).

²¹⁶ See CAT Alert 2023-02 (Oct. 12, 2023) (<https://www.catnmsplan.com/sites/default/files/2023-10/10.12.23-CAT-Alert-2023-02.pdf>).

²¹⁷ See CAT Billing FAQs, Section V of CAT FAQs (https://www.catnmsplan.com/faq?search_api_fulltext=&field_topics=271&sort_by=field_faq_number).

²¹⁸ The CAT NMS Plan requires that the Plan Processor "staff a CAT help desk, as described in Appendix D, CAT Help Desk, to provide technical expertise." Section 6.10(c)(vi) of the CAT NMS Plan. See also Section 10.3 of Appendix D of the CAT NMS Plan for a description of the Plan requirements for the CAT Help Desk.

²¹⁹ CAT Fee Alert 2026-1 (Apr. 1, 2026) (<https://www.catnmsplan.com/sites/default/files/2026-04/04.01.26-CAT-Fee-Alert-2026-1.pdf>).

²²⁰ 15 U.S.C. 78f(b)(6).

²²¹ 15 U.S.C. 78f(b)(4).

²²² 15 U.S.C. 78f(b)(8).

²²³ See Section 6(b)(1) of the Exchange Act.

²²⁴ CAT NMS Plan Approval Order at 84696.

met this standard.²²⁵ As this proposal implements the Plan and the CAT Funding Model described therein, and applies specific requirements to Industry Members in compliance with the Plan, the Exchange believes that this proposal furthers the objectives of the Plan, as identified by the SEC, and is therefore consistent with the Exchange Act.

(2) Calculation of Fee Rate for Historical CAT Assessment 1A is Reasonable

The SEC has determined that the CAT Funding Model is reasonable and satisfies the requirements of the Exchange Act. Specifically, the SEC has concluded that the method for determining Historical CAT Assessments as set forth in Section 11.3 of the CAT NMS Plan, including the formula for calculating the Historical Fee Rate, the identification of the parties responsible for payment and the transactions subject to the fee rate for the Historical CAT Assessment, is reasonable and satisfies the Exchange Act.²²⁶ In each respect, as discussed above, Historical CAT Assessment 1A is calculated, and would be applied, in accordance with the requirements applicable to Historical CAT Assessments as set forth in the CAT NMS Plan. Furthermore, as discussed below, the Exchange believes that each of the figures for the variables in the SEC-approved formula for calculating the fee rate for Historical CAT Assessment 1A is reasonable and consistent with the Exchange Act. Calculation of the fee rate for Historical CAT Assessment 1A requires the figures for the Historical CAT Costs 1, the executed equivalent share volume for the prior twelve months, the determination of Historical Recovery Period 1A, and the projection of the executed equivalent share volume for Historical Recovery Period 1A. Each of these variables is reasonable and satisfies the Exchange Act, as discussed throughout this filing.

(A) Historical CAT Costs 1

The formula for calculating a Historical Fee Rate requires the amount of Historical CAT Costs to be recovered. Specifically, Section 11.3(b)(iii)(B)(II) of the CAT NMS Plan requires a fee filing to provide:

a brief description of the amount and type of the Historical CAT Costs, including (1) the technology line items of cloud hosting services, operating fees, CAIS operating fees, change request fees, and capitalized developed technology costs, (2) legal, (3)

consulting, (4) insurance, (5) professional and administration and (6) public relations costs.

In accordance with this requirement, the Exchange has set forth the amount and type of Historical CAT Costs 1 for each of these categories of costs above.

Section 11.3(b)(iii)(B)(II) of the CAT NMS Plan also requires that the fee filing provide “sufficient detail to demonstrate that the Historical CAT Costs are reasonable and appropriate.” As discussed below, the Exchange believes that the amounts set forth in this filing for each of these cost categories is “reasonable and appropriate.” Each of the costs included in Historical CAT Costs 1 are reasonable and appropriate because the costs are consistent with standard industry practice, based on the need to comply with the requirements of the CAT NMS Plan, incurred subject to negotiations performed on an arm’s length basis, and/or are consistent with the needs of any legal entity, particularly one with no employees.

(i) Technology: Cloud Hosting Services

In approving the CAT Funding Model, the Commission recognized that it is appropriate to recover costs related to cloud hosting services as a part of Historical CAT Assessments.²²⁷ CAT LLC determined that the costs related to cloud hosting services described in this filing are reasonable and should be included as a part of Historical CAT Costs 1. As described above, the cloud hosting services costs reflect, among other things, the breadth of the CAT cloud activities, data volume far in excess of the original volume estimates, the need for specialized cloud services given the volume and unique nature of the CAT, the processing time requirements of the Plan, and regular efforts to seek to minimize costs where permissible under the Plan. CAT LLC determined that use of cloud hosting services is necessary for implementation of the CAT, particularly given the substantial data volumes associated with the CAT, and that the fees for cloud hosting services negotiated by FCAT were reasonable, taking into consideration a variety of factors, including the expected volume of data and the breadth of services provided and market rates for similar services.²²⁸ Indeed, the actual costs of the CAT are far in excess of the original estimated costs of the CAT due to various factors,

including the higher volumes and greater complexity of the CAT than anticipated when Rule 613 was originally adopted.

To comply with the requirements of the Plan, the breadth of the cloud activities related to the CAT is substantial. The cloud services not only include the production environment for the CAT, but they also include two industry testing environments, support environments for quality assurance and stress testing and disaster recovery capabilities. Moreover, the cloud storage costs are driven by the requirements of the Plan, which requires the storage of multiple versions of the data, from the original submitted version of the data through various processing steps, to the final version of the data.

Data volume is a significant driver of costs for cloud hosting services. When the Commission adopted the CAT NMS Plan in 2016, it estimated that the CAT would need to receive 58 billion records per day²²⁹ and that annual operating costs for the CAT would range from \$36.5 million to \$55 million.²³⁰ Through 2021, the actual data volumes have been five times that original estimate. The data volumes for each period are set forth in detail above.²³¹

In addition to the effect of the data volume on the cloud hosting costs, the processing timelines set forth in the Plan contribute to the cloud hosting costs. Although CAT LLC has proactively sought to manage cloud hosting costs while complying with the Plan, including through requests to the Commission for exemptive relief and an amendment to the CAT NMS Plan, stringent CAT NMS Plan requirements do not allow for any material flexibility in cloud architecture design choices, processing timelines (e.g., the use of non-peak processing windows), or lower-cost storage tiers. As a result, the required CAT processing timelines contribute to the cloud hosting costs of the CAT.

The costs for cloud hosting services also reflect the need for specialized cloud hosting services given the data volume and unique processing needs of the CAT. The data volume as well as the data processing needs of the CAT necessitate the use of cloud hosting services. The equipment, power and services required for an on-premises data model, the alternative to cloud hosting services, would be cost prohibitive. Moreover, as CAT was

²²⁷ Section 11.3(b)(iii)(B)(II)(B)(1) of the CAT NMS Plan.

²²⁸ For a discussion of the amount and type of cloud hosting services fees, see Sections 3(a)(2)(B)(i)(a)(I), 3(a)(2)(B)(i)(b)(I), 3(a)(2)(B)(i)(c)(I) and 3(a)(2)(B)(i)(d)(I) above.

²²⁹ Appendix D–4 of the CAT NMS Plan at n.262.

²³⁰ CAT NMS Plan Approval Order at 84801.

²³¹ See Sections 3(a)(2)(B)(i)(a)(I), 3(a)(2)(B)(i)(b)(I), 3(a)(2)(B)(i)(c)(I) and 3(a)(2)(B)(i)(d)(I) above.

²²⁵ CAT Funding Model Approval Order at 13481.

²²⁶ *Id.*

being developed, there were limited cloud hosting providers that could satisfy all the necessary CAT requirements, including the operational and security criteria. Over time more providers offering cloud hosting services that would satisfy these criteria have entered the market. CAT LLC will continue to evaluate alternative cloud hosting services, recognizing that the time and cost to move to an alternative cloud provider would be substantial.

The reasonableness of the cloud hosting services costs is further supported by key cost discipline mechanisms for the CAT—a cost-based funding structure, cost transparency, cost management efforts (including regular efforts to lower compute and storage costs where permitted by the Plan) and oversight. Together, these mechanisms help ensure the ongoing reasonableness of the CAT's costs and the level of fees assessed to support those costs.²³²

(ii) Technology: Operating Fees

In approving the CAT Funding Model, the SEC recognized that it is appropriate to recover costs related to operating fees as a part of Historical CAT Assessments.²³³ CAT LLC determined that the costs related to operating fees described in this filing are reasonable and should be included as a part of Historical CAT Costs 1. The operating fees include the negotiated fees paid by CAT LLC to the Plan Processor to operate and maintain the system for order-related information and to perform business operations related to the system, including compliance, security, testing, training, communications with the industry (*e.g.*, management of the FINRA CAT Helpdesk, FAQs, website and webinars) and program management. CAT LLC determined that the selection of FCAT as the Plan Processor was reasonable and appropriate given its expertise with securities regulatory reporting, after a process of considering other potential candidates.²³⁴ CAT LLC also determined that the fixed price contract, negotiated on an arm's length basis with the goals of managing costs and receiving services required to comply with the CAT NMS Plan and Rule 613, was reasonable and appropriate, taking into consideration a variety of factors, including the breadth of services provided and market rates for similar

types of activity.²³⁵ The services performed by FCAT for each period and the costs related to such services are described above.²³⁶

(iii) Technology: CAIS Operating Fees

In approving the CAT Funding Model, the SEC recognized that it is appropriate to recover costs related to CAIS operating fees as a part of Historical CAT Assessments.²³⁷ CAT LLC determined that the costs related to CAIS operating fees described in this filing are reasonable and should be included as a part of Historical CAT Costs 1. The CAIS operating fees include the fees paid to the Plan Processor to operate and maintain CAIS and to perform the business operations related to the system, including compliance, security, testing, training, communications with the industry (*e.g.*, management of the FINRA CAT Helpdesk, FAQs, website and webinars) and program management. CAT LLC determined that the FCAT-negotiated fees for Kingland's CAIS-related services, negotiated on an arm's length basis with the goals of managing costs and receiving services required to comply with the CAT NMS Plan, taking into consideration a variety of factors, including the services to be provided and market rates for similar types of activity, were reasonable and appropriate.²³⁸ The services performed by Kingland for each period and the costs for each period are described above.²³⁹

(iv) Technology: Change Request Fees

In approving the CAT Funding Model, the SEC recognized that it is appropriate to recover costs related to change request fees as a part of Historical CAT Assessments.²⁴⁰ CAT LLC determined that the costs related to change request fees described in this filing are reasonable and should be included as a part of Historical CAT Costs 1. It is common practice to utilize a change request process to address evolving needs in technology projects. This is particularly true for a project like CAT that is the first of its kind, both in substance and in scale. The substance and costs of each of the change requests are evaluated by the Operating

Committee, and approved in accordance with the requirements for Operating Committee meetings. In each case, CAT LLC determined that the change requests were necessary to implement the CAT. As described above, the change requests cover various technology changes, including, for example, changes related to CAT reporting, data feeds and exchange functionality. CAT LLC also determined that the costs for each change request were appropriate for the relevant technology change. A description of the change requests for each FAM Period and their total costs is described above.²⁴¹ As noted above, the total costs for change requests through FAM Period 3 represent a small percentage of Historical CAT Costs 1—that is, 0.25% of Historical CAT Costs 1.

(v) Capitalized Developed Technology Costs

In approving the CAT Funding Model, the SEC recognized that it is appropriate to recover costs related to capitalized developed technology costs as a part of Historical CAT Assessments.²⁴² Capitalized developed technology costs include costs related to certain development costs, costs related to certain modifications, upgrades and other changes to the CAT, CAIS implementation fees and license fees. The amount and type of costs for each period are described in more detail above.²⁴³ CAT LLC determined that these costs are reasonable and should be included as a part of Historical CAT Costs 1.

These costs involve the activity of both the Initial Plan Processor and FCAT, as the successor Plan Processor.²⁴⁴ With regard to the Initial Plan Processor, the Participants utilized an RFP to seek proposals to build and operate the CAT, receiving a number of proposals in response to the RFP. The Participants carefully reviewed and considered each of the proposals, including holding in-person meetings with each of the Bidders. After several rounds of review, the Participants selected the Initial Plan Processor in accordance with the CAT NMS Plan. CAT LLC entered into an agreement with the Initial Plan Processor in which CAT LLC would pay the Initial Plan Processor a negotiated, fixed price

²³⁵ See Sections 3(a)(2)(B)(i)(a)(II), 3(a)(2)(B)(i)(b)(II), 3(a)(2)(B)(i)(c)(II) and 3(a)(2)(B)(i)(d)(II) above.

²³⁶ *Id.*

²³⁷ Section 11.3(b)(iii)(B)(II)(B)(1) of the CAT NMS Plan.

²³⁸ See Sections 3(a)(2)(B)(i)(a)(III), 3(a)(2)(B)(i)(b)(III), 3(a)(2)(B)(i)(c)(III) and 3(a)(2)(B)(i)(d)(III) above.

²³⁹ *Id.*

²⁴⁰ Section 11.3(b)(iii)(B)(II)(B)(1) of the CAT NMS Plan.

²⁴¹ See Sections 3(a)(2)(B)(i)(a)(IV), 3(a)(2)(B)(i)(b)(IV), 3(a)(2)(B)(i)(c)(IV) and 3(a)(2)(B)(i)(d)(IV) above.

²⁴² Section 11.3(b)(iii)(B)(II)(B)(1) of the CAT NMS Plan.

²⁴³ See Sections 3(a)(2)(B)(i)(a)(V), 3(a)(2)(B)(i)(b)(V), 3(a)(2)(B)(i)(c)(V) and 3(a)(2)(B)(i)(d)(V) above.

²⁴⁴ *Id.*

²³² See Securities Exchange Act Rel. No. 97151 (Mar. 15, 2023), 88 FR 17086, 17117 (Mar. 21, 2023) (describing key cost discipline mechanisms for the CAT).

²³³ Section 11.3(b)(iii)(B)(II)(B)(1) of the CAT NMS Plan.

²³⁴ See Section 3(a)(2)(B)(i)(a)(II) above.

fee.²⁴⁵ In addition, as described above, CAT LLC determined that it is appropriate to enter into an agreement with FCAT as the successor Plan Processor.²⁴⁶

(vi) Legal

In approving the CAT Funding Model, the SEC recognized that it is appropriate to recover costs related to legal fees as a part of Historical CAT Assessments.²⁴⁷ CAT LLC determined that the legal costs described in this filing are reasonable and should be included as a part of Historical CAT Costs 1. Given the unique nature of the CAT, the number of parties involved with the CAT (including, for example, the SEC, Participants, Industry Members, and vendors) and the many regulatory issues associated with the CAT, the scope of the necessary legal services is substantial. CAT LLC determined that the scope of the legal services is necessary to implement and maintain the CAT and that the legal rates reflect the specialized services necessary for such a project. When hiring each law firm for a CAT project, CAT LLC interviewed multiple firms, and determined to hire each firm based on a variety of factors, including the relevant expertise and fees. In each case, CAT LLC determined that the hourly fee rates were in line with market rates for the specialized legal expertise. In addition, CAT LLC determined that the total costs incurred for each CAT project were appropriate given the breadth of services provided. The services performed by each law firm for each period and the costs related to such services are described above.²⁴⁸

(vii) Consulting

In approving the CAT Funding Model, the SEC recognized that it is appropriate to recover consulting costs as a part of Historical CAT Assessments.²⁴⁹ CAT LLC determined that the consulting costs described in this filing are reasonable and should be included as a part of Historical CAT Costs 1. Because there are no CAT employees²⁵⁰ and because of the significant number of issues associated with the CAT, the

consultants provided assistance in the management of various CAT matters and the processes related to such matters.²⁵¹ CAT LLC considered a variety of factors in choosing a consulting firm and determined to select Deloitte after an interview process.²⁵² CAT LLC also determined that the consulting services were provided at reasonable market rates, as the fees were negotiated annually and comparable to the rates charged by other consulting firms for similar work.²⁵³ Moreover, the total costs for such consulting services were appropriate in light of the breadth of services provided by Deloitte. The services performed by Deloitte and the costs related to such services are described above.²⁵⁴

(viii) Insurance

In approving the CAT Funding Model, the SEC recognized that it is appropriate to recover insurance costs as a part of Historical CAT Assessments.²⁵⁵ CAT LLC determined that the insurance costs described in this filing are reasonable and should be included as a part of Historical CAT Costs 1. CAT LLC determined that it is common practice to have directors' and officers' liability insurance, and errors and omissions liability insurance. CAT LLC further determined that it was important to have cyber security insurance given the nature of the CAT, and such a decision is consistent with the CAT NMS Plan, which states that the cyber incident response plan may include "[i]nsurance against security breaches."²⁵⁶ In selecting the insurance providers for these policies, CAT LLC engaged in an evaluation of alternative insurers, including a comparison of the pricing offered by the alternative insurers.²⁵⁷ Based on this analysis, CAT LLC determined that the selected insurance policies provided appropriate coverage at reasonable market rates.²⁵⁸

(ix) Professional and Administration

In approving the CAT Funding Model, the SEC recognized that it is appropriate to recover professional and

administration costs as a part of Historical CAT Assessments.²⁵⁹ CAT LLC determined that the professional and administration costs described in this filing are reasonable and should be included as a part of Historical CAT Costs 1. Because there are no CAT employees, all required accounting, financial, tax, cash management and treasury functions for CAT LLC have been outsourced at market rates. In addition, the required annual financial statement audit of CAT LLC is included in professional and administration costs, which costs are also at market rates.

CAT LLC determined to hire a financial advisory firm, Anchin, to assist with financial matters for the CAT. CAT LLC interviewed Anchin as well as other potential financial advisory firms to assist with the CAT project, considering a variety of factors in its analysis, including the firm's relevant expertise and fees.²⁶⁰ The hourly fee rates for this firm were in line with market rates for the financial advisory services provided.²⁶¹ Moreover, the total costs for such financial advisory services was appropriate in light of the breadth of services provided by Anchin. The services performed by Anchin and the costs related to such services are described above.²⁶²

CAT LLC also determined to engage an independent accounting firm, Grant Thornton, to complete the audit of CAT LLC's financial statements, in accordance with the requirements of the CAT NMS Plan. CAT LLC interviewed this firm as well as another potential accounting firm to audit CAT LLC's financial statements, considering a variety of factors in its analysis, including the relevant expertise and fees of each of the firms. CAT LLC determined that Grant Thornton was well-qualified for the role given the balance of these considerations.²⁶³ Grant Thornton's fixed fee rate compensation arrangement was reasonable and appropriate, and in line with the market rates charged for these types of accounting services.²⁶⁴ Moreover, the total costs for such financial advisory services was appropriate in light of the breadth of

²⁴⁵ See Section 3(a)(2)(B)(i)(a)(V) above.

²⁴⁶ See Section 3(a)(2)(B)(i)(a)(III) above.

²⁴⁷ Section 11.3(b)(iii)(B)(II)(B)(2) of the CAT NMS Plan.

²⁴⁸ See Sections 3(a)(2)(B)(i)(a)(VI), 3(a)(2)(B)(i)(b)(VI), 3(a)(2)(B)(i)(c)(VI) and 3(a)(2)(B)(i)(d)(VI) above.

²⁴⁹ Section 11.3(b)(iii)(B)(II)(B)(3) of the CAT NMS Plan.

²⁵⁰ As stated in the filing of the proposed CAT NMS Plan, "[i]t is the intent of the Participants that the Company have no employees." Securities Exchange Act Rel. No. 77724 (Apr. 27, 2016), 81 FR 30614, 30621 (May 17, 2016).

²⁵¹ CAT LLC uses certain third parties to perform tasks that may be performed by administrators for other NMS Plans. See, e.g., CTA Plan and CQ Plan.

²⁵² See Section 3(a)(2)(B)(i)(a)(VII) above.

²⁵³ See Sections 3(a)(2)(B)(i)(a)(VII), 3(a)(2)(B)(i)(b)(VII), 3(a)(2)(B)(i)(c)(VII) and 3(a)(2)(B)(i)(d)(VII) above.

²⁵⁴ *Id.*

²⁵⁵ Section 11.3(b)(iii)(B)(II)(B)(4) of the CAT NMS Plan.

²⁵⁶ Section 4.1.5 of Appendix D of the CAT NMS Plan.

²⁵⁷ See Sections 3(a)(2)(B)(i)(a)(VIII), 3(a)(2)(B)(i)(b)(VIII), 3(a)(2)(B)(i)(c)(VIII) and 3(a)(2)(B)(i)(d)(VIII) above.

²⁵⁸ *Id.*

²⁵⁹ Section 11.3(b)(iii)(B)(II)(B)(5) of the CAT NMS Plan.

²⁶⁰ See Section 3(a)(2)(B)(i)(a)(IX) above.

²⁶¹ See Sections 3(a)(2)(B)(i)(a)(IX), 3(a)(2)(B)(i)(b)(IX), 3(a)(2)(B)(i)(c)(IX) and 3(a)(2)(B)(i)(d)(IX) above.

²⁶² *Id.*

²⁶³ See Section 3(a)(2)(B)(i)(a)(IX) above.

²⁶⁴ See Sections 3(a)(2)(B)(i)(a)(IX), 3(a)(2)(B)(i)(b)(IX), 3(a)(2)(B)(i)(c)(IX) and 3(a)(2)(B)(i)(d)(IX) above.

services provided by Grant Thornton. The services performed by Grant Thornton and the costs related to such services are described above.²⁶⁵

The professional and administrative costs also include costs related to the receipt of certain market data from Exegy. After performing an analysis of the available market data vendors to confirm that the data provided met the SIP Data requirements of the CAT NMS Plan and comparing the costs of the vendors providing the required SIP Data, CAT LLC determined to purchase market data from Exegy. Exegy provided the data elements required by the CAT NMS Plan, and the fees were reasonable and in line with market rates for the market data received.²⁶⁶

The professional and administrative costs also include costs related to a third party security assessment of the CAT performed by RSM. The assessment was designed to verify and validate the effective design, implementation and operation of the controls specified by NIST Special Publication 800–53, Revision 4 and related standards and guidelines. Such a security assessment is in line with industry practice and important given the data included in the CAT. CAT LLC determined to engage RSM to perform the security assessment, after considering a variety of factors in its analysis, including the firm's relevant expertise and fees. The fees were reasonable and in line with market rates for such an assessment.²⁶⁷

(x) Public Relations Costs

In approving the CAT Funding Model, the SEC recognized that it is appropriate to recover public relations costs as a part of Historical CAT Assessments.²⁶⁸ CAT LLC determined that the public relations costs described in this filing are reasonable and should be included as a part of Historical CAT Costs 1. CAT LLC determined that the types of public relations services utilized were beneficial to the CAT and market participants more generally. Public relations services were important for various reasons, including monitoring comments made by market participants about CAT and understanding issues related to the CAT discussed on the public record.²⁶⁹ By engaging a public relations firm, CAT LLC was better positioned to understand and address CAT issues to the benefit of all market

participants.²⁷⁰ Moreover, CAT LLC determined that the rates charged for such services were in line with market rates.²⁷¹ As noted above, the total public relations costs through FAM Period 3 represent a small percentage of Historical CAT Costs 1—that is, 0.1% of Historical CAT Costs 1.

(B) Total Executed Equivalent Share Volume for the Prior 12 Months

The total executed equivalent share volume of transactions in Eligible Securities for the 12-month period from March 2025 through February 2026 was 5,980,937,549,360.49 executed equivalent shares. CAT LLC determined the total executed equivalent share volume for the prior twelve months by counting executed equivalent shares in the same manner as it will count executed equivalent shares for CAT billing purposes.

(C) Historical Recovery Period 1A

CAT LLC has determined to establish a Historical Recovery Period of 24 months for Historical CAT Assessment 1A and that such length is reasonable. CAT LLC determined that the length of Historical Recovery Period 1A appropriately weighs the need for a reasonable fee rate for Historical CAT Assessment 1A that spreads the Historical CAT Costs over an appropriate amount of time and the need to repay the loans notes to the Participants in a timely fashion. CAT LLC determined that 24 months for Historical Recovery Period 1A would establish a fee rate that is lower than other transaction-based fees, including fees assessed pursuant to Section 31.²⁷² In addition, in establishing a Historical Recovery Period of 24 months, CAT LLC recognized that the total cost for Historical CAT Assessment 1A was less than the total costs for 2022 and 2023, and therefore it would be appropriate to recover those costs in two years.

(D) Projected Executed Equivalent Share Volume for Historical Recovery Period 1A

CAT LLC has determined to calculate the projected total executed equivalent share volume for the 24 months of Historical Recovery Period 1A by doubling the executed equivalent share volume for the prior 12 months. The Operating Committee determined that

such an approach was reasonable as the CAT's annual executed equivalent share volume has increased from prior years (e.g., the executed equivalent share volume for 2024 was 4,295,884,600,069.4) and the Operating Committee believes that it is reasonable to conclude that the annual executed equivalent share volume will remain at the higher level. Accordingly, the projected total executed equivalent share volume for Historical Recovery Period 1A is projected to be 11,961,875,098,720.98 executed equivalent shares.²⁷³

(E) Actual Fee Rate for Historical CAT Assessment 1A

(i) Decimal Places

As noted in the Plan amendment for the CAT Funding Model, as a practical matter, the fee filing for a Historical CAT Assessment would provide the exact fee per executed equivalent share to be paid for each Historical CAT Assessment, and describe the relevant number of decimal places for the fee rate.²⁷⁴ Accordingly, proposed paragraph (a)(2)(B) of the fee schedule would set forth a fee rate of \$0.000002 per executed equivalent share. CAT LLC determined that the use of six decimal places is reasonable as it balances the accuracy of the calculation with the potential systems and other impracticalities of using additional decimal places in the calculation.

(ii) Reasonable Fee Level

The Exchange believes that imposing Historical CAT Assessment 1A with a fee rate of \$0.000002 per executed equivalent share is reasonable because it provides for a revenue stream for the Company that is aligned with the remaining Historical CAT Costs 1 and such costs would be spread out over an appropriate recovery period, as discussed above. Moreover, the Exchange believes that the level of the fee rate is reasonable, as it is comparable to other transaction-based fees. Indeed, Historical CAT Assessment 1A is significantly lower than fees assessed pursuant to Section 31 (e.g., \$0.00007 per share to \$0.00072 per share),²⁷⁵ and, as a result, the magnitude of Historical CAT Assessment 1A is small, and therefore will mitigate any potential adverse economic effects or inefficiencies. Furthermore, the reasonable fee rate for Historical CAT

²⁶⁵ *Id.*

²⁶⁶ See Section 3(a)(2)(B)(i)(a)(IX) above.

²⁶⁷ *Id.*

²⁶⁸ Section 11.3(b)(iii)(B)(II)(B)(6) of the CAT NMS Plan.

²⁶⁹ See Section 3(a)(2)(B)(i)(a)(X) above.

²⁷⁰ See Sections 3(a)(2)(B)(i)(a)(X), 3(a)(2)(B)(i)(b)(X), 3(a)(2)(B)(i)(c)(X) and 3(a)(2)(B)(i)(d)(X) above.

²⁷¹ *Id.*

²⁷² As the SEC noted in the CAT Funding Model Approval Order, recent Section 31 fees ranged from \$0.00007 per share to \$0.00072 per share. CAT Funding Model Approval Order at 13469.

²⁷³ This projection was calculated by multiplying 5,980,937,549,360.49 executed equivalent shares by two.

²⁷⁴ CAT Funding Model Approval Order at 13445, n.677.

²⁷⁵ *Id.* at 13469.

Assessment 1A further supports CAT LLC's decision to seek to recover the costs described herein.

(3) Historical CAT Assessment 1A Provides for an Equitable Allocation of Fees

Historical CAT Assessment 1A provides for an equitable allocation of fees, as it equitably allocates CAT costs between and among the Participants and Industry Members. The SEC approved the CAT Funding Model, finding that each aspect of the CAT Funding Model satisfied the requirements of the Exchange Act, including the formula for calculating Historical CAT Assessments as well as the Industry Members to be charged the Historical CAT Assessments.²⁷⁶ In approving the CAT Funding Model, the SEC stated that "[t]he Participants have sufficiently demonstrated that the proposed allocation of fees is appropriate."²⁷⁷ Accordingly, the CAT Funding Model sets forth the requirements for allocating fees related to Historical CAT Costs among Participants and Industry Members, and the fee filings for Historical CAT Assessments must comply with those requirements.

Historical CAT Assessment 1A provides for an equitable allocation of fees as it complies with the requirements regarding the calculation of Historical CAT Assessments as set forth in the CAT NMS Plan. For example, as described above, the calculation of Historical CAT Assessment 1A complies with the formula set forth in Section 11.3(b) of the CAT NMS Plan. In addition, Historical CAT Assessment 1A would be charged to CEBBs and CEBs in accordance with Section 11.3(b) of the CAT NMS Plan. Furthermore, the Participants would continue to remain responsible for their designated share of Past CAT Costs through the cancellation of loans made by the Participants to CAT LLC.

In addition, as discussed above, each of the inputs into the calculation of Historical CAT Assessment 1A—Historical CAT Costs 1 (including Excluded Costs) and the exclusion of costs previously invoiced via Historical CAT Assessment 1, the count for the executed equivalent share volume for the prior 12 months, the length of the Historical Recovery Period, and the projected executed equivalent share volume for the Historical Recovery Period—are reasonable. Moreover, these inputs lead to a reasonable fee rate for Historical CAT Assessment 1A that is

lower than other fee rates for transaction-based fees. A reasonable fee rate allocated in accordance with the requirements of the CAT Funding Model provides for an equitable allocation of fees.

(4) Historical CAT Assessment 1A Is Not Unfairly Discriminatory

Historical CAT Assessment 1A is not an unfairly discriminatory fee. The SEC approved the CAT Funding Model, finding that each aspect of the CAT Funding Model satisfied the requirements of the Exchange Act. In reaching this conclusion, the SEC analyzed the potential effect of Historical CAT Assessments calculated pursuant to the CAT Funding Model on affected categories of market participants, including Participants (including exchanges and FINRA), Industry Members (including subcategories of Industry Members, such as alternative trading systems, CAT Executing Brokers and market makers), and investors generally, and considered market effects related to equities and options, among other things. Historical CAT Assessment 1A complies with the requirements regarding the calculation of Historical CAT Assessments as set forth in the CAT NMS Plan. In addition, as discussed above, each of the inputs into the calculation of Historical CAT Assessment 1A and the resulting fee rate for Historical CAT Assessment 1A is reasonable. Therefore, Historical CAT Assessment 1A does not impose an unfairly discriminatory fee on Industry Members.

Finally, the Exchange believes the proposed fees established pursuant to the CAT Funding Model promote just and equitable principles of trade, and, in general, protect investors and the public interest, and are provided in a transparent manner and specificity in the fee schedule. The Exchange also believes that the proposed fees are reasonable because they would provide ease of calculation, ease of billing and other administrative functions, and predictability of a fee based on fixed rate per executed equivalent share. Such factors are crucial to estimating a reliable revenue stream for CAT LLC and for permitting Exchange members to reasonably predict their payment obligations for budgeting purposes.

B. Self-Regulatory Organization's Statement on Burden on Competition

Section 6(b)(8) of the Act²⁷⁸ requires that the Exchange's rules not impose any burden on competition that is not necessary or appropriate in furtherance

of the purpose of the Exchange Act. The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange notes that Historical CAT Assessment 1A implements provisions of the CAT NMS Plan that were approved by the Commission and is designed to assist the Exchange in meeting its regulatory obligations pursuant to the Plan.

In addition, all Participants (including exchanges and FINRA) are proposing to introduce Historical CAT Assessment 1A on behalf of CAT LLC to implement the requirements of the CAT NMS Plan. Therefore, this is not a competitive fee filing, and, therefore, it does not raise competition issues between and among the Participants.

Furthermore, in approving the CAT Funding Model, the SEC analyzed the potential competitive impact of the CAT Funding Model, including competitive issues related to market services, trading services and regulatory services, efficiency concerns, and capital formation.²⁷⁹ The SEC also analyzed the potential effect of CAT fees calculated pursuant to the CAT Funding Model on affected categories of market participants, including Participants (including exchanges and FINRA), Industry Members (including subcategories of Industry Members, such as alternative trading systems, CAT Executing Brokers and market makers), and investors generally, and considered market effects related to equities and options, among other things. Based on this analysis, the SEC approved the CAT Funding Model as compliant with the Exchange Act. Historical CAT Assessment 1A is calculated and implemented in accordance with the CAT Funding Model as approved by the SEC.

As discussed above, each of the inputs into the calculation of Historical CAT Assessment 1A is reasonable and the resulting fee rate for Historical CAT Assessment 1A calculated in accordance with the CAT Funding Model is reasonable. Therefore, Historical CAT Assessment 1A would not impose any burden on competition that is not necessary or appropriate in furtherance of the purpose of the Exchange Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Not applicable.

²⁷⁶ See Section 11.3(b) of the CAT NMS Plan.

²⁷⁷ CAT Funding Model Approval Order at 13412.

²⁷⁸ 15 U.S.C. 78f(b)(8).

²⁷⁹ CAT Funding Model Approval Order at 13479–13481.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act²⁸⁰ and paragraph (f) of Rule 19b-4²⁸¹ thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and

arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-CboeEDGA-2026-014 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-CboeEDGA-2026-014. 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-CboeEDGA-2026-014 and should be submitted on or before June 4, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁸²

J. Matthew DeLesDernier,
Deputy Secretary.

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²⁸⁰ 15 U.S.C. 78s(b)(3)(A).

²⁸¹ 17 CFR 240.19b-4(f).

²⁸² 17 CFR 200.30-3(a)(12).



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Part VII

Securities and Exchange Commission

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Fee Schedule Entitled "Consolidated Audit Trail Funding Fees"; Notice

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–105435; File No. SR–CboeBZX–2026–037]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Fee Schedule Entitled “Consolidated Audit Trail Funding Fees”

May 11, 2026.

Pursuant to Section 19(b)(1) under the Securities Exchange Act of 1934 (“Act”),¹ and Rule 19b–4 thereunder,² notice is hereby given that on April 27, 2026, Cboe BZX Exchange, Inc. (the “Exchange” or “BZX”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of the Substance of the Proposed Rule Change

Cboe BZX Exchange, Inc. (the “Exchange” or “BZX”) proposes to amend its fee schedule entitled “Consolidated Audit Trail Funding Fees”³ to establish fees for Industry Members⁴ related to certain historical costs of the National Market System Plan Governing the Consolidated Audit Trail (the “CAT NMS Plan” or “Plan”) incurred prior to January 1, 2022 that were not previously invoiced via Historical CAT Assessment 1. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Commission’s website (<https://www.sec.gov/rules/sro.shtml>), the Exchange’s website (https://www.cboe.com/us/equities/regulation/rule_filings/bzx/), and at the principal office of the Exchange.

II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On July 11, 2012, the Commission adopted Rule 613 of Regulation NMS, which required the self-regulatory organizations (“SROs”) to submit a national market system (“NMS”) plan to create, implement and maintain a consolidated audit trail that would capture customer and order event information for orders in NMS securities across all markets, from the time of order inception through routing, cancellation, modification or execution.⁵ On November 15, 2016, the Commission approved the CAT NMS Plan.⁶ Under the CAT NMS Plan, the Operating Committee has the discretion to establish funding for CAT LLC to operate the CAT, including establishing fees for Industry Members to be assessed by CAT LLC that would be implemented on behalf of CAT LLC by the Participants.⁷ On September 5, 2025, CAT LLC proposed a revised funding model to fund the CAT (“CAT Funding Model”).⁸ On March 16, 2026, the Commission approved the CAT Funding Model, after concluding that the model satisfied the requirements of Section 11A of the Exchange Act and Rule 608 thereunder.⁹

The CAT Funding Model provides a framework for the recovery of the costs to create, develop and maintain the CAT, including providing a method for allocating costs to fund the CAT among Participants and Industry Members. The CAT Funding Model establishes two categories of fees: (1) CAT fees assessed by CAT LLC and payable by certain Industry Members to recover a portion of historical CAT costs previously paid by the Participants (“Historical CAT Assessment” fees); and (2) CAT fees assessed by CAT LLC and payable by Participants and Industry Members to fund prospective CAT costs (“Prospective CAT Costs” fees).¹⁰

Under the CAT Funding Model, “[t]he Operating Committee will establish one or more fees (each a ‘Historical CAT Assessment’) to be payable by Industry Members with regard to CAT costs previously paid by the Participants (‘Past CAT Costs’).”¹¹ In establishing a Historical CAT Assessment, the Operating Committee will determine a “Historical Recovery Period” and calculate a “Historical Fee Rate” for that Historical Recovery Period. Then, for each month in which a Historical CAT Assessment is in effect, each CEBB and CEBS would be required to pay the fee—the Historical CAT Assessment—for each transaction in Eligible Securities executed by the CEBB or CEBS from the prior month as set forth in CAT Data, where the Historical CAT Assessment for each transaction will be calculated by multiplying the number of executed equivalent shares in the transaction by one-third and by the Historical Fee Rate.¹²

Each Historical CAT Assessment to be paid by CEBBs and CEBSs is designed to contribute toward the recovery of two-thirds of the Historical CAT Costs. Because the Participants previously have paid Past CAT Costs via loans to the Company, the Participants would not be required to pay any Historical

¹⁰ Under the CAT Funding Model, the Operating Committee may establish one or more Historical CAT Assessments. Section 11.3(b) of the CAT NMS Plan. This filing only establishes Historical CAT Assessment 1A related to certain Historical CAT Costs as described herein; it does not address any other potential Historical CAT Assessment related to other Historical CAT Costs. In addition, under the CAT Funding Model, the Operating Committee also may establish CAT Fees related to CAT costs going forward. Section 11.3(a) of the CAT NMS Plan. This filing does not address any potential CAT Fees related to CAT costs going forward. Any such other fee for any other Historical CAT Assessment or CAT Fee for Prospective CAT Costs will be subject to a separate fee filing.

¹¹ Section 11.3(b) of the CAT NMS Plan.

¹² In approving the CAT Funding Model, the Commission stated that, “[i]n the Commission’s view, the proposed recovery of the Past CAT Costs via the Historical CAT Assessment is appropriate.” CAT Funding Model Approval Order at 13450.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

³ The Exchange and each of its affiliated exchanges (Cboe BYX Exchange, Inc., Cboe C2 Exchange, Inc., Cboe Exchange, Inc., Cboe EDGA Exchange, Inc., and Cboe EDGX Exchange, Inc.) are filing to adopt the same amendment to this fee schedule.

⁴ An “Industry Member” is defined as “a member of a national securities exchange or a member of a national securities association.” See Exchange Rule 4.5(u); see also Section 1.1 of the CAT NMS Plan. Unless otherwise specified, capitalized terms used in this rule filing are defined as set forth in the CAT NMS Plan and/or the CAT Compliance Rule. See Rule 4.5–4.17.

⁵ Securities Exchange Act Rel. No. 67457 (July 18, 2012), 77 FR 45721 (Aug. 1, 2012) (“Rule 613 Adopting Release”).

⁶ Securities Exchange Act Rel. No. 79318 (Nov. 15, 2016), 81 FR 84696 (Nov. 23, 2016) (“CAT NMS Plan Approval Order”).

⁷ Section 11.1(b) of the CAT NMS Plan.

⁸ Securities Exchange Act Rel. No. 103960 (Sept. 12, 2025), 90 FR 44910 (Sept. 17, 2025).

⁹ Securities Exchange Act Rel. No. 105003 (Mar. 16, 2026), 91 FR 13410 (Mar. 29, 2026) (“CAT Funding Model Approval Order”). This CAT Funding Model replaced the prior funding model that was approved by the Commission on September 6, 2023. Securities Exchange Act Rel. No. 98290 (Sept. 6, 2023), 88 FR 62628 (Sept. 12, 2023).

CAT Assessment. In lieu of a Historical CAT Assessment, the Participants' one-third share of Historical CAT Costs will be paid by the cancellation of loans made by the Participants to the Company on a pro rata basis based on the outstanding loan amounts due under the loans, instead of through the payment of a CAT fee.¹³ In addition, the Participants also will be 100% responsible for certain Excluded Costs (as discussed below).

CAT LLC proposes to charge CEBBs and CEBs (as described in more detail below) Historical CAT Assessment 1A to recover certain historical CAT costs incurred prior to January 1, 2022, in accordance with the CAT Funding Model. To implement this fee on behalf of CAT LLC, the CAT NMS Plan requires the Participants to "file with the SEC under Section 19(b) of the Exchange Act any such fees on Industry Members that the Operating Committee approves, and such fees shall be labeled as 'Consolidated Audit Trail Funding Fees.'" ¹⁴ The Plan further states that "Participants will be required to file with the SEC pursuant to Section 19(b) of the Exchange Act a filing for each Historical CAT Assessment."¹⁵ Accordingly, the purpose of this filing is to implement a Historical CAT Assessment on behalf of CAT LLC for

Industry Members, referred to as Historical CAT Assessment 1A, in accordance with the CAT NMS Plan.¹⁶

The Exchange, along with the other Participants in the CAT, previously filed a fee filing to implement Historical CAT Assessment 1.¹⁷ Based on the fee filing for Historical CAT Assessment 1, Historical CAT Assessment 1 was expected to be in effect from the first invoice in November 2024 until \$212,039,879.34 (two-thirds of Historical CAT Costs 1) was invoiced to CAT Executing Brokers collectively.¹⁸ However, Historical CAT Assessment 1 ceased before the entire amount was invoiced.¹⁹ The last invoice for Historical CAT Assessment 1 was provided on December 2025, after only \$173,075,024 of the total \$212,039,879.34 had been invoiced to Industry Members.²⁰ Accordingly, \$38,964,855.34 of Historical CAT Costs 1 has not been invoiced. Historical CAT Assessment 1A would seek to recover this outstanding amount of Historical CAT Costs 1 that has not been invoiced.

(1) CAT Executing Brokers

Historical CAT Assessment 1A will be charged to each CEBB and CEBs for each applicable transaction in Eligible Securities.²¹ The CAT NMS Plan defines a "CAT Executing Broker" to mean:

(a) with respect to a transaction in an Eligible Security that is executed on an exchange, the Industry Member identified as the Industry Member responsible for the order on the buy-side of the transaction and the Industry Member responsible for the sell-side of the transaction in the equity order trade event and option trade event in the CAT Data submitted to the CAT by the relevant exchange pursuant to the Participant Technical Specifications; and (b) with respect to a transaction in an Eligible Security that is executed otherwise than on an exchange and required to be reported to an equity trade reporting facility of a registered national securities association, the Industry Member identified as the executing broker and the Industry Member identified as the contra-side executing broker in the TRF/ORF/ADF transaction data event in the CAT Data submitted to the CAT by FINRA pursuant to the Participant Technical Specifications; provided, however, in those circumstances where there is a non-Industry Member identified as the contra-side executing broker in the TRF/ORF/ADF transaction data event or no contra-side executing broker is identified in the TRF/ORF/ADF transaction data event, then the Industry Member identified as the executing broker in the TRF/ORF/ADF transaction data event would be treated as CAT Executing Broker for the Buyer and for the Seller.²²

The following fields of the Participant Technical Specifications indicate the CAT Executing Brokers for the transactions executed on an exchange.

EQUITY ORDER TRADE (EOT)²³

No.	Field name	Data type	Description	Include key
12.n.8/13.n.8	member	Member Alias	The identifier for the member firm that is responsible for the order on this side of the trade. Not required if there is no order for the side as indicated by the NOBUYID/NOSELLID instruction. This must be provided if orderID is provided.	C

¹³ Section 11.3(b)(ii) of the CAT NMS Plan.

¹⁴ Section 11.1(b) of the CAT NMS Plan.

¹⁵ Section 11.3(b)(iii)(B)(I) of the CAT NMS Plan.

¹⁶ Note that there may be one or more Historical CAT Assessments. Section 11.3(b) of the CAT NMS Plan.

¹⁷ Securities Exchange Act Release No. 100940 (September 5, 2024), 89 FR 73852 (September 11, 2024) (SR-CboeBZX-2024-078) ("Historical CAT Assessment 1 Filing").

¹⁸ See Consolidated Audit Trail Funding Fees (a)(1).

¹⁹ In response to the Eleventh Circuit's decision vacating the prior CAT NMS Plan funding model, the last invoices for Historical CAT Assessment 1 were sent in December 2025 based on November 2025 transactions. See *American Securities*

Association v. SEC, No. 23-13396 (11th Cir. July 25, 2025).

²⁰ CAT Fee Alert 2025-4 (Nov. 25, 2025).

²¹ In its approval order for the CAT Funding Model, the Commission determined that charging CAT fees to CAT Executing Brokers was appropriate. In reaching this conclusion the Commission noted that the use of CAT Executing Brokers is appropriate because the CAT Funding Model is based upon the calculation of *executed* equivalent shares, and, therefore, charging CAT Executing Brokers would reflect their executing role in each transaction. Furthermore, the Commission noted that, because CAT Executing Brokers are already identified in transaction reports from the exchanges and FINRA's equity trade reporting facilities recorded in CAT Data, charging CAT

Executing Brokers could streamline the billing process. CAT Funding Model Approval Order at 13413.

²² Section 1.1 of the CAT NMS Plan. In its approval order for the CAT Funding Model, the Commission "recognize[d] that Industry Members may pass-through CAT fees for customer executed volume." See CAT Funding Model Approval Order at 13424.

²³ See Table 23, Section 4.7 (Order Trade Event) of the CAT Reporting Technical Specifications for Plan Participants, Version 4.2.0-r2 (Feb. 24, 2026), https://www.catnmsplan.com/sites/default/files/2026-02/02.24.2026-CAT_Reporting_Technical_Specifications_for_Participants_4.2.0-r2.pdf ("CAT Reporting Technical Specifications for Plan Participants").

OPTION TRADE (OT)²⁴

No.	Field name	Data type	Description	Include key
16.n.13/17.n.13	member	Member Alias	The identifier for the member firm that is responsible for the order.	R

In addition, the following fields of the Participant Technical Specifications would indicate the CAT Executing

Brokers for the transactions executed otherwise than on an exchange.

TRF/ORF/ADF TRANSACTION DATA EVENT (TRF)²⁵

No.	Field name	Data type	Description	Include key
26	reportingExecutingMpid	Member Alias	MPID of the executing party	R
28	contraExecutingMpid	Member Alias	MPID of the contra-side executing party	C

(2) Calculation of Fee Rate for Historical CAT Assessment 1A

The Operating Committee determined the fee rate to be used in calculating Historical CAT Assessment 1A based on the Historical CAT Costs for Historical CAT Assessment 1A and the projected total executed share volume of all transactions in Eligible Securities for the Historical Recovery Period for Historical CAT Assessment 1A (“Historical Recovery Period 1A”), as discussed in detail below. Based on this calculation, the Operating Committee has determined that the fee rate for Historical CAT Assessment 1A would be \$0.000002, as discussed in detail below.

(A) Executed Equivalent Shares for Transactions in Eligible Securities

Under the CAT NMS Plan, for purposes of calculating each Historical CAT Assessment, executed equivalent shares in a transaction in Eligible Securities will be reasonably counted as follows: (1) each executed share for a transaction in NMS Stocks will be counted as one executed equivalent share; (2) each executed contract for a transaction in Listed Options will be counted based on the multiplier applicable to the specific Listed Options (*i.e.*, 100 executed equivalent shares or such other applicable multiplier); and (3) each executed share for a transaction in OTC Equity Securities shall be counted as 0.01 executed equivalent share.²⁶

(B) Historical CAT Costs

The CAT NMS Plan states that “[t]he Operating Committee will reasonably determine the Historical CAT Costs sought to be recovered by each Historical CAT Assessment, where the Historical CAT Costs will be Past CAT Costs minus Past CAT Costs reasonably excluded from Historical CAT Costs by the Operating Committee. Each Historical CAT Assessment will seek to recover from CAT Executing Brokers two-thirds of Historical CAT Costs incurred during the period covered by the Historical CAT Assessment.”²⁷ Historical CAT Assessment 1, the original Historical CAT Assessment, was implemented to recover \$212,039,879.34 of Historical CAT Costs 1 from CEBBs and CEBBs collectively.²⁸ As described in the fee filings for Historical CAT Assessment 1, Historical CAT Costs 1 of \$212,039,879.34 includes Past CAT Costs of \$401,312,909 minus certain Excluded Costs of \$83,253,090. As described in the filing for Historical CAT Assessment 1, Participants collectively will remain responsible for one-third of Historical CAT Costs 1 (which is \$106,019,939.67), plus the Excluded Costs of \$83,253,090. Accordingly, CEBBs collectively will be responsible for one-third of Historical CAT Costs 1 (which is \$106,019,939.67), and CEBBs collectively will be responsible for one-third of Historical CAT Costs 1 (which is \$106,019,939.67), for a total of \$212,039,879.34. CEBBs and CEBBs collectively have been invoiced for \$173,075,024 of the

\$212,039,879.34 of Historical CAT Costs 1 via Historical CAT Assessment 1. Accordingly, Historical CAT Assessment 1A would charge CEBBs and CEBBs collectively for the remaining \$38,964,855.34 of Historical CAT Costs 1 that was not invoiced to CEBBs and CEBBs via Historical CAT Assessment 1. Historical CAT Assessment 1A will be designed to recover the remaining \$38,964,855.34 of Historical CAT Costs 1 from CEBBs and CEBBs collectively, with CEBBs collectively responsible for \$19,482,427.67 and CEBBs collectively responsible for \$19,482,427.67.

(i) Historical CAT Costs 1

The following describes in detail Historical CAT Costs 1 with regard to four separate historical time periods as well as Past CAT Costs excluded from Historical CAT Costs 1 (“Excluded Costs”). The following cost details are provided in accordance with the requirement in the CAT NMS Plan to provide in the fee filing “a brief description of the amount and type of Historical CAT Costs, including (1) the technology line items of cloud hosting services, operating fees, CAIS operating fees, change request fees, and capitalized developed technology costs, (2) legal, (3) consulting, (4) insurance, (5) professional and administration and (6) public relations costs.”²⁹ Each of the costs described below are reasonable, appropriate and necessary for the creation, implementation and maintenance of CAT. These Historical

²⁴ See Table 52, Section 5.2.5.1 (Simple Option Trade Event) of the CAT Reporting Technical Specifications for Plan Participants.

²⁵ See Table 62, Section 6.1 (TRF/ORF/ADF Transaction Data Event) of the CAT Reporting Technical Specifications for Plan Participants.

²⁶ Section 11.3(a)(i)(B) and 11.3(b)(i)(B) of the CAT NMS Plan. In approving the CAT Funding Model, the Commission concluded that “in the Commission’s view, the use of executed equivalent share volume as the basis for determining and allocating CAT costs during the two-year interim period is appropriate and consistent with the

funding principles of the CAT NMS Plan.” CAT Funding Model Approval Order at 13427.

²⁷ Section 11.3(b)(i)(C) of the CAT NMS Plan.

²⁸ See Historical CAT Assessment 1 Filing at 73874.

²⁹ Section 11.3(b)(iii)(B)(II)(B) of the CAT NMS Plan.

CAT Costs 1 are the same as described in the fee filing for Historical CAT Assessment 1.³⁰

(a) Historical CAT Costs Incurred Prior to June 22, 2020 (Pre-FAM Costs)

Historical CAT Costs 1 would include costs incurred by CAT prior to June 22, 2020 ("Pre-FAM Period") and already

funded by the Participants, excluding Excluded Costs (described further below). Historical CAT Costs 1 would include costs for the Pre-FAM Period of \$124,290,730. The Participants would remain responsible for one-third of this cost (which they have previously paid) (\$41,430,243.33), and Industry Members would be responsible for the remaining

two-thirds, with CEBBs paying one-third (\$41,430,243.33) and CEBBs paying one-third (\$41,430,243.33). These costs do not include Excluded Costs, as discussed further below. The following table breaks down Historical CAT Costs 1³¹ for the Pre-FAM Period into the categories set forth in Section 11.3(b)(iii)(B)(II) of the CAT NMS Plan.

Operating expense	Historical CAT costs 1 for Pre-FAM Period (prior to June 22, 2020) **
Capitalized Developed Technology Costs *	\$51,847,150
Technology Costs	33,568,579
Cloud Hosting Services	10,268,840
Operating Fees	21,085,485
CAIS Operating Fees	2,072,908
Change Request Fees	141,346
Legal	19,674,463
Consulting	17,013,414
Insurance	880,419
Professional and administration	1,082,036
Public relations	224,669
Total Operating Expenses	124,290,730

* The non-cash amortization of these capitalized developed technology costs of \$2,115,545 incurred during the period prior to June 22, 2020 have been appropriately excluded from the above table.³²

The Pre-FAM Period includes a broad range of CAT-related activity from 2012 through June 22, 2020, including the evaluation of the requirements of SEC Rule 613, the development of the CAT NMS Plan, the evaluation and selection of the initial and successor Plan Processors, the commencement of the creation and implementation of the CAT to comply with Rule 613 and the CAT NMS Plan, including technical specifications for transaction reporting and regulatory access, and related technology and the commencement of reporting to the CAT. The following describes the costs for each of the categories for the Pre-FAM Period.

(I) Technology Costs—Cloud Hosting Services

The \$10,268,840 in technology costs for cloud hosting services represent costs incurred for services provided by the cloud services provider for the CAT,

Amazon Web Services, Inc. ("AWS"), during the Pre-FAM Period.

As part of its proposal for acting as the successor Plan Processor for the CAT, FCAT selected AWS as a subcontractor to provide cloud hosting services. In 2019, after reviewing the capabilities of other cloud services providers, FCAT determined that AWS was the only cloud services provider at that time sufficiently mature and capable of providing the full suite of necessary cloud services for the CAT, including, for example, the security, resiliency and complexity necessary for the CAT computing requirements. The use of cloud hosting services is standard for this type of high-volume data activity and reasonable and necessary for implementation of the CAT, particularly given the substantial data volumes associated with the CAT.

Under the Plan Processor Agreement with FCAT, CAT LLC is required to pay FCAT the fees incurred by the Plan

Processor for cloud hosting services provided by AWS as FCAT's subcontractor on a monthly basis for the cloud hosting services, and FCAT, in turn, pays such fees to AWS. The fees for cloud hosting services were negotiated by FCAT on an arm's length basis with the goals of managing cost and receiving services required to comply with the CAT NMS Plan and Rule 613, taking into consideration a variety of factors, including the expected volume of data, the breadth of services provided and market rates for similar services. The fees for cloud hosting services during the Pre-FAM Period were paid to FCAT by CAT NMS, LLC³³ and subsequently Consolidated Audit Trail, LLC (as previously noted, both entities are referred to generally as "CAT LLC"),³⁴ and FCAT, in turn, paid AWS. CAT LLC was funded via loan contributions by the Participants.³⁵

AWS was engaged by FCAT to provide a broad array of cloud hosting

³⁰ See generally Historical CAT Assessment 1 Filing.

³¹ The costs described in this table of costs for the Pre-FAM Period were calculated based upon CAT LLC's review of applicable bills and invoices and related financial statements. CAT LLC financial statements are available on the CAT website. In addition, in accordance with Section 6.6(a)(i) of the CAT NMS Plan, in 2018 CAT LLC provided the SEC with "an independent audit of fees, costs, and expenses incurred by the Participants on behalf of the Company prior to the Effective Date of the Plan that will be publicly available." The audit is available on the CAT website.

³² With respect to certain costs that were "appropriately excluded," such excluded costs

relate to the amortization of capitalized technology costs, which are amortized over the life of the Plan Processor Agreement. As such costs have already been otherwise reflected in the filing, their inclusion would double count the capitalized technology costs. In addition, amortization is a non-cash expense.

³³ CAT NMS, LLC was formed by FINRA and the U.S. national securities exchanges to implement the requirements of SEC Rule 613 under the Exchange Act. SEC Rule 613 required the SROs to jointly submit to the SEC the CAT NMS Plan to create, implement and maintain the CAT. The SEC approved the CAT NMS Plan on November 15, 2016. CAT NMS Plan Approval Order.

³⁴ On August 29, 2019, the Participants formed a new Delaware limited liability company named Consolidated Audit Trail, LLC for the purpose of conducting activities related to the CAT from and after the effectiveness of the proposed amendment of the CAT NMS Plan to replace CAT NMS, LLC. See Securities Exchange Act Rel. No. 87149 (Sept. 27, 2019), 84 FR 52905 (Oct. 3, 2019).

³⁵ For each of the costs paid by CAT NMS, LLC and Consolidated Audit Trail, LLC as discussed throughout this filing, CAT NMS, LLC and Consolidated Audit Trail, LLC paid these costs via loan contributions by the Participants to CAT NMS, LLC and Consolidated Audit Trail, LLC, respectively.

services for the CAT, including data ingestion, data management, and analytic tools. Services provided by AWS include storage services, databases, compute services and other services (such as networking, management tools and DevOps tools). AWS also was engaged to provide various environments for CAT, such as development, performance testing, test and production environments.

The cost for AWS services for the CAT is a function of the volume of CAT Data. The greater the amount of CAT Data, the greater the cost of AWS

services to the CAT. During the Pre-FAM Period from the engagement of AWS in February 2019 through June 2020, AWS provided cloud hosting services for volumes of CAT Data far in excess of the volume predictions set forth in the CAT NMS Plan. The CAT NMS Plan states, when all CAT Reporters are submitting their data to the CAT, it “must be sized to receive[,] process and load more than 58 billion records per day,”³⁶ and that “[i]t is expected that the Central Repository will grow to more than 29 petabytes of raw, uncompressed data.”³⁷ However,

the volume of CAT Data for the Pre-FAM Period was far in excess of these predicted levels. By the end of this period, data submitted to the CAT included options and equities Participant Data,³⁸ Phase 2a and Phase 2b Industry Member Data³⁹ (including certain linkages), as well as SIP Data,⁴⁰ reference data and other types of Other Data.⁴¹ The following chart provides data regarding the average daily volume, cumulative total events, total compute hours and storage footprint of the CAT during the Pre-FAM Period.⁴²

	Date range: 3/29/19 to 4/12/20 *	Date range: 4/13/20 to 6/21/20 **
Average Daily Volume in Billions:		
Participant—Equities	5	5
Participant—Options	80	981
Industry Member—Equities		3
Industry Member—Options		0.04
SIP—Options & Equities	64	70
Average Total Daily Volume	149	166
Cumulative Total Events for the Period	3,890	4,990
Total Compute Hours for the Period	*** N/A	5,663,247
Storage Footprint at End of Period (Petabytes)	30.57	47.96

* The Participant Equities in RSA format.

** Start of Industry Member reporting on 4/13/2020

*** Note that, although there were compute hours during this period, data related to such compute hours are no longer available in current data.

(II) Technology Costs—Operating Fees

The \$21,085,485 in technology costs related to operating fees represent costs incurred with regard to activities of FCAT as the Plan Processor. Operating fees are those fees paid by CAT LLC to FCAT as the Plan Processor to operate and maintain the CAT and to perform business operations related to the system, including compliance, security, testing, training, communications with the industry (e.g., management of the FINRA CAT Helpdesk, FAQs, website and webinars) and program management as required by the CAT NMS Plan.

FCAT was selected to assume the role of the successor Plan Processor. Prior to this selection, the Participants engaged in discussions with two prior Bidders⁴³ for the successor Plan Processor role. The Operating Committee formed a Selection Subcommittee in accordance with Section 4.12 of the CAT NMS Plan to evaluate and review Bids and to make

a recommendation to the Operating Committee with respect to the selection of the successor Plan Processor. In an April 9, 2019 letter to the Commission, the Participants described the reasons for its selection of the successor Plan Processor:

The Selection Subcommittee considered factors including, but not limited to, the following, in recommending FINRA to the Operating Committee as the successor Plan Processor:

a. FINRA’s specialized technical expertise and capabilities in the area of broker-dealer technology;

b. The need to appoint a successor Plan Processor with specialized expertise to develop, implement, and maintain the CAT System in accordance with the CAT NMS Plan and SEC Rule 613;

c. FINRA’s detailed proposal in response to CATLLC’s recent inquiries; and

d. FINRA’s data query and analytics systems demonstration to the Participants.

Based on these and other factors, the Selection Subcommittee determined that FINRA was the most appropriate Bidder to become the successor Plan Processor.⁴⁴

On February 26, 2019, the Operating Committee (with FINRA recusing itself) voted to select FINRA as the successor Plan Processor pursuant to Section 6.1(t) of the CAT NMS Plan.⁴⁵ On March 29, 2019, CAT LLC and FCAT (a wholly owned subsidiary of FINRA) entered into a Plan Processor Agreement pursuant to which FCAT would perform the functions and duties of the Plan Processor contemplated by the CAT NMS Plan, including the management and operation of the CAT.

Under the Plan Processor Agreement with FCAT, CAT LLC is required to pay FCAT a negotiated monthly fixed price for the operation of the CAT. This fixed price contract was negotiated on an

³⁶ Appendix D–4 of the CAT NMS Plan at n.262.

³⁷ Appendix D–5 of the CAT NMS Plan.

³⁸ See Section 6.3(d) of the CAT NMS Plan.

³⁹ See Securities Exchange Rel. No. 88702 (Apr. 20, 2020), 85 FR 23075 (Apr. 24, 2020) (“Phased Reporting Exemptive Relief Order”) for a description of Phase 2a and Phase 2b Industry Member Data.

⁴⁰ See Section 6.5(a)(ii) of the CAT NMS Plan.

⁴¹ See Appendix C–109 of the CAT NMS Plan.

⁴² Note that the volume data described in this table does not include CAIS data.

⁴³ The term “Bidder” is defined in Section 1.1 of the CAT NMS Plan.

⁴⁴ Letter from Michael J. Simon, Chair, CAT NMS, LLC Operating Committee, to Brent J. Fields, Secretary, SEC (Apr. 9, 2019), <https://www.sec.gov/divisions/marketreg/rule613-info-notice-of-plan-processor-selection-040919.pdf>.

⁴⁵ *Id.*

arm's length basis with the goals of managing costs and receiving services required to comply with the CAT NMS Plan and Rule 613, taking into consideration a variety of factors, including the breadth of services provided and market rates for similar types of activity. The operating fees during the Pre-FAM Period were paid to FCAT by CAT LLC.

From March 29, 2019 (the commencement of the Plan Processor Agreement with FCAT) through June 22, 2020 (the end of the Pre-FAM Period), the Plan Processor's activities with respect to the CAT included the following:

- Commenced user acceptance testing with market data provided by Exegy Incorporated ("Exegy"), a market data provider;⁴⁶
- Published Technical Specifications and related reporting scenarios documents for Phase 2a, 2b and 2c reporting for Industry Members, after substantial engagement with SEC staff, Industry Members and Participants on the Technical Specifications;
- Facilitated testing for Phase 2a and 2b reporting for Industry Members;
- Began developing Technical Specifications and related reporting scenarios documents for Phase 2d reporting for Industry Members, after substantial engagement with SEC staff, Industry Members and Participants on the Technical Specifications;
- Published Central Repository Access Technical Specifications, and provided regulator access to test data from Industry Members;
- Facilitated Participant exchanges that support options market makers sending Quote Sent Time to the CAT;
- Facilitated the introduction of OPRA and Options NBBO Other Data to CAT;
- Addressed compliance items, including drafting CAT policies and procedures, and addressing requirements under Regulation SCI;
- Provided support to the Operating Committee, the Compliance Subcommittee and CAT working groups;
- Assisted with interpretive efforts and exemptive requests regarding the CAT NMS Plan;
- Oversaw the security of the CAT;
- Monitored the operation of the CAT, including with regard to Participant and Industry Member reporting;
- Provided support to subcontractors under the Plan Processor Agreement;

⁴⁶ The use of Exegy to provide market data, including the costs and market data provided, is discussed below in Section 3(a)(2)(B)(a)(IX).

- Provided support in discussions with Participants, the SEC and its staff;
- Operated the FINRA CAT Helpdesk, which is the primary source for answers to questions about CAT, including questions regarding: clock synchronization, firm reporting responsibilities, interpretive questions, technical specifications for reporting to CAT and more;
- Facilitated communications with the industry, including via FAQs, CAT Alerts, meetings, presentations and webinars;
- Administered the CAT website and all of its content;⁴⁷ and
- Provided technical support and assistance with connectivity, data access, and user support, including the use of CAT Data and query tools, for Participants and the SEC staff.

(III) Technology Costs—CAIS Operating Fees

The \$2,072,908 in technology costs related to CAIS operating fees represent the fees paid for FCAT's subcontractor charged with the development and operation of CAT's Customer and Account Information System ("CAIS"). The CAT is required under the CAT NMS Plan to capture and store Customer Identifying Information and Customer Account Information in a database separate from the transactional database and to create a CAT-Customer-ID for each Customer.

During the Pre-FAM Period, the CAIS-related services were provided by the Plan Processor through the Plan Processor's subcontractor, Kingland Systems Incorporation ("Kingland"). Kingland had experience operating in the securities regulatory technology space, and as a part of its proposal for acting as the Plan Processor for the CAT, FCAT selected Kingland as a subcontractor to provide certain CAIS-related services.

Under the Plan Processor Agreement with FCAT, CAT LLC was required to pay to the Plan Processor the fees incurred by FCAT for CAIS-related services provided by FCAT through Kingland on a monthly basis. FCAT negotiated the fees for Kingland's CAIS-related services on an arm's length basis with the goals of managing costs and receiving services required to comply with the CAT NMS Plan, taking into consideration a variety of factors, including the services to be provided and market rates for similar types of activity. The fees for CAIS-related services during the Pre-FAM Period

were paid by CAT LLC to FCAT. FCAT, in turn, paid Kingland.

During the Pre-FAM Period, Kingland began development of the CAIS Technical Specifications and the building of CAIS. In addition, Kingland also worked on the build related to the CCID Alternative, an alternative approach to customer information that was not included in the CAT NMS Plan as originally adopted.⁴⁸ Furthermore, Kingland also worked on the acceleration of the reporting of large trader identifiers ("LTID") earlier than originally contemplated during this period, in accordance with exemptive relief granted by the SEC.⁴⁹

(IV) Technology Costs—Change Request Fees

The technology costs related to change request fees include costs related to certain modifications, upgrades or other changes to the CAT. Change requests are standard practice and necessary to reflect operational changes, including changes related to new market developments, such as new market participants. In general, if CAT LLC determines that a modification, upgrade or other change to the functionality or service is necessary and appropriate, CAT LLC will submit a request for such a change to the Plan Processor. The Plan Processor will then respond to the request with a proposal for implementing the change, including the cost (if any) of such a change. CAT LLC then determines whether to approve the proposed change. The change request costs were paid by CAT LLC to FCAT. During the Pre-FAM Period, CAT LLC incurred costs of \$141,346 related to change requests implemented by FCAT. Such change requests related to a development fee regarding the OPRA and SIP data feeds, and the reprocessing of certain exchange data.⁵⁰

(V) Technology Costs—Capitalized Developed Technology Costs

This category of costs includes capitalizable application development costs incurred in the development of the CAT. The capitalized developed technology costs for the Pre-FAM Period of \$51,847,150 relate to technology provided by the Initial Plan Processor and the successor Plan Processor.

⁴⁸ For a discussion of the CCID Alternative, see Securities Exchange Act Rel. No. 88393 (Mar. 17, 2020), 85 FR 16152 (Mar. 20, 2020).

⁴⁹ Phased Reporting Exemptive Relief Order at 23079–80.

⁵⁰ Note that CAT LLC also has incurred costs related to specific Industry Members (e.g., reprocessing costs related to Industry Member reporting errors).

⁴⁷ The CAT website is <https://www.catnmsplan.com>.

Initial Plan Processor: Thesys CAT, LLC. The capitalized developed technology costs related to the Initial Plan Processor include costs incurred with regard to testing for Participant reporting, Participant reporting to the CAT, a security assessment of the CAT, and the development of the billing function for the CAT.

On January 17, 2017, the Selection Committee of the CAT NMS Plan selected the Initial Plan Processor, Thesys Technologies, LLC, for the CAT NMS Plan pursuant to Article V of the CAT NMS Plan.⁵¹ The Participants utilized a request for proposal ("RFP") to seek proposals to build and operate the CAT, receiving a number of proposals in response to the RFP. The Participants carefully reviewed and considered each of the proposals, including holding in-person meetings with each of the Bidders. After several rounds of review, the Participants selected the Initial Plan Processor in accordance with the CAT NMS Plan, taking into consideration that the Initial Plan Processor had experience operating in the securities regulatory technology space, among other considerations. On April 6, 2017, CAT LLC entered into an agreement with Thesys CAT LLC ("Thesys CAT"), a Thesys affiliate, to perform the functions and duties of the Plan Processor contemplated by the CAT NMS Plan, including the management and operation of the CAT. Under the agreement, CAT LLC would pay Thesys CAT a negotiated, fixed price fee for its role as the Initial Plan Processor. Effective January 30, 2019, the Plan Processor Agreement with Thesys CAT was terminated, and FCAT was subsequently selected as the successor Plan Processor.

From January 17, 2017 through January 30, 2019, the time in which Thesys CAT was engaged for the CAT, but excluding the period from November 15, 2017 through January 30, 2019, the Initial Plan Processor engaged in various activities with respect to the CAT, including preparing iterative drafts of Participant Technical Specifications, Industry Member Technical Specifications and the Central Repository Access Technical Specifications. In addition, Thesys CAT also developed CAT technology, addressed compliance items, including drafting CAT policies and procedures, addressing Regulation SCI requirements, establishing a CAT Compliance Officer and a Chief Information Security

Officer, addressed security-related matters for the CAT, and worked towards the initiation of Participant reporting per the Participant Technical Specifications.

Successor Plan Processor: FCAT. The capitalized developed technology costs related to FCAT include: (1) development costs incurred during the application development stage to meet various agreed-upon milestones regarding the CAT, including the completion of go-live functionality related to options ingestion and validation, equities regulatory services agreement query tool updates and unlinked options data query, options linkages release, Industry Member Phase 2a file submission and data integrity (including error corrections), and Industry Member testing, including reporting relationships, ATS order type management, basic reporting statistics, SFTP data integrity feedback and error correction; (2) costs related to certain modifications, upgrades, or other changes to the CAT that were not contemplated by the agreement between CAT LLC and the Plan Processor, including a one-time development fee for a secure analytics workspace, a one-time development fee for an Industry Member connectivity solution, and a one-time development fee for the acceleration of multi-factor authentication; (3) CAIS implementation fees; and (4) license fees.

(VI) Legal Costs

The legal costs of \$19,674,463 represent the fees paid for legal services provided by two law firms, Wilmer Cutler Pickering Hale and Dorr LLP ("WilmerHale") and Pillsbury Winthrop Shaw Pittman LLP ("Pillsbury"), during the Pre-FAM Period. The legal costs exclude those costs incurred from November 15, 2017 through November 15, 2018.

Law Firm: WilmerHale. Following the adoption of Rule 613, the Participants determined it was necessary to engage external legal counsel to advise the Participants with respect to corporate and regulatory legal matters related to the CAT, including drafting and developing the CAT NMS Plan. The Participants considered a variety of factors in their analysis of prospective law firms, including (1) the firm's qualifications, resources and expertise; (2) the firm's relevant experience and understanding of the regulatory matters raised by the CAT and in advising on matters of similar scope; (3) the composition of the legal team; and (4) professional fees. Following a series of interviews, the Participants acting as a

consortium determined that WilmerHale was well qualified given the balance of these considerations and engaged WilmerHale in February 2013.

WilmerHale's billing rates are negotiated on an annual basis and are determined with reference to the rates charged by other leading law firms for similar work. The Participants assess WilmerHale's performance and review prospective budgets and staffing plans submitted by WilmerHale on an annual basis. WilmerHale's compensation arrangements are reasonable and appropriate, and in line with the rates charged by other leading law firms for similar work.

The legal costs for WilmerHale during the Pre-FAM Period included costs incurred from 2013 until June 22, 2020 to address corporate and regulatory legal matters related to the CAT. The legal fees for this law firm during the period from February 2013 until the formation of the CAT NMS, LLC on November 15, 2016 were paid directly by the exchanges and FINRA to WilmerHale. After the formation of CAT NMS LLC, the legal fees were paid by CAT LLC to WilmerHale.

After WilmerHale was engaged in 2013 through the end of the Pre-FAM Period on June 22, 2020 (excluding the legal costs from November 15, 2017 through November 15, 2018), WilmerHale provided legal assistance to the CAT on a variety of matters, including with regard to the following:

- Analyzed various legal matters associated with the Selection Plan, and drafted an amendment to the Selection Plan;
- Assisted with the RFP and bidding process for the CAT Plan Processor;
- Analyzed legal matters related to the Development Advisory Group ("DAG");
- Drafted the CAT NMS Plan, analyzed various items related to the CAT NMS Plan, and responded to comment letters on CAT NMS Plan;
- Provided legal support for the formation of the legal entity, the governance of the CAT, including governance support prior to the adoption of the CAT NMS Plan, which involved support for the full committee of exchanges and FINRA as well as subcommittees of this group (e.g., Joint Subcommittee Group, Technical, Industry Outreach, Cost and Funding and Other Products) and the DAG, governance support during the transition to the new governance structure under the CAT NMS Plan, and governance support after the adoption of the CAT NMS Plan, which involved support for the Operating Committee, Advisory Committee, Compliance

⁵¹ Letter from the Participants to Brent J. Fields, Secretary, SEC (Jan. 18, 2017), <https://www.sec.gov/divisions/marketregrule613-info-notice-of-plan-processor-selection.pdf>.

Subcommittee and CAT working groups;

- Assisted with the development of the CAT funding model and drafted related amendments of the CAT NMS Plan and related filings;

- Negotiated and drafted the plan processor agreements with the Initial Plan Processor and the successor Plan Processor;

- Provided assistance with compliance with Regulation SCI;

- Assisted with clock synchronization study;

- Provided assistance with respect to the establishment of CAT security;

- Drafted exemptive requests from CAT NMS Plan requirements, including with regard to options market maker quotes, Customer IDs, CAT Reporter IDs, linking allocations to executions, CAT reporting timeline, FDIDs, customer and account information, timestamp granularity, small industry members, data facility reporting and linkage, allocation reports, SRO-assigned market participant identifiers and cancelled trade indicators, thereby seeking to implement changes that would be cost effective and benefit Industry Members and Participants;

- Assisted with the Implementation Plan required pursuant to Section 6.6(c)(i) of the CAT NMS Plan;

- Provided advice regarding CAT policies and procedures;

- Analyzed the SEC's amendment of the CAT NMS Plan regarding financial accountability;

- Provided interpretations of and related to the CAT NMS Plan;

- Provided support with regard to discussions with the SEC and its staff, including with respect to addressing interpretive and implementation issues; and

- Assisted with third-party vendor agreements.

Law Firm: Pillsbury. The legal costs for CAT during the Pre-FAM Period include costs related to the legal services performed by Pillsbury. The Participants interviewed this law firm as well as other potential law firms to provide legal assistance regarding certain liability matters. After considering a variety of factors in its analysis, including the relevant expertise and fees of the firm, CAT LLC determined to hire Pillsbury in April 2019. The hourly fee rates for this law firm were in line with market rates for specialized legal expertise. The legal fees were paid by CAT LLC to Pillsbury. The legal costs for Pillsbury during the Pre-FAM Period included costs incurred from April 2019 until June 22, 2020 to address legal matters regarding the agreements between CAT Reporters and

CAT LLC concerning certain terms associated with CAT Reporting (the "Reporter Agreement"). During that period, Pillsbury advised CAT LLC regarding applicable legal matters, participated in negotiations between the Participants and Industry Members, participated in meetings with senior SEC staff, the Chairman, and Commissioners, represented CAT LLC and the Participants in an SEC administrative proceeding, and drafted a proposed amendment to the CAT NMS Plan regarding liability matters. Liability issues related to the CAT are important matters that needed to be resolved and clarified. CAT LLC's efforts to seek such resolution and clarity work to the benefit of Participants, Industry Members and other market participants. Moreover, litigation involving CAT LLC is an expense of operating the CAT, and, therefore, is appropriately an obligation of both Participants and Industry Members under the CAT Funding Model.

(VII) Consulting Costs

The consulting costs of \$17,013,414 represent the fees paid to the consulting firm Deloitte & Touche LLP ("Deloitte") as project manager during the Pre-FAM Period, from October 2012 until June 22, 2020. These consulting costs include costs for advisory services related to the operation of the CAT, and meeting facilitation and communications coordination, vendor support and financial analyses.

To help facilitate project management given the unprecedented complexity and scope of the CAT project, the Participants determined it was necessary to engage a consulting firm to assist with the CAT project in 2012, following the adoption of Rule 613. A variety of factors were considered in the analysis of prospective consulting firms, including (1) the firm's qualifications, resources, and expertise; (2) the firm's relevant experience and understanding of the regulatory issues raised by the CAT and in coordinating matters of similar scope; (3) the composition of the consulting team; and (4) professional fees. Following a series of interviews, the exchanges and FINRA as a consortium determined that Deloitte was well qualified given the balance of these considerations and engaged Deloitte on October 1, 2012.

Deloitte's fee rates are negotiated on an annual basis and are in line with market rates for this type of specialized consulting work. CAT LLC assesses Deloitte's performance and reviews prospective budgets and staffing plans submitted by Deloitte on an annual basis. Deloitte's compensation

arrangements are reasonable and appropriate, and in line with the rates charged by other leading consulting firms for similar work.

The consulting costs for CAT during the period from 2012 until the formation of the CAT NMS, LLC were paid directly by the Participants to Deloitte. After the formation of CAT NMS, LLC, the consulting fees were paid by CAT LLC to Deloitte. CAT LLC reviewed the consulting fees each month and approved the invoices.

After Deloitte was hired in 2012 through the end of the Pre-FAM Period on June 22, 2020 (excluding the consulting costs from November 15, 2017 through November 15, 2018), Deloitte provided a variety of consulting services, including the following:

- Established and implemented program operations for the CAT project, including the program management office and workstream design;

- Assisted with the Plan Processor selection process, including but not limited to, the development of the RFP and the bidder evaluation process, and facilitation and consolidation of the Participant's independent reviews;

- Assisted with the development and drafting of the CAT NMS Plan, including conducting cost-benefit studies, analyzing OATS and CAT requirements, and drafting appendices to the Plan;

- Assisted with cost and funding-related activities for the CAT, including the development of the CAT funding model and assistance with loans and the CAT bank account for CAT funding;

- Provided governance support to the CAT, including governance support prior to the adoption of the CAT NMS Plan, which involved support for the full committee of exchanges and FINRA as well as subcommittees of this group (e.g., Joint Subcommittee Group, Technical, Industry Outreach, Cost and Funding and Other Products) and the DAG, governance support during the transition to the new governance structure under the CAT NMS Plan and governance support after the adoption of the CAT NMS Plan, which involved support for the Operating Committee, Advisory Committee, Compliance Subcommittee and CAT working groups;

- Provided support to the Operating Committee, the Chair of the Operating Committee and the Leadership Team, including project management support, coordination and planning for meetings and communications, and interfacing with law firms and the SEC;

- Assisted with industry outreach and communications regarding the CAT, including assistance with industry

outreach events, the development of the CAT website, frequently asked questions, and coordinating with the CAT LLC's public relations firm;

- Provided support for updating the SEC on the progress of the development of the CAT;
- Provided active planning and coordination with and support for the Initial Plan Processor with regard to the development of the CAT, and reported to the Participants on the progress;
- Coordinated efforts regarding the selection of the successor Plan Processor;
- Assisted with the transition from the Initial Plan Processor to the successor Plan Processor, including support for the Operating Committee and successor Plan Processor for the new role; and
- Provided support for third-party vendors for the CAT, including FCAT, Anchin and the law firms engaged by CAT LLC.

(VIII) Insurance

The insurance costs of \$880,419 represent the cost incurred for insurance for CAT during the Pre-FAM Period. Commencing in 2020, CAT LLC performed an evaluation of various potential alternatives for CAT insurance policies, which included engaging in discussions with different insurance companies and conducting cost comparisons of various alternative approaches to insurance. Based on an analysis of a variety of factors, including coverage and premiums, CAT LLC determined to purchase cyber security liability insurance, directors' and officers' liability insurance, and errors and omissions liability insurance from USI Insurance Services LLC ("USI"). Such policies are standard for corporate entities, and cyber security liability insurance is important for the CAT System. The annual premiums for these policies were competitive for the coverage provided. The annual premiums were paid by CAT LLC to USI.

(IX) Professional and Administration Costs

In adopting the CAT NMS Plan, the Commission amended the Plan to add a requirement that CAT LLC's financial statements be prepared in compliance with GAAP, audited by an independent public accounting firm, and made publicly available.⁵² The professional and administration costs include costs related to accounting and accounting advisory services to support the operating and financial functions of

CAT, financial statement audit services by an independent accounting firm, preparation of tax returns, and various cash management and treasury functions. In addition, professional and administration costs for the Pre-FAM Period include costs related to the receipt of market data and a security assessment. The costs for these professional and administration services were \$1,082,036 for the Pre-FAM Period.

Financial Advisory Firm: Anchin Accountants & Advisors ("Anchin"). CAT LLC determined to hire a financial advisory firm, Anchin, to assist with financial matters for the CAT in April 2018. CAT LLC interviewed Anchin as well as other potential financial advisory firms to assist with the CAT project, considering a variety of factors in its analysis, including the firm's relevant expertise and fees. The hourly fee rates for this firm were in line with market rates for these financial advisory services. The fees for these services were paid by CAT LLC to Anchin.

After Anchin was hired in April 2018 through the end of the Pre-FAM Period on June 22, 2020 (excluding the period from April 2018 through November 15, 2018), Anchin provided a variety of services, including the following:

- Developed, updated and maintained internal controls;
- Provided cash management and treasury functions;
- Facilitated bill payments;
- Provided monthly bookkeeping;
- Reviewed vendor invoices and documentation in support of cash disbursements;
- Provided accounting research and consultations on various accounting, financial reporting and tax matters;
- Addressed not-for-profit tax and accounting considerations;
- Prepared tax returns;
- Addressed various accounting, financial and operating inquiries from Participants;
- Developed and maintained quarterly and annual operating and financial budgets, including budget to actual fluctuation analyses;
- Addressed accounting and financial reporting matters relating to the transition from CAT NMS, LLC to Consolidated Audit Trail, LLC, including supporting the dissolution of CAT NMS, LLC;
- Supported compliance with the CAT NMS Plan;
- Worked with and provided support to the Operating Committee and various CAT working groups;
- Prepared monthly, quarterly and annual financial statements;

- Supported the annual financial statement audits by an independent auditor;

- Reviewed historical costs from inception; and
- Provided accounting and financial information in support of SEC filings.

Accounting Firm: Grant Thornton LLP ("Grant Thornton"). In February 2020, CAT LLC determined to engage an independent accounting firm, Grant Thornton, to complete the audit of CAT LLC's financial statements, in accordance with the requirements of the CAT NMS Plan. CAT LLC interviewed this firm as well as another potential accounting firm to audit CAT LLC's financial statements, considering a variety of factors in its analysis, including the relevant expertise and fees of each of the firms. CAT LLC determined that Grant Thornton was well-qualified for the proposed role given the balance of these considerations. Grant Thornton's fixed fee rate compensation arrangement was reasonable and appropriate, and in line with the market rates charged for these types of accounting services. The fees for these services were paid by CAT LLC to Grant Thornton.

Market Data Provider: Exegy. The professional and administrative costs for the Pre-FAM Period included costs related to the receipt of certain market data for the CAT pursuant to an agreement with the CAT LLC, and then with FCAT. Exegy provided SIP Data required by the CAT NMS Plan.

After performing an analysis of the available market data vendors to confirm that the data provided met the SIP Data requirements of the CAT NMS Plan and comparing the costs of the vendors providing the required SIP Data, CAT LLC determined to purchase market data from Exegy from July 2018 through March 2019. CAT LLC determined that, unlike certain other vendors, Exegy provided market data that included all data elements required by the CAT NMS Plan.⁵³ In addition, the fees were reasonable and in line with market rates for the market data received. Accordingly, the professional and administrative costs for the Pre-FAM Period include the Exegy costs from November 2018 through March 2019. The cost of the market data was reasonable for the market data received. The fees for the market data were paid directly by CAT LLC to Exegy.

Upon the termination of the contract between CAT LLC and Exegy, FCAT entered into a contract with Exegy to purchase the required market data from Exegy in July 2019. All costs under the

⁵² Section 9.2 of the CAT NMS Plan.

⁵³ See Section 6.5(a)(ii) of the CAT NMS Plan.

contract were treated as a direct pass through cost to CAT LLC. Therefore, the fees for the market data were paid by CAT LLC to FCAT, who, in turn, paid Exegy for the market data.

Security Assessment: RSM US LLP (“RSM”). The operating costs for the Pre-FAM Period include costs related to a third party security assessment of the CAT performed by RSM. The assessment was designed to verify and validate the effective design, implementation, and operation of the controls specified by NIST Special Publication 800–53, Revision 4 and related standards and guidelines. Such a security assessment is in line with industry practice and important given the data included in the CAT. CAT LLC determined to engage RSM to perform the security assessment, after considering a variety of factors in its analysis, including the firm’s relevant expertise and fees. The fees were reasonable and in line with market rates for such an assessment. RSM performed the assessment from October 2018 through December 2018. Accordingly, the costs for the Pre-FAM Period include the costs incurred in November and December 2018. The cost for the security assessment were paid directly to RSM by CAT LLC.

(X) Public Relations Costs

The public relations costs of \$224,669 represent the fees paid to public relations firms during the Pre-FAM Period for professional communications services to CAT, including media relations consulting, strategy and execution. By engaging a public relations firm, CAT LLC was better positioned to understand and address CAT matters to the benefit of all market participants. Specifically, the public relations firms provided services related to communications with the public regarding the CAT, including

monitoring developments related to the CAT (e.g., congressional efforts, public comments and reaction to proposals, press coverage of the CAT), reporting such developments to CAT LLC, and drafting and disseminating communications to the public regarding such developments as well as reporting on developments related to the CAT (e.g., amendments to the CAT NMS Plan). Public relations services were important for various reasons, including monitoring comments made by market participants about CAT and understanding issues related to the CAT discussed on the public record.

The services performed by each of the public relations firms were comparable. The fees for such services were reasonable and in line with market rates. Only one public relations firm was engaged at a time; the three firms were engaged sequentially as the primary public relations contact moved among the three firms during this time period.

Public Relations Firm: Peppercomm, Inc. (“Peppercomm”). The national securities exchanges and FINRA, acting as a consortium, determined to hire the public relations firm Peppercomm in October 2014 and continued to engage this firm through September 2017. The exchanges and FINRA made this engagement decision after considering a variety of factors in its analysis, including the firm’s relevant expertise and fees. The fee rates for this public relations firm were negotiated on an arm’s length basis and were in line with market rates for these types of services. The public relations costs during the period from October 2014 until the formation of the CAT NMS, LLC were paid directly by the exchanges and FINRA to the public relations firm. After the formation of CAT NMS, LLC, the consulting fees were paid by CAT LLC.

Public Relations Firm: Sloane & Company (“Sloane”). CAT LLC determined to hire a new public relations firm, Sloane, in March 2018, based on, among other things, their expertise and the primary contact’s history with the project. The fee rates for this public relations firm were in line with market rates for these types of services. The fees during the Pre-FAM Period were paid by CAT LLC to Sloane. CAT LLC continued the engagement with Sloane until February 2020.

Public Relations Firm: Peak Strategies. CAT LLC determined to hire a new public relations firm, Peak Strategies, in March 2020, based on, among other things, their expertise and the primary contact’s history with the project. The fee rates for this public relations firm were in line with market rates for these types of services. The fees during the Pre-FAM Period were paid by CAT LLC to Peak Strategies.

(b) Historical CAT Costs Incurred in Financial Accountability Milestone Period 1

Historical CAT Costs 1 would include costs incurred by CAT and already funded by the Participants during Period 1 of the Financial Accountability Milestones (“FAM Period 1”),⁵⁴ which covers the period from June 22, 2020—July 31, 2020. Historical CAT Costs 1 would include costs for FAM Period 1 of \$6,377,343. The Participants would remain responsible for one-third of this cost (which they have previously paid) (\$2,125,781), and Industry Members would be responsible for the remaining two-thirds, with CEBBs paying one-third (\$2,125,781) and CEBBs paying one-third (\$2,125,781). The following table breaks down Historical CAT Costs 1 for FAM Period 1⁵⁵ into the categories set forth in Section 11.3(b)(iii)(B)(II) of the CAT NMS Plan.

Operating expense	Historical CAT costs for FAM Period 1
Capitalized Developed Technology Costs *	\$1,684,870
Technology Costs	3,996,800
Cloud Hosting Services	2,642,122
Operating Fees	1,099,680
CAIS Operating Fees	254,998
Change Request Fees .....	.....
Legal	481,687
Consulting	137,209
Insurance .....	.....
Professional and administration	69,077
Public relations	7,700

⁵⁴ Section 11.6(a)(i)(A) of the CAT NMS Plan.

⁵⁵ The costs described in this table of costs for FAM Period 1 were calculated based upon CAT LLC’s review of applicable bills and invoices and

related financial statements. CAT LLC financial statements are available on the CAT website.

Operating expense	Historical CAT costs for FAM Period 1
Total Operating Expenses	6,377,343

* The non-cash amortization of these capitalized developed technology costs of \$362,121 incurred during FAM Period 1 have been appropriately excluded from the above table.⁵⁶

By the completion of FAM Period 1, CAT LLC was required to implement the reporting by Industry Members (excluding Small Industry Members that are not OATS reporters) of equities transaction data and options transaction data, excluding Customer Account Information, Customer-ID and Customer Identifying Information.⁵⁷ CAT LLC completed the requirements of FAM Period 1 by July 31, 2020. The following describes the costs for each of the categories for FAM Period 1.

(I) Technology Costs—Cloud Hosting Services

CAT LLC continued to utilize AWS in FAM Period 1 to provide a broad array of cloud hosting services for the CAT, including data ingestion, data management, and analytic tools. AWS

continued to provide storage services, databases, compute services and other services (such as networking, management tools and DevOps tools), as well as various environments for CAT, such as development, performance testing, test, and production environments, during the FAM 1 Period. Accordingly, the \$2,642,122 in technology costs for cloud hosting services represent costs incurred for services provided by AWS, as the cloud services provider, during FAM Period 1. The fee arrangement for AWS described above with regard to the Pre-FAM Period continued in place during FAM Period 1 pursuant to the Plan Processor Agreement. Moreover, CAT LLC continued to believe that AWS's maturity in the cloud services space as well as the significant cost and time

necessary to move the CAT to a different cloud services provider supported the continued engagement of AWS.

The cost for AWS cloud services for the CAT continued to be a function of the volume of CAT Data. During the FAM 1 Period, the volume of CAT Data continued to far exceed the original predictions for the CAT as set forth in the CAT NMS Plan. During this period, data submitted to the CAT included options and equities Participant Data, Phase 2a and Phase 2b Industry Member Data (including certain linkages) as well as SIP Data, reference data and other types of Other Data. The following chart provides data regarding the average daily volume, cumulative total events, total compute hours and storage footprint of the CAT during FAM Period 1.⁵⁸

	Date range: 6/22/20–7/31/20
Average Daily Volume in Billions:	
Participant—Equities	6
Participant—Options	103
Industry Member—Equities	7
Industry Member—Options	0.31
SIP—Options & Equities	74
Average Total Daily Volume	185
Cumulative Total Events for the Period	5,190
Total Compute Hours for the Period	2,612,082
Storage Footprint at End of Period (Petabytes)	57.47

(II) Technology Costs—Operating Fees

Pursuant to the Plan Processor Agreement discussed above, FCAT continued in its role as the Plan Processor for the CAT during FAM Period 1. Accordingly, the \$1,099,680 in technology costs for operating fees represent costs incurred for the services provided by FCAT under the Plan Processor Agreement during FAM Period 1. The fee arrangement for FCAT described above with regard to the Pre-FAM Period continued in place during FAM Period 1 pursuant to the Plan Processor Agreement. During FAM Period 1, FCAT's activities with respect to the CAT included the following:

- Published iterative drafts of draft Technical Specifications for Phase 2d, after substantial engagement with SEC staff, Industry Members and Participants on the Technical Specifications;
- Published iterative drafts of CAIS Technical Specifications, after substantial engagement with SEC staff, Industry Members and Participants on the Technical Specifications;
- Facilitated Industry Member reporting of Quote Sent Time on Options Market Maker quotes;
- Addressed compliance items, including drafting CAT policies and procedures, and addressing Regulation SCI requirements;

- Provided support to the Operating Committee, the Compliance Subcommittee and CAT working groups;
- Assisted with interpretive efforts and exemptive requests regarding the CAT NMS Plan;
- Oversaw the security of the CAT;
- Monitored the operation of the CAT, including with regard to Participant and Industry Member reporting;
- Provided support to subcontractors under the Plan Processor Agreement;
- Provided support in discussions with Participants and the SEC and its staff;
- Operated the FINRA CAT Helpdesk;

⁵⁶ As discussed above, with respect to certain costs that were "appropriately excluded," such excluded costs relate to the amortization of capitalized technology costs, which are amortized over the life of the Plan Processor Agreement. As

such costs have already been otherwise reflected in the filing, their inclusion would double count the capitalized technology costs. In addition, amortization is a non-cash expense.

⁵⁷ See definition of "Initial Industry Member Core Equity and Options Reporting" in Section 1.1 of the CAT NMS Plan.

⁵⁸ Note that the volume data described in this table does not include CAIS data.

- Facilitated communications with the industry, including via FAQs, CAT Alerts, meetings, presentations and webinars;
- Administered the CAT website and all of its content; and
- Provided technical support and assistance with connectivity, data access, and user support, including the use of CAT Data and query tools, for Participants and the SEC staff.

(III) Technology Costs—CAIS Operating Fees

Pursuant to the Plan Processor Agreement discussed above, Kingland continued in its role as a subcontractor for the development and implementation of CAIS during FAM Period 1. Accordingly, the \$254,998 in technology costs for CAIS operating fees represent costs incurred for services provided by Kingland during FAM Period 1. The fee arrangement for Kingland described above with regard to the Pre-FAM Period continued in place during FAM Period 1 pursuant to the Plan Processor Agreement. During FAM Period 1, Kingland continued the development of the CAIS Technical Specifications and building of CAIS. In addition, Kingland continued to work on the CAIS Technical Specifications and build related to CCID Alternative, as well as the acceleration of the reporting of LTIDs.

(IV) Technology Costs—Change Request Fees

CAT LLC did not incur costs related to change requests during FAM Period 1.

(V) Technology Costs—Capitalized Developed Technology Costs

Capitalized developed technology costs for FAM Period 1 of \$1,684,870 include capitalizable application development costs incurred in the development of the CAT by FCAT. Such costs include: (1) costs related to certain modifications, upgrades, or other changes to the CAT that were not contemplated by the agreement between CAT LLC and the Plan Processor, including separate production and industry test entitlements, and reprocessing of exchange event timestamps; (2) implementation fees; and (3) license fees.

(VI) Legal Costs

The legal costs of \$481,687 represent the fees paid for legal services provided by two law firms, WilmerHale and Pillsbury during FAM Period 1.

Law Firm: WilmerHale. CAT LLC continued to employ WilmerHale during FAM Period 1 based on, among

other things, their expertise and long history with the project. The hourly fee rates for this law firm were in line with market rates for specialized legal expertise. The legal fees during FAM Period 1 were paid by CAT LLC to WilmerHale. During FAM Period 1, WilmerHale provided legal assistance to the CAT including with regard to the following:

- Assisted with the development of the CAT funding model and drafted related amendments and fee filings;
- Drafted exemptive requests from CAT NMS Plan requirements regarding, for example, verbal activity, options market maker quote sent time, TRF linkages, and allocations;
- Provided interpretations related to CAT NMS Plan requirements, including the Financial Accountability Milestone amendment;
- Assisted with compliance with Regulation SCI;
- Provided support for the Operating Committee, Compliance Subcommittee, working groups and Leadership Team, including with regard to meetings with the SEC staff;
- Assisted with the drafting of the Implementation Plan required pursuant to Section 6.6(c)(i) of the CAT NMS Plan;
- Assisted with communications and presentations for the industry regarding CAIS;
- Drafted SRO rule filings related to the CAT Compliance Rule;
- Provided support for Compliance Subcommittee, including with regard to responses to OCIE examinations and the annual assessment;
- Provided guidance regarding CAT technical specifications;
- Assisted with third-party vendor agreements; and
- Provided support with regard to discussions with the SEC and its staff, including with respect to addressing interpretive and implementation issues.

Law Firm: Pillsbury. CAT LLC continued to employ Pillsbury during FAM Period 1 based on, among other things, their expertise and history with the project. The hourly fee rates for this law firm were in line with market rates for specialized legal expertise. The legal fees during FAM Period 1 were paid by CAT LLC to Pillsbury. During FAM Period 1, Pillsbury provided legal assistance to the CAT regarding the CAT Reporter Agreement. During that period, Pillsbury advised CAT LLC regarding applicable legal matters and drafted a proposed amendment to the CAT NMS Plan regarding liability matters. Liability issues related to the CAT are important matters that needed to be resolved and clarified. CAT LLC's efforts to seek such

resolution and clarity work to the benefit of Participants, Industry Members and other market participants.

(VII) Consulting Costs

The consulting costs of \$137,209 represent the fees paid to Deloitte as project manager during FAM Period 1. CAT LLC continued to employ Deloitte during FAM Period 1 based on, among other things, their expertise and cumulative experience with the CAT. The fee rates for Deloitte during FAM Period 1 were negotiated and in line with market rates for this type of specialized consulting work. The consulting fees during FAM Period 1 were paid by CAT LLC to the consulting firm. CAT LLC reviewed the consulting fees each month and approved the invoices. During FAM Period 1, Deloitte's CAT-related activities included the following:

- Implemented program operations for the CAT project;
- Provided support to the Operating Committee, the Chair of the Operating Committee and the Leadership Team, including project management support, coordination and planning for meetings and communications, and interfacing with law firms and the SEC;
- Assisted with cost and funding matters for the CAT, including the development of the CAT funding model and assistance with loans and the CAT bank account for CAT funding;
- Provided support for updating the SEC on the progress of the development of the CAT;
- Assisted with the transition from the Initial Plan Processor to the successor Plan Processor; and
- Provided support for third-party vendors for the CAT, including FCAT, Anchin and the law firms engaged by CAT LLC.

(VIII) Insurance

Although insurance was in effect during FAM Period 1, CAT LLC did not incur costs related to insurance during FAM Period 1.

(IX) Professional and Administration Costs

Financial Advisory Firm: Anchin. The professional and administration costs of \$69,077 represent the fees paid to Anchin during FAM Period 1. CAT LLC continued to employ Anchin during FAM Period 1 based on, among other things, their expertise and history with the project. The hourly fee rates for this firm were in line with market rates for these type of financial advisory services. The fees for these services during FAM Period 1 were paid by CAT LLC to Anchin. During FAM Period 1, Anchin

provided a variety of services, including the following:

- Maintained internal controls;
- Provided cash management and treasury functions;
- Facilitated bill payments;
- Provided monthly bookkeeping;
- Reviewed vendor invoices and documentation in support of cash disbursements;
- Provided accounting research and consultations on various accounting, financial reporting and tax matters;
- Addressed various accounting, financial reporting and operating inquiries from Participants;
- Developed and maintained quarterly and annual operating and financial budgets, including budget to actual fluctuation analyses;
- Supported compliance with the CAT NMS Plan;
- Worked with and provided support to the Operating Committee and various CAT working groups; and
- Prepared monthly and quarterly financial statements.

(X) Public Relations Costs

The public relations costs of \$7,700 represent the fees paid to Peak Strategies during FAM Period 1. CAT

LLC continued to employ Peak Strategies during FAM Period 1 based on, among other things, their expertise and history with the project. The fee rates for this firm were reasonable and in line with market rates for these types of services. The fees for these services during FAM Period 1 were paid by CAT LLC to Peak Strategies. During FAM Period 1, Peak Strategies continued to provide professional communications services to CAT LLC, including media relations consulting, strategy and execution. Specifically, the public relations firm provided services related to communications with the public regarding the CAT, including monitoring developments related to the CAT (e.g., congressional efforts, public comments and reaction to proposals, press coverage of the CAT), reporting such developments to CAT LLC, and drafting and disseminating communications to the public regarding such developments as well as reporting on developments related to the CAT (e.g., amendments to the CAT NMS Plan). As discussed above, such public relations services were important for various reasons, including monitoring comments made by market participants about the CAT and understanding issues

related to the CAT discussed on the public record. By engaging a public relations firm, CAT LLC was better positioned to understand and address CAT matters to the benefit of all market participants.

(c) Historical CAT Costs Incurred in Financial Accountability Milestone Period 2

Historical CAT Costs 1 would include costs incurred by CAT LLC and already funded by Participants during Period 2 of the Financial Accountability Milestones (“FAM Period 2”),⁵⁹ which covers the period from August 1, 2020–December 31, 2020. Historical CAT Costs 1 would include costs for FAM Period 2 of \$42,976,478. The Participants would remain responsible for one-third of this cost (which they have previously paid) (\$14,325,493), and Industry Members would be responsible for the remaining two-thirds, with CEBBs paying one-third (\$14,325,493) and CEBBs paying one-third (\$14,325,493). The following table breaks down Historical CAT Costs 1 for FAM Period 2⁶⁰ into the categories set forth in Section 11.3(b)(iii)(B)(II) of the CAT NMS Plan.

Operating expense	Historical CAT costs for FAM Period 2
Capitalized Developed Technology Costs *	\$6,761,094
Technology Costs	31,460,033
Cloud Hosting Services	20,709,212
Operating Fees	9,108,700
CAIS Operating Fees	1,590,298
Change Request Fees	51,823
Legal	2,766,644
Consulting	532,146
Insurance	976,098
Professional and administration	438,523
Public relations	41,940
Total Operating Expenses	42,976,478

* The non-cash amortization of these capitalized developed technology costs of \$1,892,505 incurred during FAM Period 2 have been appropriately excluded from the above table.⁶¹

By the completion of FAM Period 2, CAT LLC was required to implement the following with regard to the CAT:

(a) Industry Member reporting (excluding reporting by Small Industry Members that are not OATS reporters) for equities transactions, excluding Customer Account Information, CustomerID, and Customer Identifying Information, is developed, tested, and implemented at a 5% Error Rate or less and with sufficient intra-firm linkage, inter-firm

linkage, national securities exchange linkage, and trade reporting facilities linkage to permit the Participants and the Commission to analyze the full lifecycle of an order across the national market system, excluding linkage of representative orders, from order origination through order execution or order cancellation; and (b) the query tool functionality required by Section 6.10(c)(i)(A) and Appendix D, Sections 8.1.1–8.1.3 and Section 8.2.1 incorporates the Industry Member equities transaction data

described in condition (a) and is available to the Participants and to the Commission.⁶²

CAT LLC completed the requirements of FAM Period 2 by December 31, 2020. The following describes the costs for each of the categories for FAM Period 2.

(I) Technology Costs—Cloud Hosting Services

CAT LLC continued to utilize AWS in FAM Period 2 to provide a broad array

the filing, their inclusion would double count the capitalized technology costs. In addition, amortization is a non-cash expense.

⁶² See definition of “Full Implementation of Core Equity Reporting Requirements” in Section 1.1 of the CAT NMS Plan.

⁵⁹ Section 11.6(a)(i)(B) of the CAT NMS Plan.

⁶⁰ The costs described in this table of costs for FAM Period 2 were calculated based upon CAT LLC’s review of applicable bills and invoices and related financial statements. CAT LLC financial statements are available on the CAT website.

⁶¹ As discussed above, with respect to certain costs that were “appropriately excluded,” such excluded costs relate to the amortization of capitalized technology costs, which are amortized over the life of the Plan Processor Agreement. As such costs have already been otherwise reflected in

of cloud hosting services for the CAT, including data ingestion, data management, and analytic tools. AWS continued to provide storage services, databases, compute services and other services (such as networking, management tools and DevOps tools), as well as various environments for CAT, such as development, performance testing, test, and production environments, during the FAM 2 Period. Accordingly, the \$20,709,212 in technology costs for cloud hosting services represent costs incurred for

services provided by AWS, as the cloud services provider, during FAM Period 2. The fee arrangement for AWS described above with regard to the Pre-FAM Period and FAM Period 1 continued in place during FAM Period 2 pursuant to the Plan Processor Agreement.

The cost for AWS cloud services for the CAT continued to be a function of the volume of CAT Data. During the FAM 2 Period, the volume of CAT Data continued to far exceed the original predictions for the CAT as set forth in the CAT NMS Plan. During this period,

data submitted to the CAT included options and equities Participant Data, Phase 2a and Phase 2b Industry Member Data (including certain linkages) as well as SIP Data, and Other Data, including reference data. In addition, Industry Members began reporting LTID account information. The following chart provides data regarding the average daily volume, cumulative total events, total compute hours and storage footprint of the CAT during FAM Period 2.⁶³

Date range: 8/1/20–12/31/20	
Average Daily Volume in Billions:	
Participant—Equities	6
Participant—Options	116
Industry Member—Equities	11
Industry Member—Options	0.98
SIP—Options & Equities	80
Average Total Daily Volume	282
Cumulative Total Events for the Period	2,170
Total Compute Hours for the Period	15,660,392
Storage Footprint at End of Period (Petabytes)	114.59

(II) Technology Costs—Operating Fees

Pursuant to the Plan Processor Agreement discussed above, FCAT continued in its role as the Plan Processor for the CAT during FAM Period 2. Accordingly, the \$9,108,700 in technology costs for operating fees represent costs incurred for the services provided by FCAT under the Plan Processor Agreement during FAM Period 2. The fee arrangement for FCAT described above with regard to the Pre-FAM Period and FAM Period 1 continued in place during FAM Period 2 pursuant to the Plan Processor Agreement. During FAM Period 2, FCAT's activities with respect to the CAT included publishing the Technical Specifications for Phase 2d and overseeing the reporting of firm to firm and intrafirm linkages by Industry Members. In addition, FCAT also continued to engage in the following activities during FAM Period 2:

- Addressed compliance items, including drafting CAT policies and procedures, and addressing Regulation SCI requirements;
- Provided support to the Operating Committee, Compliance Subcommittee and CAT working groups;
- Assisted with interpretive efforts and exemptive requests regarding the CAT NMS Plan;

- Oversaw the development and implementation of the security of the CAT;
- Monitored the operation of the CAT, including with regard to Participant and Industry Member reporting;
- Provided support to subcontractors under the Plan Processor Agreement;
- Provided support in discussions with the Participants and the SEC and its staff;
- Operated the FINRA CAT Helpdesk;
- Facilitated communications with the industry, including via FAQs, CAT Alerts, meetings, presentations and webinars;
- Administered the CAT website and all of its content; and
- Provided technical support and assistance with connectivity, data access, and user support, including the use of CAT Data and query tools, for Participants and the SEC staff.

(III) Technology Costs—CAIS Operating Fees

Pursuant to the Plan Processor Agreement discussed above, Kingland continued in its role as a subcontractor for the development and implementation of CAIS during FAM Period 2. Accordingly, the \$1,590,298 in technology costs for CAIS operating fees represent costs incurred for services provided by Kingland during FAM

Period 2. The fee arrangement for Kingland described above with regard to the Pre-FAM Period and FAM Period 1 continued in place during FAM Period 2 pursuant to the Plan Processor Agreement. During FAM Period 2, Kingland continued the development of the CAIS Technical Specifications and building of CAIS. In addition, Kingland continued to work on the CAIS Technical Specifications and build related to the CCID Alternative, as well as the acceleration of the reporting of LTIDs.

(IV) Technology Costs—Change Request Fees

During FAM Period 2, CAT LLC engaged FCAT to pursue certain change requests in accordance with the Plan Processor Agreement. The change request costs were paid by CAT LLC to FCAT. Specifically, during FAM Period 2, CAT incurred costs of \$51,823 related to a change request regarding the addition of functionality for exchange Participants to report rejected messages to the CAT.

(V) Technology Costs—Capitalized Developed Technology Costs

Capitalized developed technology costs for FAM Period 2 of \$6,761,094 include capitalizable application development costs incurred in the

⁶³ Note that the volume data described in this table does not include CAIS data.

development of the CAT by FCAT. Such costs include (1) development costs incurred during the application development stage to meet various agreed-upon milestones regarding the CAT, as defined in the agreement between CAT LLC and the Plan Processor; (2) costs related to certain modifications, upgrades, or other changes to the CAT that were not contemplated by the agreement between CAT LLC and the Plan Processor, including costs related to separate production and industry test entitlements, market maker reference data, and back-processing of exchange exception logic; (3) implementation fees; and (4) license fees.

(VI) Legal Costs

The legal costs of \$2,766,644 represent the fees paid for legal services provided by two law firms, WilmerHale and Pillsbury during FAM Period 2.

Law Firm: WilmerHale. CAT LLC continued to employ WilmerHale during FAM Period 2 based on, among other things, their expertise and long history with the project. The hourly fee rates for this law firm were in line with market rates for specialized legal expertise. The legal fees during FAM Period 2 were paid by CAT LLC to WilmerHale. During FAM Period 2, the legal assistance provided by WilmerHale included providing legal advice regarding the following:

- Assisted with the development of the CAT funding model and drafting related amendments and rule filings;
- Drafted exemptive requests from CAT NMS Plan requirements regarding, for example, allocations, exchange activity, OTQT, initial data validation, error corrections and recordkeeping;
- Provided interpretations related to CAT NMS Plan requirements, including with regard to the Financial Accountability Milestone amendment, FAQs and technical specifications;
- Provided support for the Operating Committee, Compliance Subcommittees, working groups and Leadership Team, including with regard to meetings with the SEC staff;
- Assisted with the Implementation Plan and Quarterly Progress Reports required pursuant to Section 6.6 of the CAT NMS Plan;
- Drafted SRO rule filings related to the CAT Compliance Rule;
- Provided support for the Compliance Subcommittee, including with regard to responses to OCIE examinations and the annual assessment;
- Provided guidance regarding the SEC's proposed security amendments to the CAT NMS Plan;

- Provided guidance regarding SRO rule filings for the retirement of systems;
- Provided legal support for Operating Committee meetings, including drafting resolutions and other materials and voting advice;
- Assisted with third-party vendor agreements (e.g., with regard to Anchin, Grant Thornton and insurance policies);
- Assisted with change requests; and
- Provided support with regard to discussions with the SEC and its staff, including with respect to addressing interpretive and implementation issues.

Law Firm: Pillsbury. CAT LLC continued to employ Pillsbury during FAM Period 2 based on, among other things, their expertise and history with the project. The hourly fee rates for this law firm were in line with market rates for specialized legal expertise. The legal fees during FAM Period 2 were paid by CAT LLC to Pillsbury. During FAM Period 2, Pillsbury provided legal assistance to the CAT regarding the CAT Reporter Agreement. During that period, Pillsbury advised CAT LLC regarding applicable legal matters and drafted and filed a proposed amendment to the CAT NMS Plan regarding liability matters. As discussed above, liability issues related to the CAT are important matters that needed to be resolved and clarified. CAT LLC's efforts to seek such resolution and clarity work to the benefit of Participants, Industry Members and other market participants.

(VII) Consulting Costs

The consulting costs of \$532,146 represent the fees paid to Deloitte as project manager during FAM Period 2. CAT LLC continued to employ Deloitte during FAM Period 2 based on, among other things, their expertise and long history with the project. The fee rates for Deloitte during FAM Period 2 were negotiated and in line with market rates for this type of specialized consulting work. The consulting fees during FAM Period 2 were paid to Deloitte by CAT LLC. CAT LLC reviewed the consulting fees each month and approved the invoices. During FAM Period 2, Deloitte's CAT-related activities included the following:

- Implemented program operations for the CAT project;
- Provided support to the Operating Committee, the Chair of the Operating Committee and the Leadership Team, including project management support, coordination and planning for meetings and communications, and interfacing with law firms and the SEC;
- Assisted with cost and funding matters for the CAT, including the development of the CAT funding model

and assistance with loans and the CAT bank account for CAT funding;

- Provided support for updating the SEC on the progress of the development of the CAT; and
- Provided support for third-party vendors for the CAT, including FCAT, Anchin and the law firms engaged by CAT LLC.

(VIII) Insurance

The insurance costs of \$976,098 represent the fees paid for insurance during FAM Period 2. CAT LLC continued to maintain cyber security liability insurance, directors' and officers' liability insurance, and errors and omissions liability insurance offered by USI. After engaging in a process for renewing the coverage, CAT LLC determined to purchase these insurance policies from USI. The annual premiums for these policies were competitive for the coverage provided. The annual premiums were paid by CAT LLC to USI.

(IX) Professional and Administration Costs

The professional and administration costs of \$438,523 represent the fees paid to Anchin and Grant Thornton for financial services provided during FAM Period 2.

Financial Advisory Firm: Anchin. CAT LLC continued to engage Anchin during FAM Period 2 based on, among other things, their expertise and history with the project. The hourly fee rates for this firm were in line with market rates for these types of financial advisory services. The fees for these services during FAM Period 2 were paid by CAT LLC to Anchin. During FAM Period 2, Anchin provided a variety of services, including the following:

- Updated and maintained internal controls;
- Provided cash management and treasury functions;
- Facilitated bill payments;
- Provided monthly bookkeeping;
- Reviewed vendor invoices and documentation in support of cash disbursements;
- Provided accounting research and consultations on various accounting, financial reporting and tax matters;
- Addressed not-for-profit tax and accounting considerations;
- Prepared tax returns;
- Addressed various accounting, financial reporting and operating inquiries from the Participants;
- Developed and maintained quarterly and annual operating and financial budgets, including budget to actual fluctuation analyses;
- Supported compliance with the CAT NMS Plan;

- Worked with and provided support to the Operating Committee and various CAT working groups;

- Prepared monthly, quarterly and annual financial statements;

- Supported the annual financial statement audit by an independent auditor; and

- Reviewed historical costs from inception.

Accounting Firm: Grant Thornton. CAT LLC continued to employ the accounting firm Grant Thornton during FAM Period 2 based on, among other things, its expertise and cumulative knowledge of CAT LLC. CAT LLC continued to believe that Grant Thornton was well qualified for its role and its fee rates were in line with market rates for these accounting services. The fees for these services during FAM Period 2 were paid by CAT LLC to Grant Thornton. During FAM Period 2, Grant Thornton performed a financial statement audit for CAT LLC as an independent accounting firm.

(X) Public Relations Costs

The public relations costs of \$41,940 represent the fees paid to Peak Strategies during FAM Period 2. CAT LLC continued to employ Peak

Strategies during FAM Period 2 based on, among other things, their expertise and history with the project. The fee rates for this firm were in line with market rates for these types of services. The fees for these services during FAM Period 2 were paid by CAT LLC to Peak Strategies. During FAM Period 2, Peak Strategies continued to provide professional communications services to CAT, including media relations consulting, strategy and execution. Specifically, the public relations firm provided services related to communications with the public regarding the CAT, including monitoring developments related to the CAT (e.g., congressional efforts, public comments and reaction to proposals, press coverage of the CAT), reporting such developments to CAT LLC, and drafting and disseminating communications to the public regarding such developments as well as reporting on developments related to the CAT (e.g., amendments to the CAT NMS Plan). As discussed above, such public relations services were important for various reasons, including monitoring comments made by market participants about the CAT and understanding issues

related to the CAT discussed on the public record. By engaging a public relations firm, CAT LLC was better positioned to understand and address CAT matters to the benefit of all market participants.

(d) Historical CAT Costs Incurred in Financial Accountability Milestone Period 3

Historical CAT Costs 1 would include costs incurred by CAT and already funded by the Participants during Period 3 of the Financial Accountability Milestones ("FAM Period 3"),⁶⁴ which covers the period from January 1, 2021–December 31, 2021. Historical CAT Costs 1 would include costs for FAM Period 3 of \$144,415,268. The Participants would remain responsible for one-third of this cost (which they have previously paid) (\$48,138,423), and Industry Members would be responsible for the remaining two-thirds, with CEBBs paying one-third (\$48,138,423) and CEBBs paying one-third (\$48,138,423). The following table breaks down Historical CAT Costs 1 for FAM Period 3⁶⁵ into the categories set forth in Section 11.3(b)(iii)(B)(II) of the CAT NMS Plan.

Operating expense	Historical CAT costs for FAM Period 3
Capitalized Developed Technology Costs *	\$10,763,372
Technology Costs	123,639,402
Cloud Hosting Services	94,574,759
Operating Fees	23,106,091
CAIS Operating Fees	5,562,383
Change Request Fees	396,169
Legal	6,333,248
Consulting	1,408,209
Insurance	1,582,714
Professional and administration	595,923
Public relations	92,400
Total Operating Expenses	144,415,268

* The non-cash amortization of these capitalized developed technology costs of \$5,108,044 incurred during FAM Period 3 have been appropriately excluded from the above table.⁶⁶

By the completion of FAM Period 3, CAT LLC was required to implement the following requirements with regard to the CAT:

(a) reporting to the Order Audit Trail System ("OATS") is no longer required for new orders; (b) Industry Member reporting for equities transactions and simple electronic options transactions, excluding Customer Account Information, Customer-ID, and Customer Identifying Information, with sufficient intra-firm linkage, inter-firm

linkage, national securities exchange linkage, trade reporting facilities linkage, and representative order linkages (including any equities allocation information provided in an Allocation Report) to permit the Participants and the Commission to analyze the full lifecycle of an order across the national market system, from order origination through order execution or order cancellation, is developed, tested, and implemented at a 5% Error Rate or less; (c) Industry Member reporting for manual options transactions and complex options

transactions, excluding Customer Account Information, Customer-ID, and Customer Identifying Information, with all required linkages to permit the Participants and the Commission to analyze the full lifecycle of an order across the national market system, from order origination through order execution or order cancellation, including any options allocation information provided in an Allocation Report, is developed, tested, and fully implemented; (d) the query tool functionality required by Section 6.10(c)(i)(A) and Appendix D, Sections 8.1.1–

⁶⁴ Section 11.6(a)(i)(C) of the CAT NMS Plan.

⁶⁵ The costs described in this table of costs for FAM Period 3 were calculated based upon CAT LLC's review of applicable bills and invoices and related financial statements. CAT LLC financial statements are available on the CAT website.

⁶⁶ As discussed above, with respect to certain costs that were "appropriately excluded," such excluded costs relate to the amortization of capitalized technology costs, which are amortized over the life of the Plan Processor Agreement. As such costs have already been otherwise reflected in

the filing, their inclusion would double count the capitalized technology costs. In addition, amortization is a non-cash expense.

8.1.3, Section 8.2.1, and Section 8.5 incorporates the data described in conditions (b)–(c) and is available to the Participants and to the Commission; and (e) the requirements of Section 6.10(a) are met.⁶⁷

CAT LLC completed the requirements of FAM Period 3 by December 31, 2021. The following describes the costs for each of the categories for FAM Period 3.

(I) Technology Costs—Cloud Hosting Services

CAT LLC continued to utilize AWS in FAM Period 3 to provide a broad array of cloud hosting services for the CAT, including data ingestion, data management, and analytic tools. AWS continued to provide storage services,

databases, compute services and other services (such as networking, management tools and DevOps tools), as well as various environments for CAT, such as development, performance testing, test, and production environments, during the FAM 3 Period. Accordingly, the \$94,574,759 in technology costs for cloud hosting services represents costs incurred for services provided by AWS, as the cloud services provider, during FAM Period 3. The fee arrangement for AWS described above for the earlier periods continued in place during FAM Period 3 pursuant to the Plan Processor Agreement.

The cost for AWS cloud services for the CAT continued to be a function of

the volume of CAT Data. During FAM Period 3, the volume of CAT Data continued to far exceed the original predictions for the CAT as set forth in the CAT NMS Plan. During this period, data submitted to the CAT included options and equities Participant Data, Phase 2a, Phase 2b, Phase 2c and Phase 2d Industry Member Data (including certain linkages), SIP Data, Other Data, including reference data, and LTID account information. The following chart provides data regarding the average daily volume, cumulative total events, total compute hours and storage footprint of the CAT during FAM Period 3.⁶⁸

	Date range: 1/1/21 to 4/25/21	Date range: 4/26/21 to 12/31/21 *
Average Daily Volume in Billions:		
Participant—Equities	9	9
Participant—Options	135	136
Industry Member—Equities	20	19
Industry Member—Options	2	2
SIP—Options & Equities	129	137
Average Total Daily Volume	297	304
Cumulative Total Events for the Period	7,480	5,310
Total Compute Hours for the Period	15,860,304	33,487,318
Storage Footprint at End of Period (Petabytes)	180.22	284.62

* Start of Participant Equities in CAT format and SIP Equities on 4/26/21.

(II) Technology Costs—Operating Fees

Pursuant to the Plan Processor Agreement discussed above, FCAT continued in its role as the Plan Processor for the CAT during FAM Period 3. Accordingly, the \$23,106,091 in technology costs for operating fees represent costs incurred for the services provided by FCAT under the Plan Processor Agreement during FAM Period 3. The fee arrangement for FCAT described above with regard to the prior Periods continued in place during FAM Period 3 pursuant to the Plan Processor Agreement. During FAM Period 3, FCAT's activities with respect to the CAT included the following:

- Facilitated Phase 2c and Phase 2d testing for Industry Members;
- Oversaw creation of linkages of the lifecycle of order events based on the received data through Phase 2d;
- Addressed compliance items, including drafting CAT policies and procedures, and addressing Regulation SCI requirements;
- Provided support to the Operating Committee, the Compliance

Subcommittee and CAT working groups;

- Assisted with interpretive efforts and exemptive requests regarding the CAT NMS Plan;
- Oversaw the security of the CAT;
- Monitored the operation of the CAT, including with regard to Participant and Industry Member reporting;
- Provided support to subcontractors under the Plan Processor Agreement;
- Provided support in discussions with the Participants and the SEC and its staff;
- Operated the FINRA CAT Helpdesk;
- Facilitated communications with the industry, including via FAQs, CAT Alerts, meetings, presentations and webinars;
- Administered the CAT website and all of its content; and
- Provided technical support and assistance with connectivity, data access, and user support, including the use of CAT Data and query tools, for Participants and the SEC staff.

(III) Technology Costs—CAIS Operating Fees

Pursuant to the Plan Processor Agreement with FCAT discussed above, Kingland continued in its role as a subcontractor for the development and implementation of CAIS during FAM Period 3. Accordingly, the \$5,562,383 in technology costs for CAIS operating fees represents costs incurred for services provided by Kingland during FAM Period 3. The fee arrangement for Kingland described above with regard to the prior Periods continued in place during FAM Period 3 pursuant to the Plan Processor Agreement. During FAM Period 3, Kingland continued the development of the CAIS Technical Specifications and building of CAIS. In addition, Kingland continued to work on the CAIS Technical Specifications and build related to the CCID Alternative, as well as the acceleration of the reporting of LTIDs. The full CAIS Technical Specifications were published during FAM Period 3.

⁶⁷ See definition of “Full Availability and Regulatory Utilization of Transactional Database Functionality” in Section 1.1 of the CAT NMS Plan.

⁶⁸ Note that the volume data described in this table does not include CAIS data.

(IV) Technology Costs—Change Request Fees

During FAM Period 3, CAT LLC engaged FCAT to pursue certain change requests in accordance with the Plan Processor Agreement. The change request costs were paid by CAT LLC to FCAT. Specifically, during FAM Period 3, CAT incurred costs of \$396,169 related to change requests, including the following: (1) the addition of functionality for exchange Participants to report rejected messages to the CAT; (2) the migration of MIRS query engine to AWS to reduce operational costs and increase resiliency; and (3) updating the Participant Technical Specifications to allow for two-sided Participant option quote reporting.

(V) Technology Costs—Capitalized Developed Technology Costs

Capitalized developed technology costs for FAM Period 3 of \$10,763,372 include capitalizable application development costs incurred in the development of the CAT by FCAT. Such costs include (1) development costs incurred during the application development stage to meet various agreed-upon milestones regarding the CAT, as defined in the agreement between CAT LLC and the Plan Processor, including the transition from equity data received by FINRA pursuant to various regulatory services agreements between FINRA and Participant exchanges to the equity CAT Data, and the completion of the Industry Member Phase 2d options manual and complex orders go-live requirements; (2) costs related to certain modifications, upgrades, or other changes to the CAT that were not contemplated by the agreement between CAT LLC and the Plan Processor, including costs related to off-exchange volume concentration, Participant 24-hour trading and an external metastore; (3) implementation fees; and (4) license fees.

(VI) Legal Costs

The legal costs of \$6,333,248 represent the fees paid for legal services provided by three law firms, WilmerHale, Pillsbury and Covington & Burling LLP (“Covington”) during FAM Period 3.

Law Firm: WilmerHale. CAT LLC continued to employ WilmerHale during FAM Period 3 based on, among other things, their expertise and long history with the project. The hourly fee rates for this law firm were in line with market rates for specialized legal expertise. The legal fees during FAM Period 3 were paid by CAT LLC to WilmerHale. During FAM Period 3, the

legal assistance provided by WilmerHale included providing legal advice regarding the following:

- Assisted with the development of the CAT funding model and drafting related amendments and rule filings;
 - Drafted exemptive requests from CAT NMS Plan requirements, including, for example, verbal activity regarding Phase 2c cutover, error reports, error corrections, Phase 2d Reporting, unique Order-ID on internal route events, reporting addresses, recordkeeping, and unique CCID for foreign customers;
 - Provided interpretations related to CAT NMS Plan requirements, including with regard to the Financial Accountability Milestone amendment, FAQs, CAIS requirements, ADF, and technical specifications;
 - Provided support for the Operating Committee, Compliance Subcommittee, working groups and Leadership Team, including with regard to meetings with the SEC staff;
 - Assisted with the Implementation Plan and Quarterly Progress Reports required pursuant to Section 6.6(c) of the CAT NMS Plan;
 - Drafted SRO rule filings related to the CAT Compliance Rule;
 - Provided support for the Compliance Subcommittee, including with regard to responses to OCIE examinations and the annual assessment;
 - Provided guidance regarding the SEC’s proposed security amendments to the CAT NMS Plan;
 - Provided guidance regarding SRO rule filings for the retirement of systems;
 - Provided legal support for Operating Committee meetings, including drafting resolutions and other materials and voting advice;
 - Provided assistance with change requests;
 - Provided guidance and regulatory support for litigation regarding the response to the SEC’s exemptive orders;
 - Assisted with communications with the industry, including CAT Alerts and presentations;
 - Provided guidance regarding the confidentiality of CAT Data, including third-party information requests;
 - Assisted with cost management analysis and proposals; and
 - Provided support with regard to discussions with the SEC and its staff, including with respect to addressing interpretive and implementation issues.
- Law Firm: Pillsbury.* CAT LLC continued to employ Pillsbury during FAM Period 3 based on, among other things, their expertise and history with the project. The hourly fee rates for this law firm were in line with market rates for specialized legal expertise. The legal

fees during FAM Period 3 were paid by CAT LLC to Pillsbury. During FAM Period 3, Pillsbury provided legal assistance to the CAT regarding the CAT Reporter Agreement. During this period, Pillsbury advised CAT LLC regarding applicable legal matters, reviewed and responded to comment letters regarding the proposed Plan amendment, participated in meetings with senior SEC staff, responded to comments submitted following the SEC’s April 6, 2021 order instituting proceedings,⁶⁹ and assessed legal matters regarding the SEC’s October 29, 2021 order denying the proposed Plan amendment.⁷⁰

Law Firm: Covington. CAT LLC hired Covington for litigation with the SEC regarding certain exemptive orders related to the CAT, including orders issued in December 2020.⁷¹ CAT LLC interviewed this law firm as well as other potential law firms, considering a variety of factors in its analysis for choosing legal assistance, including the relevant expertise and fees of the potential lawyers. CAT LLC approved the engagement of Covington in January 2021. The fee rates for this law firm, which were calculated based on hourly rates, were in line with market rates for specialized services. The legal fees for FAM Period 3 for this firm were paid by CAT LLC to Covington.

After Covington was hired in 2021 through the end of 2021, the firm provided legal assistance regarding the litigation with the SEC regarding the 2020 Orders. These services included researching, drafting, and filing motions to stay the 2020 orders and related materials in proceedings before the SEC, as well as researching, drafting, and filing petitions for judicial review of the 2020 Orders in proceedings before the U.S. Court of Appeals for the D.C. Circuit. Covington oversaw ongoing litigation proceedings on these matters, and also supported WilmerHale with respect to settlement negotiations with the SEC staff regarding the 2020 Orders.

In addition to these services, CAT LLC engaged Covington in November 2021 to provide assistance with respect to the SEC’s disapproval of CAT NMS Plan amendments concerning a proposed limitation on liability in the event of a data breach or similar event. Covington provided advice concerning CAT’s response to the SEC’s disapproval

⁶⁹ Securities Exchange Act Rel. No. 91487 (Apr. 6, 2021), 86 FR 19054 (Apr. 12, 2021).

⁷⁰ Securities Exchange Act Rel. No. 93484 (Oct. 29, 2021), 86 FR 60933 (Nov. 4, 2021).

⁷¹ See Securities Exchange Act Rel. No. 90688 (Dec. 16, 2020), 85 FR 83634 (Dec. 22, 2020); and Securities Exchange Act Rel. No. 90689 (Dec. 16, 2020), 85 FR 83667 (Dec. 22, 2020) (collectively, the “2020 Orders”).

order. This work accounted for a minority of Covington's fees in 2021.⁷²

(VII) Consulting Costs

The consulting costs of \$1,408,209 represent the fees paid to Deloitte as project manager during FAM Period 3. CAT LLC continued to employ Deloitte during FAM Period 3 based on, among other things, their expertise and long history with the project. The fee rates for Deloitte during FAM Period 3 were negotiated and in line with market rates for this type of specialized consulting work. The consulting fees during FAM Period 3 were paid to Deloitte by CAT LLC. CAT LLC reviewed the consulting fees each month and approved the invoices. During FAM Period 3, Deloitte's CAT-related activities included the following:

- Implemented program operations for the CAT project;
- Provided support to the Operating Committee, the Chair of the Operating Committee and the Leadership Team, including project management support, coordination and planning for meetings and communications, and interfacing with law firms and the SEC;
- Assisted with cost and funding matters for the CAT, including the development of the CAT funding model and assistance with loans and the CAT bank account for CAT funding;
- Provided support for updating the SEC on the progress of the development of the CAT; and
- Provided support for third-party vendors for the CAT, including FCAT, Anchin and the law firms engaged by CAT LLC.

(VIII) Insurance

The insurance costs of \$1,582,714 represent the fees paid for insurance during FAM Period 3. CAT LLC continued to maintain cyber security liability insurance, directors' and officers' liability insurance, and errors and omissions liability insurance offered by USI. After engaging in a process for renewing the coverage, CAT LLC determined to purchase these insurance policies from USI. The annual premiums for these policies were competitive for the coverage provided. The annual premiums were paid by CAT LLC to USI.

⁷² As discussed above with regard to Pillsbury's work on liability matters, liability issues related to the CAT are important matters that needed to be resolved and clarified. CAT LLC's efforts to seek such resolution and clarity work to the benefit of Participants, Industry Members and other market participants. Moreover, such activity is a necessary part of the operation of the CAT.

(IX) Professional and Administration Costs

The professional and administration costs of \$595,923 represent the fees paid to Anchin and Grant Thornton for financial services during FAM Period 3.

Financial Advisory Firm: Anchin. CAT LLC continued to employ Anchin during FAM Period 3 based on, among other things, their expertise and history with the project. The hourly fee rates for this firm were in line with market rates for these financial advisory services. The fees for these services during FAM Period 3 were paid by CAT LLC to Anchin. During FAM Period 3, Anchin provided a variety of services, including the following:

- Updated and maintained internal controls;
- Provided cash management and treasury functions;
- Facilitated bill payments;
- Provided monthly bookkeeping;
- Reviewed vendor invoices and documentation in support of cash disbursements;
- Provided accounting research and consultations on various accounting, financial reporting and tax matters;
- Addressed not-for-profit tax and accounting considerations;
- Prepared tax returns;
- Addressed various accounting, financial reporting and operating inquiries from Participants;
- Developed and maintained quarterly and annual operating and financial budgets, including budget to actual fluctuation analyses;
- Supported compliance with the CAT NMS Plan;
- Worked with and provided support to the Operating Committee and various CAT working groups;
- Prepared monthly, quarterly and annual financial statements;
- Supported the annual financial statement audits by an independent auditor;
- Reviewed historical costs from inception; and
- Provided accounting and financial information in support of SEC filings.

Accounting Firm: Grant Thornton. CAT LLC continued to employ the accounting firm Grant Thornton during FAM Period 3 based on, among other things, their expertise and cumulative knowledge of CAT LLC. CAT LLC determined that Grant Thornton was well qualified for its role and that its fixed fee rates were in line with market rates for these accountant services. The fees for these services during FAM Period 3 were paid by CAT LLC to Grant Thornton. During FAM Period 3, Grant Thornton provided audited financial statements for CAT LLC.

(X) Public Relations Costs

The public relations costs of \$92,400 represent the fees paid to Peak Strategies during FAM Period 3. CAT LLC continued to employ Peak Strategies during FAM Period 3 based on, among other things, their expertise and history with the project. The fee rates for this firm were in line with market rates for these types of services. The fees for these services during FAM Period 3 were paid by CAT LLC to Peak Strategies. During FAM Period 3, Peak Strategies continued to provide professional communications services to CAT, including media relations consulting, strategy and execution. Specifically, the public relations firm provided services related to communications with the public regarding the CAT, including monitoring developments related to the CAT (e.g., congressional efforts, public comments and reaction to proposals, press coverage of the CAT), reporting such developments to CAT LLC, and drafting and disseminating communications to the public regarding such developments as well as reporting on developments related to the CAT (e.g., amendments to the CAT NMS Plan). As discussed above, such public relations services were important for various reasons, including monitoring comments made by market participants about the CAT and understanding issues related to the CAT discussed on the public record. By engaging a public relations firm, CAT LLC was better positioned to understand and address CAT matters to the benefit of all market participants.

(e) Excluded Costs

Historical CAT Costs 1 would not include three categories of CAT costs ("Excluded Costs"): (1) \$14,749,362 of costs related to the termination of the relationship with the Initial Plan Processor; (2) \$48,874,937, which are all CAT costs incurred from November 15, 2017 through November 15, 2018; and (3) \$19,628,791, which are costs paid to the Initial Plan Processor from November 16, 2018 through February 2019 when the relationship with the Initial Plan Processor was concluded. The Participants would remain responsible for 100% of these costs, which total \$83,253,090. CAT LLC determined to exclude these Excluded Costs from Historical CAT Costs 1 because these costs relate to the delay in the start of reporting to the CAT and the conclusion of the relationship with the Initial Plan Processor.⁷³

⁷³ In approving the CAT Funding Model, the Commission states that "the proposed exclusion of

(I) Costs Related to Conclusion of Relationship With Initial Plan Processor

First, Historical CAT Costs 1 would not include \$14,749,362 of costs related to the conclusion of the relationship with the Initial Plan Processor. Such costs include costs related to the American Arbitration Association, the legal assistance of Pillsbury with regard to the arbitration with the Initial Plan

Processor, and the settlement costs related to the arbitration with the Initial Plan Processor. The Participants would remain responsible for 100% of these \$14,749,362 in costs.

(II) Costs Incurred From November 15, 2017 Through November 15, 2018

Second, Historical CAT Costs 1 would not include all CAT costs incurred from November 15, 2017 through November

15, 2018. CAT LLC determined to exclude all costs during this one-year period of \$48,874,937 from fees charged to Industry Members due to the delay in the start of reporting to the CAT. The Participants would remain responsible for 100% of these \$48,874,937 in costs. The following table⁷⁴ breaks down these costs into the categories set forth in Section 11.3(b)(iii)(B)(II) of the CAT NMS Plan.

Operating expense	Excluded costs for November 15, 2017–November 15, 2018
Capitalized Developed Technology Costs	\$37,852,083
Technology Costs:	
Cloud Hosting Services	
Operating Fees	
CAIS Operating Fees	
Change Request Fees	
Legal	6,143,278
Consulting	4,452,106
Insurance	
Professional and administration	340,145
Public relations	87,325
Total Operating Expenses	48,874,937

The following provides additional detail regarding the Excluded Costs.

(a) Technology Costs—Cloud Hosting Services, Operating Fees, CAIS Operating Fees and Change Request Fees

CAT LLC did not incur technology costs related to the categories of cloud hosting services, operating fees, CAIS operating fees or change requests during the period from November 15, 2017 through November 15, 2018.

(b) Technology Costs—Capitalized Developed Technology Costs

Capitalized developed technology costs for the period from November 15, 2017 through November 15, 2018 include capitalizable application development costs of \$37,852,083 incurred in the development of the CAT by the Initial Plan Processor. Such costs include development costs incurred during the application development stage to meet various agreed-upon milestones regarding the CAT, as defined in the agreement between CAT LLC and the Initial Plan Processor. Such costs include costs related to Industry Member technical specifications for orders and transactions, the system security plan, testing and production for Participant CAT reporting, third-party security assessment and response, query

portal, onboarding of the Chief Information Security Officer, and ingestion of FINRA TRF data and FINRA data related to halts and corporate actions.

(c) Legal Costs

The legal costs of \$6,143,278 represent the fees paid to WilmerHale for legal services from November 15, 2017 through November 15, 2018. During this period, WilmerHale provided legal assistance to the CAT, including with regard to the following:

- Provided legal support for the governance of the CAT, including governance support for the Operating Committee, Advisory Committee, Compliance Subcommittee, and CAT working groups;
- Assisted with the development of the CAT funding model and drafted related amendments of the CAT NMS Plan;
- Provided assistance related to CAT security;
- Drafted exemptive requests, including requests related to PII;
- Assisted with the Implementation Plan required pursuant to Section 6.6(c)(i) of the CAT NMS Plan;
- Provided interpretations of and related to the CAT NMS Plan;
- Provided advice with regard to regulator access to the CAT;

- Assisted with the Plan Processor transition;
- Provided assistance regarding communications with the industry regarding the CAT;
- Provided advice regarding Customer Account Information and PII;
- Provided support for litigation related to SEC exemptive orders; and
- Provided support with regard to discussions with the SEC and its staff, including with respect to addressing interpretative and implementation issues.

(d) Consulting Costs

The consulting costs of \$4,452,106 represent the fees paid to Deloitte for their role as project manager for the CAT from November 15, 2017 through November 15, 2018. During this period, Deloitte engaged in the following activities with respect to the CAT:

- Implemented program operations for the CAT project;
- Provided governance support to the Operating Committee, including support for Subcommittees and working groups of the Operating Committee (e.g., Compliance Subcommittee, Cost and Funding Working Group, Technical Working Group, Industry Outreach Working Group, Security Working Group and Steering Committee);

the excluded costs from Past CAT Costs is appropriate in the Commission's view because it would not require all costs incurred by the Participants to be recovered from Industry Members through the Historical CAT Assessment, specifically

excluding those costs related to the delay in the start of reporting to the CAT and costs related to the conclusion of the relationship with the Initial Plan Processor." CAT Funding Model Approval Order at 13450.

⁷⁴ The costs described in this table of Excluded Costs were calculated based upon CAT LLC's review of applicable bills and invoices and related financial statements. CAT LLC financial statements are available on the CAT website.

- Assisted with cost and funding issues for the CAT, including the development of the CAT funding model and assistance with loans and the CAT bank account for CAT funding;

- Provided support for updating the SEC on the progress of the development of the CAT; and

- Provided active planning and coordination with and support for the Initial Plan Processor with regard to the development of the CAT, and reported to the Participants on the progress.

(e) Insurance

CAT LLC did not incur costs related to insurance during the period from November 15, 2017 through November 15, 2018.

(f) Professional and Administration Costs

The professional and administration costs of \$340,145 represent the fees paid to Anchin, Exegy and RSM from November 15, 2017 through November 15, 2018.

Financial Advisory Firm: Anchin. From the commencement of its engagement in April 2018 through November 15, 2018, Anchin engaged in the following activities with respect to the CAT:

- Developed, updated and maintained internal controls;
- Provided cash management and treasury functions;
- Facilitated bill payments;
- Provided monthly bookkeeping;
- Reviewed vendor invoices and documentation in support of cash disbursements;
- Provided accounting research and consultations on various accounting, financial reporting and tax matters;
- Addressed not-for-profit tax and accounting considerations;
- Prepared tax returns;
- Addressed various accounting, financial reporting and operating inquiries from Participants;
- Developed and maintained quarterly and annual operating and financial budgets, including budget to actual fluctuation analyses;
- Addressed accounting and financial matters relating to the transition from CAT NMS, LLC to Consolidated Audit Trail, LLC, including supporting the dissolution of CAT NMS, LLC;
- Supported compliance with the CAT NMS Plan;
- Worked with and provided support to the Operating Committee and various CAT working groups;
- Prepared monthly, quarterly and annual financial statements;
- Supported the annual financial statement audits by an independent auditor;

- Reviewed historical costs from inception; and

- Provided accounting and financial information in support of SEC filings.

Market Data Provider: Exegy. From July 2018 through November 15, 2018, CAT LLC purchased market data from Exegy (as described in more detail above).

Security Assessment: RSM. From October 2018 through November 15, 2018, CAT LLC incurred costs for RSM's performance of a security assessment (as described in more detail above).

(g) Public Relations Costs

The public relations costs of \$87,325 represent the fees paid to Sloane from November 15, 2017 through November 15, 2018. From the commencement of its engagement in March 2018 through November 15, 2018, Sloane provided professional communications services to CAT, including media relations consulting, strategy and execution. Specifically, Sloane provided services related to communications with the public regarding the CAT, including monitoring developments related to the CAT (e.g., congressional efforts, public comments and reaction to proposals, press coverage of the CAT), reporting such developments to CAT LLC, and drafting and disseminating communications to the public regarding such developments as well as reporting on developments related to the CAT (e.g., amendments to the CAT NMS Plan).

(III) Costs Paid to Initial Plan Processor From November 16, 2018 Through February 2019

Third, Historical CAT Costs 1 would not include the \$19,628,791 in costs paid to the Initial Plan Processor from November 16, 2018 through February 2019 when CAT LLC's relationship with the Initial Plan Processor concluded. CAT LLC determined that Historical CAT Costs 1 would not include any fees paid to the Initial Plan Processor after November 15, 2017,⁷⁵ which was the date by which Participants were required to begin reporting to the CAT.⁷⁶ As discussed above, the Participants determined that Historical CAT Costs 1 would not include all CAT costs incurred from November 15, 2017

⁷⁵ As discussed below, CAT LLC believes that it is appropriate to recover costs related to the services performed by the Initial Plan Processor prior to November 15, 2017. See Section 3(a)(10)(E) below.

⁷⁶ The SEC approved the CAT NMS Plan on November 15, 2016, and Participant reporting was required to begin on the first anniversary of this date, November 15, 2017. See Section 6.3 of the CAT NMS Plan and CAT NMS Plan Approval Order.

through November 15, 2018, which includes \$37,852,083 in Initial Plan Processor costs incurred from November 15, 2017 through November 15, 2018 (as well as other CAT costs during this period). The remaining Initial Plan Processor costs incurred after November 15, 2018 are the \$19,628,791 in costs for the period from November 16, 2018 through February 2019 incurred in the development of the CAT by the Initial Plan Processor, as well as a transition fee for the transition from the Initial Plan Processor to the successor Plan Processor. The Participants would remain responsible for 100% of these \$19,628,791 in costs.

(ii) Previously Invoiced Costs for Historical CAT Costs 1

CEBBs and CEBs collectively have been invoiced for \$173,075,024 of the \$212,039,879.34 of Historical CAT Costs 1 via Historical CAT Assessment 1, where \$86,537,512 was invoiced collectively to CEBBs and \$86,537,512 was invoiced collectively to CEBs. Accordingly, Historical CAT Assessment 1A would seek to recover the remaining \$38,964,855.34 of Historical CAT Costs 1 collectively from CEBBs and CEBs, where CEBBs collectively will be responsible for \$19,482,427.67, and CEBs collectively will be responsible for \$19,482,427.67.

(C) Historical Recovery Period 1A

Under the CAT NMS Plan, the Operating Committee is required to reasonably establish the length of the Historical Recovery Period used in calculating each Historical Fee Rate based upon the amount of the Historical CAT Costs to be recovered by the Historical CAT Assessment, and to describe the reasons for its length.⁷⁷ The Historical Recovery Period used in calculating the Historical Fee Rate may not be less than 24 months or more than five years.⁷⁸ The Operating Committee has determined to establish a Historical Recovery Period 1A of 24 months for Historical CAT Assessment 1A.

The Operating Committee determined that the length of Historical Recovery Period 1A appropriately weighs the need for a reasonable Historical Fee Rate 1A that spreads the Historical CAT Costs over an appropriate amount of time and the need to repay the loans to

⁷⁷ Section 11.3(b)(i)(D)(I) and Section 11.3(b)(iii)(B)(II) of the CAT NMS Plan.

⁷⁸ Section 11.3(b)(i)(D)(I) of the CAT NMS Plan. In the CAT Funding Model Approval Order, the SEC stated that "[i]n the Commission's view, it is appropriate for the Operating Committee to establish the length of the Historical Recovery Period to be no less than 24 months and no more than five years." CAT Funding Model Approval Order at 13451.

the Participants in a timely fashion. The Operating Committee determined that 24 months for Historical Recovery Period 1A would establish a fee rate that is lower than other transaction-based fees, including fees assessed pursuant to Section 31.⁷⁹ In addition, in establishing a Historical Recovery Period of 24 months, the Operating Committee recognized that the total costs for Historical CAT Assessment 1A were less than the total costs for 2022 and 2023,⁸⁰ and therefore it would be reasonable and appropriate to recover costs subject to this filing over an approximate two-year period.⁸¹

The length of the Historical Recovery Period 1A and the reasons for its length are provided in this filing in accordance with the requirement in the CAT NMS Plan to provide such information in a fee filing for a Historical CAT Assessment.⁸²

(D) Projected Total Executed Equivalent Share Volume

The calculation of the fee rate for Historical CAT Assessment 1A also requires the determination of the projected total executed equivalent share volume of transactions in Eligible Securities for Historical Recovery Period 1A. Under the CAT NMS Plan, the Operating Committee is required to “reasonably determine the projected total executed equivalent share volume of all transactions in Eligible Securities for each Historical Recovery Period based on the executed equivalent share volume of all transactions in Eligible Securities for the prior twelve months.”⁸³ The Operating Committee is required to base its projection on the prior twelve months, but it may use its discretion to analyze the likely volume for the upcoming year. Such discretion would allow the Operating Committee to use its judgment when estimating projected total executed equivalent share volume if the volume over the prior twelve months was unusual or otherwise unfit to serve as the basis of a future volume estimate.⁸⁴

The total executed equivalent share volume of transactions in Eligible

Securities for the 12-month period from March 2025 through February 2026 was 5,980,937,549,360.49 executed equivalent shares. The Operating Committee has determined to calculate the projected total executed equivalent share volume for the 24 months of Historical Recovery Period 1A by doubling the executed equivalent share volume for the prior 12 months. The Operating Committee determined that such an approach was reasonable as the CAT’s annual executed equivalent share volume has increased from prior years (e.g., the executed equivalent share volume for 2024 was 4,295,884,600,069.4), and the Operating Committee believes that it is reasonable to conclude that the annual executed equivalent share volume will remain at the higher level. Accordingly, the projected total executed equivalent share volume for Historical Recovery Period 1A is projected to be 11,961,875,098,720.98 executed equivalent shares.⁸⁵

The projected total executed equivalent share volume of all transactions in Eligible Securities for Historical Recovery Period 1A and a description of the calculation of the projection is provided in this filing in accordance with the requirement in the CAT NMS Plan to provide such information in a fee filing for a Historical CAT Assessment.⁸⁶

(E) Fee Rate for Historical CAT Assessment 1A

The fee rate for Historical CAT Assessment 1A would be calculated by dividing the total amount of costs to be recovered by Historical CAT Assessment 1A by the reasonably projected total executed equivalent share volume of all transactions in Eligible Securities for Historical Recovery Period 1A, and dividing by 2. Specifically, the fee rate for Historical CAT Assessment 1A would be calculated by dividing \$38,964,855.34 by 11,961,875,098,720.98, and then dividing by 2, which equals \$0.00000162871017371542 per executed equivalent shares. Rounding this to six decimal places results in a fee rate of \$0.000002 per executed equivalent share.⁸⁷ This fee rate is provided in this

filing in accordance with the requirement in the CAT NMS Plan to provide the Historical Fee Rate in a fee filing for a Historical CAT Assessment.⁸⁸

(3) Past CAT Costs and Participants

Participants would not be required to pay any fees associated with Historical CAT Assessment 1A as the Participants previously have paid all Past CAT Costs. The CAT NMS Plan explains that:

Because Participants previously have paid Past CAT Costs via loans to the Company, Participants would not be required to pay any Historical CAT Assessment. In lieu of a Historical CAT Assessment, the Participants’ one-third share of Historical CAT Costs and such other additional Past CAT Costs as reasonably determined by the Operating Committee will be paid by the cancellation of loans made to the Company on a pro rata basis based on the outstanding loan amounts due under the loans.⁸⁹

The CAT NMS Plan further states that “Historical CAT Assessments are designed to recover two-thirds of the Historical CAT Costs.”⁹⁰

(4) Monthly Fees

CEBBs and CEBs would be required to pay fees for Historical CAT Assessment 1A on a monthly basis for the period in which Historical CAT Assessment 1A is in effect.⁹¹ A CEBB or CEBs’s fee for each month would be calculated based on the transactions in Eligible Securities executed by the CEBB or CEBs from the prior month.⁹² Proposed paragraph (a)(2)(A) of the fee schedule would state that each CAT Executing Broker would receive its first invoice in June 2026, and “would receive an invoice each month thereafter in which Historical CAT Assessment 1A is in effect.” Proposed paragraph (a)(2)(B) of the fee schedule would state that “Consolidated Audit Trail, LLC shall provide each CAT Executing Broker with an invoice for Historical CAT Assessment 1A on a monthly basis.” In addition, paragraph (b)(1) of

accuracy of the calculation with the potential systems and other impracticalities of using additional decimal places in the calculation.

⁸⁸ Section 11.3(b)(iii)(B)(II)(A) of the CAT NMS Plan.

⁸⁹ Section 11.3(b)(ii) of the CAT NMS Plan.

⁹⁰ *Id.* In approving the CAT Funding Model, the Commission stated that the proposed allocation of the Historical CAT Assessment solely to CEBs and CEBBs is appropriate. The Historical CAT Assessment will still be divided into thirds, as the Participants’ one-third share of Historical CAT Costs will be paid by the cancellation of loans made to the Company. CAT Funding Model Approval Order at 13453.

⁹¹ See Section 11.3(b)(iii)(A) of the CAT NMS Plan.

⁹² See proposed paragraph (a)(2)(B) of the fee schedule.

⁷⁹ For example, as the SEC noted in the CAT Funding Model Approval Order, recent Section 31 fees ranged from \$0.00007 per share to \$0.00072 per share. CAT Funding Model at 13469.

⁸⁰ The total CAT costs for 2022 were approximately \$186 million and the total CAT costs for 2023 were approximately \$233 million.

⁸¹ Note that the proposed 24-month recovery period also recognizes the prohibition on the collection of Historical CAT Assessments after March 31, 2028 as set forth in Section 11.3(f) of the CAT NMS Plan.

⁸² Section 11.3(b)(iii)(B)(II)(C) of the CAT NMS Plan.

⁸³ Section 11.3(b)(i)(E) of the CAT NMS Plan.

⁸⁴ CAT Funding Model Approval Order at 13452.

⁸⁵ This projection was calculated by multiplying 5,980,937,549,360.49 executed equivalent shares by two.

⁸⁶ Section 11.3(b)(iii)(B)(II)(D) of the CAT NMS Plan.

⁸⁷ As the SEC noted in approving the CAT Funding Model, the fee filing would provide the exact fee per executed equivalent share and describe the relevant number of decimal places for the fee rate. CAT Funding Model Approval Order at 13445, n.677. The Operating Committee determined to use six decimal places to balance the

the fee schedule states that each CEBB and CEBS is required to pay its CAT fees “each month.”

(5) Actual Recovery Period for Historical CAT Assessment 1A

The CAT NMS Plan states that, “[n]otwithstanding the length of the Historical Recovery Period used in calculating the Historical Fee Rate, each Historical CAT Assessment calculated using the Historical Fee Rate will remain in effect until all Historical CAT Costs for the Historical CAT Assessment are collected.”⁹³ Accordingly, Historical CAT Assessment 1A will remain in effect until the remaining \$38,964,855.34 of Historical CAT Costs 1 have been collected.⁹⁴ The actual recovery period for Historical CAT Assessment 1A may be shorter or longer than Historical Recovery Period 1A depending on the actual executed equivalent share volumes during the time that Historical CAT Assessment 1A is in effect and subject to any time limitation in the CAT NMS Plan.⁹⁵

(6) Consolidated Audit Trail Funding Fees

To implement Historical CAT Assessment 1A, a new section would be added to the Exchange’s fee schedule for “Consolidated Audit Trail Funding Fees”, and it would include the proposed paragraphs described below.

(A) Fee Schedule for Historical CAT Assessment 1A

The CAT NMS Plan states that:

Each month in which a Historical CAT Assessment is in effect, each CEBB and each CEBS shall pay a fee for each transaction in Eligible Securities executed by the CEBB or CEBS from the prior month as set forth in CAT Data, where the Historical CAT Assessment for each transaction will be calculated by multiplying the number of executed equivalent shares in the transaction by one-third and by the Historical Fee Rate reasonably determined pursuant to paragraph (b)(i) of this Section 11.3.⁹⁶

Accordingly, based on the factors discussed above, the Exchange proposes to add paragraph (a)(2) to the Consolidated Audit Trail Funding Fees section of its fee schedule. Proposed paragraph (a)(2) would state the following:

(A) Each CAT Executing Broker shall receive its first invoice for Historical CAT Assessment 1A in June 2026, which shall set forth the Historical CAT Assessment 1A fees calculated based on transactions in May 2026, and shall receive an invoice for Historical CAT Assessment 1A for each month thereafter in which Historical CAT Assessment 1A is in effect.

(B) Consolidated Audit Trail, LLC shall provide each CAT Executing Broker with an invoice for Historical CAT Assessment 1A on a monthly basis. Each month, such invoices shall set forth a fee for each transaction in Eligible Securities executed by the CAT Executing Broker in its capacity as a CAT Executing Broker for the Buyer (“CEBB”) and/or the CAT Executing Broker for the Seller (“CEBS”) (as applicable) from the prior month as set forth in CAT Data. The fee for each such transaction will be calculated by multiplying the number of executed equivalent shares in the transaction by the fee rate of \$0.000002 per executed equivalent share.

(C) Historical CAT Assessment 1A will remain in effect until \$38,964,855.34 is collected from CAT Executing Brokers collectively, which is estimated to be approximately two years, but could be for a longer or shorter period of time. Consolidated Audit Trail, LLC will provide notice when Historical CAT Assessment 1A will no longer be in effect.

(D) Each CAT Executing Broker shall be required to pay each invoice for Historical CAT Assessment 1A in accordance with paragraph (b).

Proposed paragraph (a)(2)(B) of the fee schedule would set forth the fee rate of \$0.000002 per executed equivalent share for Historical CAT Assessment 1A, which is calculated as discussed above.

The proposed language in paragraph (a)(2)(B) of the fee schedule would describe when CAT Executing Brokers would receive their first monthly invoice for Historical CAT Assessment 1A. Specifically, CAT Executing Brokers would receive their first monthly invoice for Historical CAT Assessment 1A in June 2026 and the fees set forth in that invoice would be calculated based on transactions executed in the prior month, that is, transactions executed in May 2026. The payment for the first invoice would be required within 30 days after the receipt of the first invoice (unless a longer period is indicated), as described in paragraph (b)(2) of the fee schedule.

Proposed paragraph (a)(2)(A) of the fee schedule also would describe the monthly cadence of the invoices for Historical CAT Assessment 1A. Specifically, after the first invoices are provided to CAT Executing Brokers in June 2026, invoices will be sent to CAT Executing Brokers each month thereafter while Historical CAT Assessment 1A is in effect.

Proposed paragraph (a)(2)(B) of the fee schedule would describe the invoices

for Historical CAT Assessment 1A. Proposed paragraph (a)(2)(B) of the fee schedule would state that “Consolidated Audit Trail, LLC shall provide each CAT Executing Broker with an invoice for Historical CAT Assessment 1A on a monthly basis.” Proposed paragraph (a)(2)(B) of the fee schedule also would describe the fees to be set forth in the invoices for Historical CAT Assessment 1A. Specifically, it would state that “[e]ach month, such invoices shall set forth a fee for each transaction in Eligible Securities executed by the CAT Executing Broker in its capacity as a CAT Executing Broker for the Buyer (“CEBB”) and/or the CAT Executing Broker for the Seller (“CEBS”) (as applicable) from the prior month as set forth in CAT Data. The fee for each such transaction will be calculated by multiplying the number of executed equivalent shares in the transaction by the fee rate of \$0.000002 per executed equivalent share.”

Furthermore, proposed paragraph (a)(2)(C) of the fee schedule would describe how long Historical CAT Assessment 1A would remain in effect. It would state that “Historical CAT Assessment 1A will remain in effect until \$38,964,855.34 is collected from CAT Executing Brokers collectively, which is estimated to be approximately two years, but could be for a longer or shorter period of time.” This proposed paragraph would further state that “Consolidated Audit Trail, LLC will provide notice when Historical CAT Assessment 1A will no longer be in effect.”

Historical CAT Assessment 1A will be assessed for all transactions executed in each month through the end of the month in which \$38,964,855.34 is assessed, and then CAT LLC will provide notice that Historical CAT Assessment 1A is no longer in effect. Since Historical CAT Assessment 1A is a monthly fee based on transaction volume from the prior month, Historical CAT Assessment 1A may collect more than \$38,964,855.34. To the extent that occurs, any excess money collected during the final month in which Historical CAT Assessment 1A is in effect will be used to offset future fees and/or to fund the reserve for the CAT.

Finally, proposed paragraph (a)(2)(D) of the fee schedule sets forth the requirement for the CAT Executing Brokers to pay the invoices for Historical CAT Assessment 1A. It would state that “[e]ach CAT Executing Broker shall be required to pay each invoice for Historical CAT Assessment 1A in accordance with paragraph (b).”

⁹³ Section 11.3(b)(i)(D)(II) of the CAT NMS Plan.

⁹⁴ In approving the CAT Funding Model, the Commission stated that, “[i]n the Commission’s view, it is appropriate for Industry Members to be charged a Historical CAT Assessment until all Historical CAT Costs for the Historical CAT Assessment are collected.” CAT Funding Model Approval Order at 13452.

⁹⁵ Section 11.3(f) of the CAT NMS Plan would prohibit the billing of Historical CAT Assessments after March 31, 2028.

⁹⁶ Section 11.3(b)(iii)(A) of the CAT NMS Plan.

(B) Manner of Payment

Paragraph (b)(1) of the “Consolidated Audit Trail Funding Fees” section of its fee schedule describes the manner of payment of Industry Member CAT fees. Paragraph (b)(1) states that “[e]ach CAT Executing Broker shall pay its CAT fees as required pursuant to paragraph (a) each month to the Consolidated Audit Trail, LLC in the manner prescribed by the Consolidated Audit Trail, LLC.” The CAT NMS Plan requires the Operating Committee to establish a system for the collection of CAT fees.⁹⁷ The Plan Processor has established a billing system for CAT fees.⁹⁸ Therefore, the Exchange proposes to require CAT Executing Brokers to pay Historical CAT Assessment 1A in accordance with such system.

(C) Failure To Pay CAT Fees

The CAT NMS Plan further states that:

Participants shall require each Industry Member to pay all applicable fees authorized under this Article XI within thirty (30) days after receipt of an invoice or other notice indicating payment is due (unless a longer payment period is otherwise indicated). If an Industry Member fails to pay any such fee when due (as determined in accordance with the preceding sentence), such Industry Member shall pay interest on the outstanding balance from such due date until such fee is paid at a per annum rate equal to the lesser of: (a) the Prime Rate plus 300 basis points; or (b) the maximum rate permitted by applicable law.⁹⁹

Accordingly, the Exchange previously has added this requirement to the Exchange’s fee schedule. Specifically, paragraph (b)(2) of the fee schedule states:

Each CAT Executing Broker shall pay the CAT fees required pursuant to paragraph (a) within thirty days after receipt of an invoice or other notice indicating payment is due (unless a longer payment period is otherwise indicated). If a CAT Executing Broker fails to pay any such CAT fee when due, such CAT Executing Broker shall pay interest on the outstanding balance from such due date until such fee is paid at a per annum rate equal to the lesser of (i) the Prime Rate plus 300 basis points, or (ii) the maximum rate permitted by applicable law.

The requirements of paragraph (b)(2) would apply to Historical CAT Assessment 1A.

⁹⁷ Section 11.4 of the CAT NMS Plan.

⁹⁸ The billing process and system are described in CAT Alert 2023-02 as well as the CAT FAQs related to the billing of CAT fees, the Industry Member CAT Reporter Portal User Guide, the FCAT Industry Member Onboarding Guide, the FCAT Connectivity Supplement for Industry Members and the CAT Billing Webinars (dated Sept. 28, 2023, and Nov. 7, 2023), each available on the CAT website.

⁹⁹ Section 11.4 of the CAT NMS Plan.

(7) Historical CAT Assessment Details

The CAT NMS Plan states that:

Details regarding the calculation of a CAT Executing Broker’s Historical CAT Assessment will be provided upon request to such CAT Executing Broker. At a minimum, such details would include each CAT Executing Broker’s executed equivalent share volume and corresponding fee by (1) Listed Options, NMS Stocks and OTC Equity Securities, (2) by transactions executed on each exchange and transactions executed otherwise than on an exchange, and (3) by buy-side transactions and sell-side transactions.¹⁰⁰

Such information would provide CEBBs and CEBs with the ability to understand the details regarding the calculation of their Historical CAT Assessment.¹⁰¹ CAT LLC will provide CAT Executing Brokers with these details regarding the calculation of their Historical CAT Assessments on their monthly invoice for the Historical CAT Assessment.

In addition, CAT LLC will make certain aggregate statistics regarding Historical CAT Assessments publicly available. Specifically, the CAT NMS Plan states that, “[f]or each Historical CAT Assessment, at a minimum, CAT LLC will make publicly available the aggregate executed equivalent share volume and corresponding aggregate fee by (1) Listed Options, NMS Stocks and OTC Equity Securities, (2) by transactions executed on each exchange and transactions executed otherwise on an exchange, and (3) by buy-side transactions and sell-side transactions.”¹⁰² Such aggregate statistics will be available on the CAT website.

Furthermore, CAT LLC will make publicly available on the CAT website the total amount invoiced each month that Historical CAT Assessment 1A is in effect as well as the total amount invoiced for Historical CAT Assessment 1A for all months since its commencement. CAT LLC also will make publicly available on the CAT website the total costs to be collected from Industry Members for Historical

¹⁰⁰ Section 11.3(a)(iv)(A) of the CAT NMS Plan.

¹⁰¹ In approving the CAT Funding Model, the Commission stated that, “[i]n the Commission’s view, providing CAT Execut[ing] Brokers information regarding the calculation of their CAT Fees will aid in transparency and permit CAT Execut[ing] Brokers to confirm the accuracy of their invoices for CAT Fees.” CAT Funding Model Approval Order at 13454.

¹⁰² Section 11.3(a)(iv)(B) of the CAT NMS Plan. In approving the CAT Funding Model, the Commission stated that “[t]he publication of the aggregate executed equivalent share volume and aggregate fee is appropriate because it would allow Participants and CAT Executing Brokers a high-level validation of executed volume and fees.” CAT Funding Model Approval Order at 13454.

CAT Assessment 1A. By reviewing statistics regarding how much has been invoiced and how much remains to be invoiced for Historical CAT Assessment 1A, Industry Members would have sufficient information to reasonably track how much longer Historical CAT Assessment 1A is likely to be in place.

(8) Billing Implementation

To date, CAT LLC, via FCAT, has billed Industry Members for Historical CAT Assessment 1 and certain Prospective CAT Fees. Industry Members will be billed for Historical CAT Assessment 1A via the same processes established for Historical CAT Assessment 1 and the Prospective CAT Fees. Accordingly, Industry Members have substantial experience with the CAT billing processes.

(9) Financial Accountability Milestones

The CAT NMS Plan states that “[n]o Participant will make a filing with the SEC pursuant to Section 19(b) of the Exchange Act regarding any Historical CAT Assessment until any applicable Financial Accountability Milestone described in Section 11.6 has been satisfied.”¹⁰³ The CAT NMS Plan further states that “in all filings submitted by the Participants to the Commission under Section 19(b) of the Exchange Act, to establish or implement Post-Amendment Industry Member Fees pursuant to this Article, . . . the Participants shall clearly indicate whether such fees are related to Post-Amendment Expenses incurred during Period 1, Period 2, Period 3, or Period 4.”¹⁰⁴ As discussed in detail below, all applicable Financial Accountability Milestones for Historical CAT Assessment 1A—that is, Period 1, Period 2 and Period 3 of the Financial Accountability Milestones—have been satisfied. Furthermore, as discussed below, this filing clearly indicates that Historical CAT Assessment 1A relates to Post-Amendment Expenses incurred during Periods 1, 2 and 3 of the Financial Accountability Milestones.

(A) Period 1 of the Financial Accountability Milestones

In accordance with Section 11.6(b) of the CAT NMS Plan, Historical CAT Assessment 1A seeks to recover costs that are related to “all fees, costs, and expenses (including legal and consulting fees, costs, and expenses) incurred by or for the Company in connection with the development, implementation and operation of the

¹⁰³ Section 11.3(b)(iii)(B)(III) of the CAT NMS Plan.

¹⁰⁴ Section 11.6(b) of the CAT NMS Plan.

CAT from the effective date of [Section 11.6 of the CAT NMS Plan] until such time as Full Implementation of CAT NMS Plan Requirements has been achieved”¹⁰⁵ (“Post-Amendment Expenses”) incurred during FAM Period 1. FAM Period 1 began on June 22, 2020, the effective date of Section 11.6 of the CAT NMS Plan, and concluded on July 31, 2020, the date of Initial Industry Member Core Equity and Options Reporting. Section 1.1 of the CAT NMS Plan defines “Initial Industry Member Core Equity and Options Reporting” as:

The reporting by Industry Members (excluding Small Industry Members that are not OATS reporters) of both: (a) equities transaction data, excluding Customer Account Information, Customer-ID, and Customer Identifying Information; and (b) options transaction data, excluding Customer Account Information, Customer-ID and Customer Identifying Information.

Under Section 1.1 of the CAT NMS Plan, this Financial Accountability Milestone is considered complete as of the date identified in the Participants’ Quarterly Progress Reports.¹⁰⁶ As indicated by the Participants’ Quarterly Progress Report for the third quarter of 2020,¹⁰⁷ Initial Industry Member Core Equity and Option Reporting was completed on schedule on July 22, 2020, which is prior to the July 31, 2020 deadline.

Under the FAM Period 1 requirement of Initial Industry Member Core Equity and Options Reporting, Industry Members—excluding Small Industry Members that are not OATS reporters—were required to report two categories of data to the CAT: equities transaction data and options transaction data (both excluding Customer Account Information, Customer-ID, and Customer Identifying Information) by July 31, 2020. Pursuant to exemptive relief provided by the Commission, the Commission authorized the Participants’ Compliance Rules to allow core equity reporting for Industry Members (Phase 2a) to begin on June 22, 2020 and core options reporting for Industry Members (Phase 2b) to begin on July 20, 2020.¹⁰⁸

In adopting the FAMs, the Commission stated that the equities transaction reporting required for FAM Period 1 “is consistent with the functionality that the Participants describe on the CAT NMS Plan website as ‘Production Go-Live for Equities 2a file submission and data integrity validations.’”¹⁰⁹ The Phase 2a Industry Member Data is described in detail in the SEC’s Phased Reporting Exemptive Relief Order, and includes the following data related to Eligible Securities that are equities:

- All events and scenarios covered by OATS, which includes information related to the receipt or origination of orders, order transmittal, and order modifications, cancellations and executions;

- Reportable Events for: (1) proprietary orders, including market maker orders, for Eligible Securities that are equities; (2) electronic quotes in listed equity Eligible Securities (*i.e.*, NMS stocks) sent to a national securities exchange or FINRA’s Alternative Display Facility (“ADF”); (3) electronic quotes in unlisted Eligible Securities (*i.e.*, OTC Equity Securities) received by an Industry Member operating an interdealer quotation system (“IDQS”); and (4) electronic quotes in unlisted Eligible Securities sent to an IDQS or other quotation system not operated by a Participant or Industry Member;

- Firm Designated IDs (“FDIDs”), which Industry Members must report to the CAT as required by Sections 6.3(d)(i)(A) and 6.4(d)(ii)(C) of the CAT NMS Plan;

- Industry Members would be required to report all street side representative orders, including both agency and proprietary orders and mark such orders as representative orders, except in certain limited exceptions as described in the Industry Member Technical Specifications;

- The link between the street side representative order and the order being represented when: (1) the representative order was originated specifically to represent a single order received either from a customer or another broker-dealer; and (2) there is (a) an existing

direct electronic link in the Industry Member’s system between the order being represented and the representative order and (b) any resulting executions are immediately and automatically applied to the represented order in the Industry Member’s system;

- Manual and Electronic Capture Time for Manual Order Events;
- Special handling instructions for the original receipt or origination of an order during Phase 2a; and
- When routing an order, whether the order was routed as an intermarket sweep order (“ISO”).

In Phase 2a, Industry Members were not required to report modifications of a previously routed order in certain limited instances, nor were they required to report a cancellation of an order received from a Customer after the order has been executed.¹¹⁰

The Quarterly Progress Report for the third quarter of 2020 states that “Interim Step: Production Go-Live for Equities 2a file submission and data integrity validation (Large Industry Members and Small OATS Reporters)” was completed on June 22, 2020. Accordingly, the FAM Period 1 requirement of reporting by Industry Members (excluding Small Industry Members that are not OATS reporters) of “equities transaction data, excluding Customer Account Information, Customer-ID, and Customer Identifying Information” was completed on June 22, 2020.

In adopting the FAMs, the Commission stated that the options transaction reporting required for FAM Period 1 is “consistent with the functionality that the Participants describe on the CAT NMS Plan website as ‘Production Go-Live for Options 2b file submission and data integrity validations.’”¹¹¹ The Phase 2b Industry Member Data is described in detail in the SEC’s Phased Reporting Exemptive Relief Order, and includes the Industry Member Data related to Eligible Securities that are options and related to simple electronic option orders, excluding electronic paired option orders. A simple electronic option order is an order to buy or sell a single option that is not related to or dependent on any other transaction for pricing and timing of execution that is either received or routed electronically by an Industry Member. Electronic receipt of an order is defined as the initial receipt of an order by an Industry Member in electronic form in standard format directly into an order handling or execution system. Electronic routing of

¹⁰⁵ Section 11.6 of the CAT NMS Plan.

¹⁰⁶ The Quarterly Progress Reports are available at <https://www.catnmsplan.com/implementation-plan>.

¹⁰⁷ See Q3 2020 Quarterly Progress Report (Oct. 30, 2020) and Updated Q3 2020 Quarterly Progress Report (Jan. 29, 2021).

¹⁰⁸ See Phased Reporting Exemptive Relief Order. Under the CAT NMS Plan as adopted, the Participants were required, through their Compliance Rules, to require their Large Industry Members to commence reporting Industry Member Data to the Central Repository by November 15, 2018, and to require their Small Industry Members

to commence reporting Industry Member Data to the Central Repository by November 15, 2019. Sections 6.7(a)(v) and (vi) of the CAT NMS Plan. The SEC granted exemptive relief from these provisions of the CAT NMS Plan to allow for the phased implementation of Industry Member reporting via five phases addressing the reporting requirements for Phase 2a Industry Member Data, Phase 2b Industry Member Data, Phase 2c Industry Member Data, Phase 2d Industry Member Data and Phase 2e Industry Member Data.

¹⁰⁹ Securities Exchange Act Rel. No. 88890 (May 15, 2020), 85 FR 31322, 31330 n.97 (May 22, 2020) (“FAM Adopting Release”).

¹¹⁰ Phased Reporting Exemptive Relief Order at 23076–78.

¹¹¹ FAM Adopting Release at 31330, n.98.

an order is the routing of an order via electronic medium in standard format from one Industry Member's order handling or execution system to an exchange or another Industry Member. An electronic paired option order is an electronic option order that contains both the buy and sell side that is routed to another Industry Member or exchange for crossing and/or price improvement as a single transaction on an exchange. Responses to auctions of simple orders and paired simple orders would be reportable in Phase 2b. Furthermore, combined orders in options would be treated in Phase 2b in the same way as equity representative orders are treated in Phase 2a. A combined order would mean, as permitted by SRO rules, a single, simple order in Listed Options created by combining individual, simple orders in Listed Options from a customer with the same exchange origin code before routing to an exchange. During Phase 2b, the single combined order sent to an exchange must be reported and marked as a combined order, but the linkage to the underlying orders is not required to be reported until Phase 2a.¹¹²

The Quarterly Progress Report for the third quarter of 2020 states that "Interim Step: Production Go-Live for Options 2b file submission and data integrity validations" was completed on July 20, 2020. Accordingly, the FAM Period 1 requirement of reporting by Industry Members (excluding Small Industry Members that are not OATS reporters) of "options transaction data, excluding Customer Account Information, Customer-ID and Customer Identifying Information" was completed on July 20, 2020.

As discussed above, the remaining Historical CAT Costs 1 to be recovered via Historical CAT Assessment 1A would include fees, costs and expenses incurred by or for the Company in connection with the development, implementation and operation of the CAT during the period from June 22, 2020 through July 31, 2020. The total costs for this period, as discussed above, are \$6,377,343. Participants would remain responsible for one-third of this cost (which they have previously paid), and Industry Members would be responsible for the remaining two-thirds, with CEBBs paying one-third (\$2,125,781) and CEBBs paying one-third (\$2,125,781) through Historical CAT Assessment 1 and Historical CAT Assessment 1A.

(B) Period 2 of the Financial Accountability Milestones

Historical CAT Assessment 1A seeks to recover costs that are related to Post-Amendment Expenses incurred during FAM Period 2. FAM Period 2 began on August 1, 2020, and concluded on December 31, 2020, the date of the Full Implementation of Core Equity Reporting. Section 1.1 of the CAT NMS Plan defines "Full Implementation of Core Equity Reporting" as:

the point at which: (a) Industry Member reporting (excluding reporting by Small Industry Members that are not OATS reporters) for equities transactions, excluding Customer Account Information, Customer-ID, and Customer Identifying Information, is developed, tested, and implemented at a 5% Error Rate or less and with sufficient intra-firm linkage, inter-firm linkage, national securities exchange linkage, and trade reporting facilities linkage to permit the Participants and the Commission to analyze the full lifecycle of an order across the national market system, excluding linkage of representative orders, from order origination through order execution or order cancellation; and (b) the query tool functionality required by Section 6.10(c)(i)(A) and Appendix D, Sections 8.1.1–8.1.3 and Section 8.2.1 incorporates the Industry Member equities transaction data described in condition (a) and is available to the Participants and to the Commission. This Financial Accountability Milestone shall be considered complete as of the date identified in a Quarterly Progress Report meeting the requirements of Section 6.6(c).

Under Section 1.1 of the CAT NMS Plan, this Financial Accountability Milestone is considered complete as of the date identified in the Participants' Quarterly Progress Reports. As indicated by the Participants' Quarterly Progress Report for the fourth quarter of 2020,¹¹³ Full Implementation of Core Equity Reporting was completed on schedule by December 31, 2020.

Specifically, the Full Implementation of Core Equity Reporting requires the satisfaction of two prongs. The first prong requires Participants to have fully implemented the first phase of equities transaction reporting for Industry Members (excluding Small Industry Members that are not OATS reporters) at an Error Rate of less than 5%. In addition, equities transaction data produced by the CAT at this stage must also be sufficiently interlinked so as to permit full analysis of an order's lifecycle across the national market, excluding full linkage of representative orders. As CAT LLC reported on its Quarterly Progress Reports, Phase 2a was fully implemented as of October 26,

2020, including intra-firm, inter-firm, national securities exchange, and trade reporting facilities linkages.¹¹⁴ In addition to the reporting of Phase 2a Industry Member Data as described above with regard to FAM Period 1, the following linkage data was added to the CAT as described in the Quarterly Progress Reports for the third and fourth quarter of 2020:

- "Production Go-Live for Equities 2a Intrafirm Linkage validations" was completed on 7/27/2020;¹¹⁵
- "Production Go-Live for Firm to Firm Linkage validations for Equities 2a (Large Industry Members and Small OATS Reporters)" was completed on October 26, 2020; and
- "Production Go-Live for Equities 2a Exchange and TRF Linkage validations (Large Industry Members and Small OATS Reporters)" was completed on October 26, 2020.

Furthermore, as CAT LLC reported on its Quarterly Progress Report for the fourth quarter of 2020, the average overall error rate for Phase 2a Industry Member Data was less than 5% as of December 31, 2020. The average overall error rate was calculated by dividing the compliance errors by processed records.

The second prong of this FAM requires that the equities transaction data collected by the CAT at this stage be made available to regulators through two basic query tools required by the CAT NMS Plan—a targeted query tool that will enable regulators to retrieve data via an online query screen with a variety of predefined selection criteria, and a user-defined direct query tool that will provide regulators with the ability to query data using all available attributes and data sources.¹¹⁶ As CAT LLC reported on its Quarterly Progress Reports, the query tool functionality incorporating the data from Phase 2a was available to the Participants and the Commission as of December 31, 2020.¹¹⁷

The Commission has determined that the Participants have sufficiently

¹¹⁴ For a description of the requirements of Phases 2a, see Phased Reporting Exemptive Relief Order.

¹¹⁵ Q3 2020 Quarterly Progress Report (Oct. 20, 2021).

¹¹⁶ At the time of this FAM, Section 6.10(c)(i)(A) of the CAT NMS Plan required the Plan Processor to "provide Participants and the SEC with access to all CAT Data stored in the Central Repository" via an "online targeted query tool," and Appendix D, Sections 8.1.1–8.1.3 of the CAT NMS Plan described the required functionality associated with this regulatory tool. Appendix D, Section 8.2.1 describes the required functionality associated with a user-defined direct query tool that will "deliver large sets of data that can then be used in internal surveillance or market analysis applications."

¹¹⁷ See Q3 2020 Quarterly Progress Report (Oct. 30, 2020); Updated Q3 2020 Quarterly Progress Report (Jan. 29, 2021); and Q4 2020 Quarterly Progress Report (Jan. 29, 2021).

¹¹² Phased Reporting Exemptive Relief Order at 23078.

¹¹³ Q4 2020 Quarterly Progress Report (Jan. 29, 2021).

complied with the conditions set forth in the 2020 Orders and with the technical requirements for Quarterly Progress Reports set forth in Section 6.6(c) of the CAT NMS Plan for purposes of determining compliance with this FAM.¹¹⁸

As discussed above, the remaining Historical CAT Costs 1 to be recovered via Historical CAT Assessment 1A would include fees, costs and expenses incurred by or for the Company in connection with the development, implementation and operation of the CAT during the period from August 1, 2020 through December 31, 2020. The total costs for this period, as discussed above, are \$42,976,478. Participants would remain responsible for one-third of this cost (which they have previously paid), and Industry Members would be responsible for the remaining two-thirds, with CEBBs paying one-third (\$14,325,492.70) and CEBBs paying one-third (\$14,325,492.70) through Historical CAT Assessment 1 and Historical CAT Assessment 1A.

(C) Period 3 of the Financial Accountability Milestones

Historical CAT Assessment 1A seeks to recover costs that are related to Post-Amendment Expenses incurred during FAM Period 3. FAM Period 3 began on January 1, 2021, and concluded on December 31, 2021, the date of the Full Availability and Regulatory Utilization of Transactional Database Functionality. Section 1.1 of the CAT NMS Plan defines “Full Availability and Regulatory Utilization of Transactional Database Functionality” as:

the point at which: (a) reporting to the Order Audit Trail System (“OATS”) is no longer required for new orders; (b) Industry Member reporting for equities transactions and simple electronic options transactions, excluding Customer Account Information, Customer-ID, and Customer Identifying Information, with sufficient intra-firm linkage, inter-firm linkage, national securities exchange linkage, trade reporting facilities linkage, and representative order linkages (including any equities allocation information provided in an Allocation Report) to permit the Participants and the Commission to analyze the full lifecycle of an order across the national market system, from order origination through order execution or order cancellation, is developed, tested, and implemented at a 5% Error Rate or less; (c) Industry Member reporting for manual options transactions and complex options transactions, excluding Customer Account Information, Customer-ID, and Customer Identifying Information, with all required linkages to permit the Participants and the

Commission to analyze the full lifecycle of an order across the national market system, from order origination through order execution or order cancellation, including any options allocation information provided in an Allocation Report, is developed, tested, and fully implemented; (d) the query tool functionality required by Section 6.10(c)(i)(A) and Appendix D, Sections 8.1.1–8.1.3, Section 8.2.1, and Section 8.5 incorporates the data described in conditions (b)–(c) and is available to the Participants and to the Commission; and (e) the requirements of Section 6.10(a) are met. This Financial Accountability Milestone shall be considered complete as of the date identified in a Quarterly Progress Report meeting the requirements of Section 6.6(c).

Under Section 1.1 of the CAT NMS Plan, this Financial Accountability Milestone is considered complete as of the date identified in the Participants’ Quarterly Progress Reports. As indicated by the Participants’ Quarterly Progress Report for the fourth quarter of 2021,¹¹⁹ Full Availability and Regulatory Utilization of Transactional Database Functionality was completed on schedule by December 31, 2021.

Specifically, the “Full Availability and Regulatory Utilization of Transactional Database Functionality” requires the satisfaction of five prongs. The first prong requires that reporting to the Order Audit Trail System (“OATS”) is no longer required for new orders. As CAT LLC reported on its Quarterly Progress Report for the fourth quarter of 2021,¹²⁰ FINRA retired OATS effective September 1, 2021.¹²¹ Accordingly, after the retirement of OATS, reporting to OATS was no longer required.

In addition to Phase 2a and Phase 2b Industry Member Data, the second and third prongs of “Full Availability and Regulatory Utilization of Transactional Database Functionality” require Industry Member reporting of Phase 2c Industry Member Data and Phase 2d Industry Member Data. The Phase 2c Industry Member Data is described in detail in the SEC’s Phased Reporting Exemptive Relief Order. That Order states that “Phase 2c Industry Member Data” is Industry Member Data related to Eligible Securities that are equities other than Phase 2a Industry Member Data, Phase 2d Industry Member Data, or Phase 2e Industry Member Data. Specifically, the Phase 2c Industry Member Data includes Industry Member Data that is related to Eligible Securities that are equities and that is related to: (1) Allocation Reports as required to be recorded and reported to the Central

Repository pursuant to Section 6.4(d)(ii)(A)(1) of the CAT NMS Plan; (2) quotes in unlisted Eligible Securities sent to an IDQS operated by a CAT Reporter (reportable by the Industry Member sending the quotes) (except for quotes reportable in Phase 2d, as discussed below); (3) electronic quotes in listed equity Eligible Securities (*i.e.*, NMS stocks) that are not sent to a national securities exchange or FINRA’s Alternative Display Facility; (4) reporting changes to client instructions regarding modifications to algorithms; (5) marking as a representative order any order originated to work a customer order in price guarantee scenarios, such as a guaranteed VWAP; (6) flagging rejected external routes to indicate a route was not accepted by the receiving destination; (7) linkage of duplicate electronic messages related to a Manual Order Event between the electronic event and the original manual route; (8) special handling instructions on order route reports (other than the ISO, which is required to be reported in Phase 2a); (9) quote identifier on trade events; (10) reporting of LTIDs (if applicable) for accounts with Reportable Events that are reportable to CAT as of and including Phase 2c; (11) reporting of date account opened or Account Effective Date (as applicable) for accounts and reporting of a flag indicating the Firm Designated ID type as account or relationship; (12) order effective time for orders that are received by an Industry Member and do not become effective until a later time; (13) the modification or cancellation of an internal route of an order; and (14) linkages to the customer orders(s) being represented for representative order scenarios, including agency average price trades, net trades, aggregated orders, and disconnected Order Management System (“OMS”)—Execution Management System (“EMS”) scenarios, as required in the Industry Member Technical Specifications.¹²²

Phase 2c Industry Member Data also includes electronic quotes that are provided by or received in a CAT Reporter’s order/quote handling or execution systems in Eligible Securities that are equities and are provided by an Industry Member to other market participants off a national securities exchange under the following conditions: (1) an equity bid or offer is displayed publicly or has been communicated (a) for listed securities to the ADF operated by FINRA; or (b) for unlisted equity securities to an “interdealer quotation system,” as

¹¹⁸ Securities Exchange Act Rel. No. 98848 (Nov. 2, 2023), 88 FR 77128, 77129 n.13 (Nov. 8, 2023) (“Settlement Exemptive Order”).

¹¹⁹ Q4 2021 Quarterly Progress Report (Jan. 17, 2022).

¹²⁰ *Id.*

¹²¹ Securities Exchange Act Rel. No. 92239 (June 23, 2021), 86 FR 34293 (June 29, 2021).

¹²² Phase Reporting Exemptive Relief Order at 23078–79.

defined in FINRA Rule 6420(c); or (2) an equity bid or offer which is accessible electronically by customers or other market participants and is immediately actionable for execution or routing; *i.e.*, no further manual or electronic action is required by the responder providing the quote in order to execute or cause a trade to be executed). With respect to OTC Equity Securities, OTC Equity Securities quotes sent by an Industry Member to an IDQS operated by an Industry Member CAT Reporter (other than such an IDQS that does not match and execute orders) are reportable by the Industry Member sending them in Phase 2c. Accordingly, any response to a request for quote or other form of solicitation response provided in a standard electronic format (*e.g.*, FIX) that meets this quote definition (*i.e.*, an equity bid or offer which is accessible electronically by customers or other market participants and is immediately actionable for execution or routing) would be reportable in Phase 2c.¹²³

The Phase 2d Industry Member Data is described in detail in the SEC's Phased Reporting Exemptive Relief Order. "Phase 2d Industry Member Data" is Industry Member Data that is related to Eligible Securities that are options other than Phase 2b Industry Member Data, Industry Member Data that is related to Eligible Securities that are equities other than Phase 2a Industry Member Data or Phase 2c Industry Member Data, and Industry Member Data other than Phase 2e Industry Member Data. Phase 2d Industry Member Data includes with respect to the Eligible Securities that are options: (1) simple manual orders; (2) electronic and manual paired orders; (3) all complex orders with linkages to all CAT-reportable legs; (4) LTIDs (if applicable) for accounts with Reportable Events for Phase 2d; (5) date account opened or Account Effective Date (as applicable) for accounts with an LTID and flag indicating the Firm Designated ID type as account or relationship for such accounts; (6) Allocation Reports as required to be recorded and reported to the Central Repository pursuant to Section 6.4(d)(ii)(A)(1) of the CAT NMS Plan; (7) the modification or cancellation of an internal route of an order; and (8) linkage between a combined order and the original customer orders. Phase 2d Industry Member Data also would include electronic quotes that are provided by or received in a CAT Reporter's order/quote handling or execution systems in Eligible Securities that are options and are provided by an Industry Member to

other market participants off a national securities exchange under the following conditions: a listed option bid or offer which is accessible electronically by customers or other market participants and is immediately actionable (*i.e.*, no further action is required by the responder providing the quote in order to execute or cause a trade to be executed). Accordingly, any response to a request for quote or other form of solicitation response provided in standard electronic format (*e.g.*, FIX) that meets this definition is reportable in Phase 2d for options.¹²⁴

Phase 2d Industry Member Data also includes with respect to Eligible Securities that are options or equities (1) receipt time of cancellation and modification instructions through Order Cancel Request and Order Modification Request events; (2) modifications of previously routed orders in certain instances; and (3) OTC Equity Securities quotes sent by an Industry Member to an IDQS operated by an Industry Member CAT Reporter that does not match and execute orders. In addition, subject to any exemptive or other relief, Phase 2d Industry Member Data will include verbal or manual quotes on an exchange floor or in the over-the-counter market, where verbal quotes and manual quotes are defined as bids or offers in Eligible Securities provided verbally or that are provided or received other than via a CAT Reporter's order handling and execution system (*e.g.*, quotations provided via email or instant messaging).¹²⁵

The Quarterly Progress Report for the fourth quarter of 2021 states that "Phase 2a was fully implemented as of October 26, 2020;" "Phase 2b was fully implemented as of January 4, 2021;" "Phase 2c was implemented as of April 26, 2021;" and "Phase 2d was fully implemented as of December 13, 2021."¹²⁶ The Quarterly Progress Reports for 2021 provide additional detail regarding the implementation of these steps including the following:

- "Production Go-Live for Equities 2c reporting requirements (Large Industry Members)" was completed on April 26, 2021;
- "LTID Account Information Reporting Go-Live for Phases 2a, 2b and 2c (Large Industry Members)" was completed on April 26, 2021;
- "FCAT Plan Processor creates linkages of the lifecycle of order events based on the received data through Phase 2d Production Go-Live for

Options 2d reporting requirements (Large Industry Members)" was completed on December 13, 2021;

- "Production Go-Live for Options 2d reporting requirements (Large Industry Members)" was completed on December 13, 2021;

- "Production Go-Live for Options 2b reporting requirements (Small OATS Reporters and Small Non-OATS Reporters)" was completed on December 13, 2021;

- "Production Go-Live for Equities 2c reporting requirements (Small OATS Reporters and Small Non-OATS Reporters)" was completed on December 13, 2021;

- "Production Go-Live for Options 2d reporting requirements (Small OATS Reporters and Small Non-OATS Reporters)" was completed on December 13, 2021;

- "LTID Account Information Reporting Go-Live for Phases 2d (Large Industry Members)" was completed on December 13, 2021; and

- "LTID Account Information Reporting Go-Live for Phases 2a, 2b, 2c and 2d (Small Industry Members)" was completed on December 13, 2021.¹²⁷

The third prong of "Full Availability and Regulatory Utilization of Transactional Database Functionality" also imposes an Error Rate requirement of 5% or less. The Quarterly Progress Report for the fourth quarter of 2021 states the average overall error rate was less than 5% as of December 31, 2021. The average overall error rate was calculated by dividing the compliance errors by processed records.

The fourth prong of "Full Availability and Regulatory Utilization of Transactional Database Functionality" requires that the data collected by the CAT at this stage be made available to regulators through an online targeted query tool and a user-defined direct query tool. As CAT LLC reported on its Quarterly Progress Report for the fourth quarter of 2021, the query tool functionality incorporating the data from Phases 2a, 2b, 2c and 2d was available to the Participants and to the Commission as of December 31, 2021.¹²⁸

The fifth prong requires the requirements of Section 6.10(a) of the CAT NMS Plan to have been met. Section 6.10(a) of the CAT NMS Plan requires the Participants to use the tools described in Appendix D to "develop and implement a surveillance system, or enhance existing surveillance systems,

¹²⁴ *Id.*

¹²⁵ *Id.* at 23079–80.

¹²⁶ See Q4 2021 Quarterly Progress Report (Jan. 17, 2022).

¹²⁷ See Q2 2021 Quarterly Progress Report (July 27, 2021); and Q4 2021 Quarterly Progress Report (Jan. 17, 2022).

¹²⁸ See Q4 2021 Quarterly Progress Report (Jan. 17, 2022).

¹²³ *Id.* at 23079.

reasonably designed to make use of the consolidated information contained in the Central Repository.” The Exchange implemented a surveillance system, or enhanced existing surveillance systems, reasonably designed to make use of the consolidated information contained in the Central Repository as of December 31, 2021 in accordance with Section 6.10(a) of the CAT NMS Plan.¹²⁹

The Commission has determined that the Participants have sufficiently complied with the conditions set forth in the 2020 Orders and with the technical requirements for Quarterly Progress Reports set forth in Section 6.6(c) of the CAT NMS Plan for purposes of determining compliance with this FAM.¹³⁰

As discussed above, the remaining Historical CAT Costs 1 to be recovered via Historical CAT Assessment 1A would include fees, costs and expenses incurred by or for the Company in connection with the development, implementation and operation of the CAT during the period from January 1, 2021 through December 31, 2021. The total costs for this period, as discussed above, are \$144,415,268. Participants would remain responsible for one-third of this cost (which they have previously paid), and Industry Members would be responsible for the remain two-thirds, with CEBBs paying one-third (\$48,138,422.70) and CEBBs paying one-third (\$48,138,422.70) through Historical CAT Assessment 1 and Historical CAT Assessment 1A.

(D) Additional Considerations Related to the Financial Accountability Milestones

As discussed above, CAT LLC has satisfied the Financial Accountability Milestones (“FAMs”) for Periods 1 through 3.¹³¹ As discussed below, none of the circumstances related to NIA Electronic RFQ Responses, the 2023 Verbal Quotes Exemption, the November 2023 Order, or Executing Broker reporting, affect the conclusion that the FAMs for Periods 1 through 3 were satisfied in a timely fashion.

¹²⁹ See Q1 2021 Quarterly Progress Report (Apr. 30, 2021); Q2 2021 Quarterly Progress Report (July 27, 2021); Q3 2021 Quarterly Progress Report (Nov. 1, 2021); and Q4 2021 Quarterly Progress Report (Jan. 17, 2022).

¹³⁰ Settlement Exemptive Order at 77129 n.13.

¹³¹ In May 2020, the Commission adopted amendments to the CAT NMS Plan that establish four Financial Accountability Milestones and set target deadlines by which these milestones must be achieved. These amendments also reduce the amount of any fees, costs, and expenses that may be recovered from Industry Members if the Participants fail to meet the target deadlines. FAM Adopting Release.

(i) NIA Electronic RFQ Responses

CAT LLC does not believe that the exemptive relief relating to the reporting of electronic responses for quotes (“RFQs”) that are not immediately actionable (“NIA Electronic RFQ Responses”) affect the conclusion that FAMs 1 through 3 have been satisfied. The only reason CAT LLC pursued this relief is because certain Industry Members introduced concerns that NIA Electronic RFQ Responses could be considered “orders” reportable pursuant to Rule 613(j)(8) and some Industry Members were not prepared to report such orders to CAT. Thus, the relief was requested on behalf of Industry Members. CAT LLC itself has not taken any position on whether NIA Electronic RFQ Responses are “orders,” as the definition of “order” is an SEC rule and the trading processes for NIA Electronic RFQ Responses are the Industry Members’, not those of the Participants or CAT LLC. Accordingly, CAT LLC stated in its letter that “Industry Members must determine whether trading interest falls within the definition of an ‘order’ for CAT purposes. To the extent an NIA Electronic RFQ Response is not considered an ‘order’ as defined in Rule 613(j)(8) and the CAT NMS Plan, it would not be reportable to CAT.”¹³²

Only “orders” as defined in SEC Rule 613(j)(8) are reportable to CAT. There is no agreement across the industry or among regulators as to whether NIA Electronic RFQ Responses are “orders” reportable to CAT. Certain Industry Members have raised the question as to whether NIA Electronic RFQ Responses are orders, but others have argued that they are not orders under Rule 613(j)(8).¹³³ Indeed, members of the Advisory Committee, which CAT LLC relies upon for guidance with regard to Industry Member issues, have not had a definitive view on whether NIA Electronic RFQ Responses are orders. As Rule 613(j)(8) is an SEC rule, CAT LLC believes that only the SEC can provide a definitive determination as to if, and under what circumstances, an NIA Electronic RFQ Response is considered an “order” reportable to CAT. The issue has persisted for some time. As a result, CAT LLC filed an exemptive request regarding NIA Electronic RFQ Responses for clarity on the interpretive issue. As recently as April 2024,

¹³² See Letter from Brandon Becker, Chair, CAT NMS Plan Operating Committee to Vanessa Countryman, Secretary, Commission (Feb. 13, 2024) at 2.

¹³³ See, e.g., Letter from Howard Meyerson, Managing Director, FIF, to Sai Rao, Counsel for Trading and Markets, Office of the Chair (Apr. 25, 2024).

Industry Members have re-raised this issue stating that the SEC agrees that it must provide additional guidance on this interpretive issue to resolve the CAT reporting issue for NIA Electronic RFQ Responses:

As further discussed in the prior FIF letters, even if the Commission had the legal authority to require the reporting of NIA RFQ responses to CAT without an amendment to Rule 613, the Commission has not provided guidance to industry members as to the conditions under which NIA RFQ responses would be reportable to CAT. In subsequent discussions with industry members, Commission representatives have agreed that, prior to NIA RFQ responses being reportable to CAT, it would be necessary for the Commission to provide further guidance to industry members as to the conditions under which NIA RFQ responses would be reportable to CAT.¹³⁴

On May 20, 2024, the Commission granted CAT LLC’s request for exemptive relief from certain CAT reporting requirements pertaining to NIA Electronic RFQ Responses to the extent such responses are considered “orders” reportable pursuant to Rule 613(j)(8).¹³⁵ The Commission, however, did not provide additional guidance regarding the conditions under which NIA Electronic RFQ Responses would be reportable to CAT. The Commission stated in its exemptive order that “[t]o the extent that the Participants are availing themselves of exemptive relief from a CAT NMS Plan requirement, such requirement shall not be included in the requirements for the Financial Accountability Milestones, provided that any conditions of the exemption are satisfied.”¹³⁶

When the Commission proposed the FAMs, the Participants expressed concern that, “by conditioning the ability of CAT LLC and the Participants to collect Post-Amendment Industry Member Fees on factors dependent on the efforts of Industry Members, the Commission’s proposals inadvertently establish a perverse incentive for Industry Members to devote less than maximum efforts to comply with their obligations related to the CAT as they will pay less fees in such instances.”¹³⁷ The Participants further warned that “Industry Members may request or require unanticipated reporting delays to address Industry Member implementation issues or concerns,” but that, “[f]aced with financial penalties

¹³⁴ *Id.*

¹³⁵ Securities Exchange Act Rel. No. 100181 (May 20, 2024), 89 FR 45715 (May 23, 2024).

¹³⁶ *Id.* at n.11.

¹³⁷ See Letter from Michael Simon, CAT NMS Plan Operating Committee Chair, to Vanessa Countryman, Secretary, Commission at 9 (Oct. 28, 2019).

for missed deadlines, the Participants may not be able to fully address legitimate industry concerns or accommodate requests for delays with respect to future deadlines.”¹³⁸ CAT LLC has engaged in good faith to help address NIA Electronic RFQ Responses and other concerns relevant to the ability of Industry Members to meet their CAT reporting obligations. CAT LLC should not be penalized financially for seeking in good faith to resolve a difficult interpretive issue for the benefit of Industry Members.

(ii) 2023 Verbal Quotes Exemption

CAT LLC does not believe that the Commission’s May 19, 2023 order granting temporary exemptive relief relating to certain verbal floor activity and unstructured verbal and electronic upstairs activity (the “2023 Verbal Quotes Exemption”) affects the conclusion that FAMs 1 through 3 have been satisfied. The 2023 Verbal Quotes Exemption, which was issued on May 19, 2023, is not relevant for purposes of FAM Periods 1 through 3, which only cover the period through December 31, 2021. The relevant exemption for this time period is the Commission’s November 12, 2020 order, which granted relief for the same activity through July 31, 2023 (the “2020 Verbal Quotes Order”).¹³⁹ The Commission has stated that, “to the extent that the Participants are availing themselves of exemptive relief from a CAT NMS Plan requirement, such requirement shall not be included in the requirements for a Financial Accountability Milestone, provided that the conditions of the exemption are satisfied.”¹⁴⁰ Here, the 2020 Verbal Quotes Order was in effect and the conditions of the exemption were satisfied as of December 31, 2021, and therefore may be relied upon for purposes of determining compliance with FAM Periods 1 through 3.¹⁴¹

¹³⁸ *Id.* at 10.

¹³⁹ Securities Exchange Act Rel. No. 90405, 85 FR 73544 (Nov. 18, 2020) (the “2020 Verbal Quotes Exemption”).

¹⁴⁰ *See, e.g.*, Securities Exchange Act Rel. No. 89051 (June 11, 2020), 85 FR 36631, 36633 (June 17, 2020). The straightforward reading of the Commission’s statement is that compliance with the conditions of an exemption will be measured as of the deadline for a particular FAM Period.

¹⁴¹ As a condition to the 2020 Verbal Quotes Exemption, the Commission required that the Participants provide a written status update on the reporting of these quotes and orders by July 31, 2022, including the estimated costs of reporting these quotes and orders and an implementation plan for the reporting of these quotes and orders. As noted, the 2020 Verbal Quotes Order was in effect and the conditions of the exemption were satisfied as of December 31, 2021, and therefore may be relied upon for purposes of determining compliance with FAM Periods 1 through 3. In any event, on June 3, 2022, the Participants provided

(iii) November 2023 Order

CAT LLC does not believe that the Commission’s November 2, 2023 order granting relief from certain CAT NMS Plan requirements (the “November 2023 Order”) affects the conclusion that FAMs 1 through 3 have been satisfied. The November 2023 Order is not relevant for purposes of FAM Periods 1 through 3, which only cover the period through December 31, 2021. As described in the November 2023 Order, the relevant exemptive orders for this time period were issued on December 16, 2020, which also states that “the Commission has determined that the Participants have sufficiently complied with the conditions set forth in the prior Orders and with the technical requirements for Quarterly Progress Reports set forth in section 6.6(c) of the CAT NMS Plan, including for purposes of determining compliance with any applicable Financial Accountability Milestones.”¹⁴² The November 2023 Exemption Order is consistent with the Commission’s repeated statements in the FAM adopting release that it would have “authority to grant exemptive relief from any requirement associated with a particular Financial Accountability Milestone,” citing Section 36 of the Exchange Act and Rule 608.¹⁴³ Similarly, the CAT NMS Plan expressly contemplates the Commission’s ability to grant exemptive relief from any CAT NMS Plan requirement.¹⁴⁴

the required written status update. *See* Letter from Michael Simon, CAT NMS Plan Operating Committee Chair, to Vanessa Countryman, Secretary, Commission (June 3, 2022).

¹⁴² *Id.* at 77129 n.12.

¹⁴³ FAM Adopting Release at 31335 (May 22, 2020). Section 36 of the Exchange Act grants the Commission the authority to “conditionally or unconditionally exempt any person, security, or transaction . . . from any provision or provisions of [the Exchange Act] or of any rule or regulation thereunder, to the extent that such exemption is necessary or appropriate in the public interest, and is consistent with the protection of investors.” 15 U.S.C. 78mm(a)(1). Under Rule 608(e) of Regulation NMS, the Commission may “exempt from [Rule 608], either unconditionally or on specified terms and conditions, any self-regulatory organization, member thereof, or specified security, if the Commission determines that such exemption is consistent with the public interest, the protection of investors, the maintenance of fair and orderly markets and the removal of impediments to, and perfection of the mechanism of, a national market system.” 17 CFR 242.608(e).

¹⁴⁴ Section 12.3 of the CAT NMS Plan (“[T]o the extent the SEC grants exemptive relief applicable to any provision of this Agreement, Participants and Industry Members shall be entitled to comply with such provision pursuant to the terms of the exemptive relief so granted at the time such relief is granted irrespective of whether this Agreement has been amended.”)

(iv) Executing Broker Reporting

CAT LLC also completed the requirements of FAM Period 2, including the required linkages, by December 31, 2020. Although Participant exchanges may report the Executing Broker to CAT differently in certain situations, these reporting differences are irrelevant for linkage purposes as the fields used for CAT Executing Broker are not used for linkage.

(10) Additional Support for Reasonableness of Historical CAT Costs

The CAT Funding Model approved by the Commission permits the recovery of reasonable costs in each of the categories of CAT costs sought to be recovered via Historical CAT Assessment 1A.¹⁴⁵ As described in detail above and in further detail below, the CAT costs to be recovered for each category are reasonable. The following discusses in further detail how each of the following costs are reasonable: (1) costs incurred prior to the effective date of the CAT NMS Plan; (2) cloud hosting services costs; (3) costs related to funding model filings; (4) costs related to litigation with the SEC regarding the CAT NMS Plan; (5) costs related to the Initial Plan Processor; (6) CAIS implementation costs; (7) public relations costs; (8) legal costs related to the limitation of liability provision in the CAT Reporter agreements; and (9) costs for the Chair of CAT Operating Committee. As discussed in detail below, each of these costs is reasonable and should be recoverable in accordance with the CAT Funding Model.

(A) Costs Incurred Prior to the Effective Date of CAT NMS Plan

CAT LLC believes that it is reasonable to seek recovery of costs incurred prior to when the CAT NMS Plan became effective in November 2016, such as legal and consulting fees incurred to create the CAT NMS Plan. Rule 613 specifically mandates that the CAT be created, implemented and maintained, and further provides that the CAT NMS Plan include a proposed allocation of estimated costs to fund the creation, implementation and maintenance of the CAT among the Participants (referred to as “plan sponsors”), and between the Participants and Industry Members (referred to as “members of the plan sponsors”).¹⁴⁶ Consistent with Rule 613,

¹⁴⁵ *See* Sections 11.1(a)(i) and 11.3(b)(iii)(B)(II) of the CAT NMS Plan.

¹⁴⁶ *See, e.g.*, Rule 613(a)(1)(vii)(D) of the CAT NMS Plan.

the CAT NMS Plan, as approved by the Commission, specifically authorizes charging Industry Members fees for costs reasonably incurred prior to the date of the approval of the CAT NMS Plan by the Commission in November 2016, including legal and consulting costs. Section 11.1(c) of the CAT NMS Plan states that:

[i]n determining fees on Participants and Industry Members the Operating Committee shall take into account fees, costs and expenses (including legal and consulting fees and expenses) reasonably incurred by Participants on behalf of the Company prior to the Effective Date in connection with the creation and implementation of the CAT.

Accordingly, the CAT NMS Plan specifically permits the recovery of costs, including legal and consulting costs, reasonably incurred prior to November 2016 in connection with the creation and implementation of the CAT.

Furthermore, the costs incurred to create and implement the CAT prior to the effective date of the CAT NMS Plan ("Pre-Formation Costs") were reasonable both in scope and amount, in accordance with the requirements of Section 11.1(c) of the CAT NMS Plan. During the four-year period from 2012 to 2016, a total of \$13,842,881 in Pre-Formation Costs were incurred. This is an average of approximately \$3.5 million per year over this period. The Pre-Formation Costs fell into three categories: legal costs, consulting costs and public relations costs. This includes legal costs of \$3,196,434; consulting costs of \$10,589,273; and public relations costs of \$57,174. The legal, consulting and public relations services were performed by WilmerHale, Deloitte and Peppercomm, respectively. The selection considerations and fees for these three firms are described in detail above and are described further below. The Pre-Formation Costs are direct costs of CAT, which have been funded entirely by the Participants through non-interest-bearing notes. The Pre-Formation Costs do not include the significant costs incurred by each of the individual Participants in responding to the adoption of Rule 613.

The Pre-Formation Costs are reasonable and appropriate as they reflect the extensive efforts that were necessary to create the CAT NMS Plan as mandated after the SEC's adoption of Rule 613. As described in more detail below, these efforts included, among other things, developing a plan for selecting the Plan Processor, soliciting and evaluating bids, engaging a diverse set of market participants and the SEC in the development of the Plan, interacting with the SEC in their

oversight of the development of the Plan, and seeking appropriate exemptive relief to address areas of concern in Rule 613.¹⁴⁷

(i) Request for Proposal ("RFP")

The Participants determined to utilize an RFP to ensure that potential alternative solutions for creating the Plan could be presented and considered, and that a detailed and meaningful cost-benefit analysis could be performed. The SEC supported the use of an RFP, and approved its use as it is described in extensive detail in the CAT NMS Plan.¹⁴⁸

In the context of the SEC's adoption of Rule 613, commenters urged the Commission to utilize an RFP process to assist in the planning and design of the NMS plan.¹⁴⁹ Specifically, the Commission explained:

In this regard, several commenters suggested that the Commission undergo a RFP or request for information ("RFI") process to create and implement a consolidated audit trail. Specifically, FIF urged the Commission to perform a RFP process "to determine the best technical solution for developing a consolidated audit trail." FIF suggested that the Commission "should outline a set of goals and guiding principles they are striving to achieve as part of the adopted CAT filing and leave the determination of data elements and other technical requirements to [an] industry working group." Similarly, Direct Edge suggested that Commission staff should form and engage in a working group to develop an RFP for publication by the Commission. DirectEdge explained that an RFP process would facilitate the identification of the costs and benefits of the audit trail, as well as the consideration of a wider range of technological solutions. Further, commenters, including Broadridge Financial Solutions, Inc., a technology provider, also requested more specific information about the audit trail system to better assess the Commission's initial

cost estimates and to determine the best approach to the consolidated audit trail.¹⁵⁰

In response to these comments, the Commission modified Rule 613 to require the Participants to address certain important considerations regarding the features and details of the NMS plan and to extend the timeframe for submission of the CAT NMS Plan by the Participants from the 90 days as originally proposed to 270 days, in part, to accommodate a process that would address these considerations.¹⁵¹ As the SEC noted, "[i]n light of the numerous specific requirements of Rule 613, the Participants concluded that publication of a request for proposal ('RFP') was necessary to ensure that potential alternative solutions to creating the consolidated audit trail can be presented and considered by the Participants and that a detailed and meaningful cost/benefit analysis can be performed, both of which are required considerations to be addressed in the CAT NMS Plan."¹⁵²

The SEC specifically recognized that the Participants planned to use an RFP when it approved the Selection Plan, and stated that the RFP was a reasonable approach.¹⁵³ As the SEC described in its approval order for the Selection Plan, "[t]he Participants filed the [Selection] Plan to govern how the SROs will proceed with formulating and submitting the CAT NMS Plan—and, as part of that process, how to review, evaluate, and narrow down the bids submitted in response to the RFP ('Bids')—and ultimately choosing the plan processor that will build, operate, and maintain the consolidated audit trail ('Plan Processor')."¹⁵⁴ After evaluating the Selection Plan, including the use of an RFP process, the Commission stated that it "believes the [Selection] Plan is reasonably designed to govern the process by which the SROs will formulate and submit the CAT NMS Plan, including the review, evaluation, and narrowing down of Bids in response to the RFP, and ultimately choosing the Plan Processor that will build, operate, and maintain the consolidated audit trail."¹⁵⁵

On February 26, 2013, the Participants published an RFP soliciting bids from parties interested in serving as the plan processor for the CAT. Initially, 31 firms submitted intentions to bid. In

¹⁴⁷ The Participants described in detail the process for drafting the CAT NMS Plan in its original filing of the CAT NMS Plan. See Letter from Mike Simon, on behalf of the Participants of the CAT NMS Plan, to Brent J. Fields, Secretary, Commission (Sept. 30, 2014). A non-exclusive list of filings and activities associated with CAT, including certain pre-2016 filings, are available on the SEC's website: <https://www.sec.gov/divisions/marketreg/rule613-info>.

¹⁴⁸ See detailed discussion of RFP questions in Appendix C of the CAT NMS Plan, and incorporation of RFP requirements in Appendix D at D-2.

¹⁴⁹ For example, in its comments on proposed Rule 613, FIF suggested "that the SROs should select the processor through a 'request for proposal.'" Rule 613 Adopting Release at 45785.

¹⁵⁰ Rule 613 Adopting Release at 45738–39.

¹⁵¹ Rule 613 Adopting Release at 45739.

¹⁵² Securities Exchange Act Rel. No. 71596 (Feb. 21, 2014), 79 FR 11152, 11152 (Feb. 27, 2014) ("Selection Plan Approval Order").

¹⁵³ *Id.*

¹⁵⁴ *Id.* at 11153.

¹⁵⁵ *Id.* at 11159.

the following months, the Participants engaged with potential bidders with respect to, among other things, the selection process, selection criteria, and potential bidders' questions and concerns. On March 21, 2014, the Participants received ten bids in response to the RFP.

(ii) Selection Plan

On September 4, 2013, the Participants filed with the Commission a national market system plan to govern the process for Participant review of the bids submitted in response to the RFP, the procedures for evaluating the bids, and, ultimately, selection of the plan processor (the "Selection Plan").¹⁵⁶ The Commission approved the Selection Plan as filed on February 21, 2014.¹⁵⁷ In approving the Selection Plan, the Commission concluded that "it is reasonably designed to achieve its objective of facilitating the development of the CAT NMS Plan and the selection of the Plan Processor."¹⁵⁸

The Selection Plan divided the review and evaluation of bids, and the selection of the plan processor, into various stages. Specifically, pursuant to the Selection Plan, a selection committee reviewed all bids and determined which bids contained sufficient information to allow the Participants to meaningfully assess and evaluate the bids. The ten submitted bids were deemed "Qualified Bids," and so passed to the next stage, in which each bidder presented its bids to the Participants on a confidential basis. On July 1, 2014, after conducting careful analysis and comparison of the bids, the Selection Committee voted and selected a shortlist of six eligible bidders. The Selection Committee determined which shortlisted bidders would be provided the opportunity to revise their bids. After the Selection Committee assessed and evaluated the revised bids, the Selection Committee selected the plan processor via two rounds of voting by the Participants, as described in the Selection Plan.

The Selection Plan established an Operating Committee responsible for formulating, drafting, and filing with the Commission the CAT NMS Plan and for ensuring that the Participants' joint obligations under Rule 613 were met in a timely and efficient manner. In formulating the CAT NMS Plan, the Participants also engaged multiple persons across a wide range of roles and expertise, engaged the consulting firm Deloitte as project manager, and

engaged the law firm WilmerHale to serve as legal counsel in drafting the Plan. Within this structure, the Participants focused on, among other things, comparative analyses of the proposed technologies and operating models, development of funding models to support the building and operation of the CAT, and detailed review of governance considerations. Given the complexity and scope of developing the CAT NMS Plan, these efforts were extensive.

When it approved the CAT NMS Plan in 2016, the Commission reiterated its belief that the Selection Plan remains a "reasonable approach," that "the competitive bidding process to select the Plan Processor is a reasonable and effective way to choose a Plan Processor," and that "the process set forth in the Selection Plan should be permitted to continue":

In approving the Selection Plan, the Commission stated that the Selection Plan is reasonably designed to achieve its objective of facilitating the development of the CAT NMS Plan and the selection of the Plan Processor. The Commission also found that the Selection Plan is reasonably designed to govern the process by which the SROs will formulate and submit the CAT NMS Plan, including the review, evaluation, and narrowing down of Bids in response to the RFP, and ultimately choosing the Plan Processor that will build, operate, and maintain the consolidated audit trail. The Commission believes that the process set out in the Selection Plan for selecting a Plan Processor remains a reasonable approach, which will facilitate the selection of Plan Processor through a fair, transparent and competitive process and that no modifications to the Selection Plan are required to meet the approval standard In response to the comment that offered support for a specific Bidder, the Commission agrees with the Participants that the competitive bidding process to select the Plan Processor is a reasonable and effective way to choose a Plan Processor and thus believes that the process set forth in the Selection Plan should be permitted to continue.¹⁵⁹

(iii) Engagement With Market Participants and SEC

During the process of developing the CAT NMS Plan, the Participants engaged in extensive and meaningful dialogue with market participants and the SEC. To this end, the Participants created a website to update the public on the progress of the CAT NMS Plan, published a request for comment on multiple issues related to the Plan, held multiple public events to inform the industry of the progress of the CAT and to address inquiries, and formed, and later expanded, a DAG to solicit more

input from a representative industry group.¹⁶⁰

The DAG included representatives of Participants and Industry Members and conducted meetings to discuss, among other things, technical and operational aspects the Participants were considering for the Plan. The Participants issued press releases soliciting participants for the DAG, and a wide spectrum of firms was deliberately chosen to provide insight from various industry segments affected by CAT. The DAG meetings included discussions of topics such as option market maker quote reporting, requirements for capturing Customer IDs, timestamps and clock synchronization, reporting requirements for order handling scenarios, costs and funding, error handling and corrections, and potential elimination of systems made redundant by the CAT. From the inception of the DAG through September 2014, the DAG participated in 36 meetings, as well as a variety of DAG subcommittee meetings.

(iv) Request for Exemption From Certain Requirements Under Rule 613

Following multiple discussions between the Participants and both the DAG and the bidders, as well as among the Participants themselves, the Participants recognized that some provisions of Rule 613 would not permit certain solutions to be included in the Plan that the Participants, in coordination with the DAG, determined advisable to effectuate the most efficient and cost-effective CAT. Specifically, "the SROs reached the conclusion that additional flexibility in certain of the minimum requirements specified in Rule 613 would allow them to propose a more efficient and cost-effective approach without adversely affecting the reliability or accuracy of CAT Data, or its security and confidentiality."¹⁶¹ Consequently, the Participants submitted a request for exemptive relief from certain provisions of Rule 613 regarding: (1) options market maker quotes; (2) Customer-IDs; (3) CAT-Reporter-IDs; (4) CAT-Order-IDs on allocation reports; and (5) timestamp granularity.¹⁶² The Participants filed two supplements to the request for exemptive relief.¹⁶³

¹⁶⁰ See Section D(11) of Appendix C of the CAT NMS Plan.

¹⁶¹ Securities Exchange Rel. No. 77265 (Mar. 1, 2016), 81 FR 11856 (Mar. 7, 2016) ("2016 Exemptive Order").

¹⁶² Letter from Robert Colby, FINRA, on behalf of the SROs, to Brent J. Fields, Secretary, Commission (Jan. 30, 2015).

¹⁶³ See Letter from Robert Colby, FINRA, on behalf of the SROs, to Brent J. Fields, Secretary,

¹⁵⁶ See Securities Exchange Act Rel. No. 70892 (Nov. 15, 2013), 78 FR 69910 (Nov. 21, 2013).

¹⁵⁷ See Selection Plan Approval Order.

¹⁵⁸ Selection Plan Approval Order at 11160.

¹⁵⁹ See CAT NMS Plan Approval Order at 84737.

After reviewing the exemptive request, the Commission determined that it was appropriate in the public interest and consistent with the protection of investors to grant the requested exemptive relief.¹⁶⁴ In granting the exemptive relief, the Commission stated:

[T]he Commission is persuaded to provide flexibility in the discrete areas discussed in the Exemption Request so that the alternative approaches can be included in the CAT NMS Plan and subject to notice and comment. Doing so could allow for more efficient and cost-effective approaches than otherwise would be permitted. The Commission at this stage is not deciding whether the proposed approaches detailed below are more efficient or effective than those in Rule 613. However, the Commission believes the proposed approaches should be within the permissible range of alternatives available to the SROs.¹⁶⁵

The Commission further stated that the requested exemptive relief is consistent with the protection of investors. The Commission noted that:

Doing so will provide the public an opportunity to consider and comment on whether these proposed alternative approaches would indeed be more efficient and cost-effective than those otherwise required by Rule 613, and whether such approaches would adversely affect the reliability or accuracy of CAT Data or otherwise undermine the goals of Rule 613. Moreover, if—as the SROs represent—efficiency gains and cost savings would result from including the proposed approaches in the CAT NMS Plan without adverse effects, then the resultant benefits could potentially flow to investors (e.g., lower broker-dealer reporting costs resulting in fewer costs passed on to Customers).¹⁶⁶

The Participants incorporated the exemptive relief into the proposed CAT NMS Plan, which was noticed for comment, and the Commission ultimately approved the CAT NMS Plan with the more efficient and cost-effective alternative approaches described in the exemptive relief. Accordingly, the Participants believe that the costs incurred in developing the exemptive request were critical to the creation of a better CAT than was originally contemplated by Rule 613, and therefore should be recoverable as part of Historical CAT Assessment 1A.

(v) Request for Extensions for Filing the CAT NMS Plan

Rule 613(a)(1) under Regulation NMS required the Participants to jointly file the CAT NMS Plan on or before April

28, 2013, less than a year after the adoption of Rule 613. In recognition of the complexity of the project to create the CAT NMS Plan as well as industry interest in limiting or eliminating certain requirements of Rule 613 (e.g., addressing the reporting of options market maker quotes), the Participants requested two extensions of the deadline to file the CAT NMS Plan. The Participants described the need for additional time as follows:

The SROs stated in their Request Letter that they do not believe that the 270-day time period provided for in Rule 613(a)(1) provides sufficient time for the development of the RFP, formulation and submission of bids, and review and evaluation of such bids. The SROs also stated that they believe additional time beyond the 270 days provided for in Rule 613(a)(1) is necessary in order to provide sufficient time for effective consultation with and input from the industry and the public on the proposed solution chosen by the SROs for the creation of the consolidated audit trail at the conclusion of the RFP process and the NMS plan itself.¹⁶⁷

In recognition of the need for additional time to refine the technical description of and requirements for the CAT and to allow for additional evaluation of the proposed cost and funding considerations, the SEC granted two extensions of this deadline.¹⁶⁸ The SEC determined that both extensions were appropriate, in the public interest, and consistent with the protection of investors.¹⁶⁹ In reaching this conclusion, the Commission stated that “it understands that the creation of a consolidated audit trail is a significant undertaking and that a proposed NMS plan must include detailed information and discussion about many things.”¹⁷⁰ The SEC also noted the following:

This additional time to complete the RFP process should allow the SROs to engage in a more thoughtful and comprehensive process for the development of an NMS plan. In this regard, the Commission notes that the additional time to solicit comment from the industry and the public at certain key points in the development of the NMS plan could identify issues that can be resolved earlier in the development of the consolidated audit trail and prior to filing the NMS plan with the Commission.¹⁷¹

Given the Commission’s recognition of the reasonableness and value of the

extension of the deadline to file the CAT NMS Plan, the Participants believe that the costs incurred in developing the extension request were important to the process of developing the CAT NMS Plan, and therefore should be recoverable as part of Historical CAT Assessment 1A.

(vi) Submission and Approval of the CAT NMS Plan

After extensive analyses and discussions with the DAG, bidders, market participants and the SEC staff, the Participants finalized the draft of the CAT NMS Plan and filed the CAT NMS Plan with the SEC on September 30, 2014. Following additional discussions, the Participants filed several amendments to the CAT NMS Plan during 2015 and 2016. With these additional changes, the SEC published the CAT NMS Plan for notice and comment in May 2016.¹⁷² Following the comment period, the SEC approved the Plan in November 2016.¹⁷³

(vii) Legal Costs Incurred Prior to the Effective Date of the CAT NMS Plan

The Pre-Formation Costs include legal costs of \$3,196,434. The legal services were performed by WilmerHale. The selection considerations and fees for WilmerHale were described in detail above. Prior to the creation of CAT LLC, WilmerHale was engaged to represent the consortium of SROs, not the individual Participants. For administrative purposes, FINRA agreed to receive such legal bills, although such costs were shared among the Participants. Therefore, the legal costs incurred with respect to WilmerHale do not include legal costs incurred by the individual Participants. These pre-formation legal costs are described in detail above and are further described below:

- Analyzed various legal matters associated with the Selection Plan and drafted an amendment to Selection Plan;
- Assisted with the RFP and bidding process for the CAT Plan Processor;
- Analyzed legal matters related to the DAG;
- Drafted the CAT NMS Plan, analyzed various items related to the CAT NMS Plan, and responded to comment letters on the CAT NMS Plan;
- Provided legal support for the formation of the legal entity, the governance of the CAT, including governance support prior to the adoption of the CAT NMS Plan, which

Commission (Apr. 3, 2015); Letter from the SROs to Brent J. Fields, Secretary, Commission (Sept. 2, 2015).

¹⁶⁴ See 2016 Exemptive Order.

¹⁶⁵ *Id.* at 11857.

¹⁶⁶ *Id.*

¹⁶⁷ Securities Exchange Act Rel. No. 69060 (Mar. 7, 2013), 78 FR 15771, 15772 (Mar. 12, 2013) (“March 2013 Exemptive Order”).

¹⁶⁸ See March 2013 Exemptive Order; Securities Exchange Act Rel. No. 71018 (Dec. 6, 2013), 78 FR 75669 (Dec. 12, 2013) (“December 2013 Exemptive Order”).

¹⁶⁹ March 2013 Exemptive Order at 15772;

December 2013 Exemptive Order at 75670.

¹⁷⁰ March 2013 Exemptive Order at 15772.

¹⁷¹ *Id.* at 15773.

¹⁷² See Securities Exchange Act Rel. No. 77724 (Apr. 27, 2016), 81 FR 30614 (May 17, 2016).

¹⁷³ See CAT NMS Plan Approval Order.

involved support for the full committee of exchanges and FINRA as well as subcommittees of this group (e.g., Joint Subcommittee Group, Technical, Industry Outreach, Cost and Funding, and Other Products) and the DAG, and governance support during the transition to the new governance structure under the CAT NMS Plan;

- Drafted exemptive requests;
- Provided interpretations related to the CAT NMS Plan;
- Provided support with regard to discussions among the exchanges, FINRA and other third parties, such as Deloitte;
- Provided tax advice with regard to CAT's status as a tax-exempt organization; and
- Provided support with regard to discussions with the SEC and its staff, including with respect to addressing interpretive and implementation issues.

(viii) Consulting Costs Incurred Prior to the Effective Date of the CAT NMS Plan

The Pre-Formation Costs include consulting costs of \$10,589,273. The consulting services were performed by Deloitte. The selection considerations and fees for Deloitte were described in detail above. Prior to the creation of CAT LLC, for administrative purposes, Deloitte was engaged by FINRA to provide consulting services related to CAT, but the costs were shared by the consortium of SROs per agreement. Therefore, the consulting costs incurred with respect to Deloitte do not include consulting costs incurred by the individual Participants. The pre-formation consulting costs include the following:

- Established and implemented program operations for the CAT project, including the program management office and workstream design;
- Assisted with the Plan Processor selection process, including but not limited to, the development of the RFP and the bidder evaluation process, and facilitation and consolidation of the Participants' independent reviews;
- Assisted with the development and drafting of the CAT NMS Plan, including conducting cost-benefit studies, reviewing technical requirements of other NMS plans, analyzing OATS and CAT requirements, and drafting appendices to the Plan;
- Provided governance support to the CAT, including governance support prior to the adoption of the CAT NMS Plan, which involved support for the full committee of exchanges and FINRA as well as subcommittees of this group (e.g., Joint Subcommittee Group, Technical, Industry Outreach, Cost and

Funding, and Other Products) and the DAG;

- Provided support for updating the SEC on the progress of the development of the CAT;
- Provided support for industry outreach sessions, including with regard to program design and agenda development, program support and logistics and coordination; and
- Provided support in fact finding, drafting content and meeting coordination for WilmerHale with regard to the CAT and the development of the CAT NMS Plan.

Such Pre-Formation Costs did not include costs related to the Chair of the CAT NMS Plan Operating Committee, as the CAT NMS Plan had not yet been adopted.

(ix) Public Relations Costs Incurred Prior to the Effective Date of the CAT NMS Plan

The Pre-Formation Costs include public relations costs of \$57,174. The public relations services were performed by Peppercomm. The selection considerations and fees for Peppercomm are described in detail above. The costs related to Peppercomm were shared among the SROs. Therefore, the public relations costs do not include public relations costs incurred by the individual Participants. The pre-formation public relations costs include services related to communications with the public regarding the CAT, including monitoring developments related to the CAT (e.g., congressional efforts, public comments and reaction to proposals, press coverage of the CAT), reporting such developments to CAT LLC, and drafting and disseminating communications to the public regarding such developments as well as reporting on developments related to the CAT.

(B) Cloud Hosting Services

In approving the CAT Funding Model, the Commission recognized that it is appropriate to recover reasonable costs related to cloud hosting services as a part of Historical CAT Assessments. CAT LLC believes that the costs related to cloud hosting services described in detail above are reasonable and appropriate given the strict data processing timelines and storage requirements imposed by the Commission-approved CAT NMS Plan and should be recoverable as a part of Historical CAT Assessment 1A.

(i) Reasonableness of AWS Costs Given the Requirements of the CAT NMS Plan

CAT LLC believes that the costs for the cloud hosting services are reasonable, both in terms of the level of

the fees paid by CAT LLC for cloud hosting services provided by AWS and the scope of the services performed by AWS for CAT LLC. CAT LLC believes that both the scope and amount of the costs for cloud hosting services are reasonable given the current requirements of the CAT NMS Plan adopted pursuant to Rule 613, including the strict data processing timeline, storage and other technical requirements under the Commission-approved CAT NMS Plan.

CAT LLC believes that the level of fees for the cloud hosting services is reasonable, taking into consideration a variety of factors, including the expected volume of data and the breadth of services provided and market rates for similar services.

CAT LLC also believes that the scope of services provided by AWS for the CAT are appropriate given the current requirements of the Commission-approved CAT NMS Plan. As described above, the cloud hosting services costs reflect a variety of factors including, among other things:

- *Breadth of Cloud Activities.* AWS was engaged by FCAT, the Plan Processor, to provide a broad range of services to the CAT, including data ingestion, data management, and analytic tools. Services provided by AWS necessary to the CAT include storage services, databases, compute services, and other services (such as networking, management tools and development operations ("DevOps") tools). AWS also was engaged to provide the various environments for CAT, such as the development, performance testing, test and production environments, which are required by the CAT NMS Plan.

- *High Data Volume.* The cost for AWS services for the CAT is a function of the volume of CAT Data. While it is not linear, the greater the amount of CAT Data, the greater the cost of AWS services to the CAT. The data volume handled by AWS now far exceeds the original volume estimates for the CAT.

- *Plan Requirements.* The cost for AWS services also reflects the technical requirements necessary to meet the stringent performance and other requirements for processing CAT Data. These Plan-dictated processing timelines, storage, testing, security and other technical requirements are significant drivers of AWS costs.

- *Cost Avoidance Efforts.* CAT LLC and FCAT have engaged in ongoing efforts to seek to avoid and minimize AWS costs where permissible under the Plan. Accordingly, these cost avoidance efforts have limited the extent of AWS costs.

In addition, various requirements of the CAT NMS Plan adopted pursuant to Rule 613 contribute to the significant cloud hosting services costs, and that various Plan requirements could be amended or removed without affecting the regulatory purpose of the CAT. Indeed, CAT LLC has repeatedly sought exemptive relief and filed amendments to the CAT NMS Plan, and has even filed suit against the Commission, to seek to revise or eliminate certain costly requirements related to the CAT. However, despite these efforts, absent the Commission granting exemptive relief or approving cost savings amendments to the CAT NMS Plan, CAT LLC, the Participants and Industry Members are all required to comply with such requirements.

(ii) Effect of CAT Design on CAT Costs

(a) Efficient CAT Design

CAT is reasonably designed to efficiently and effectively utilize cloud computing and storage services, given the requirements of the Commission-approved CAT NMS Plan, including requirements related to security, operational reliance and quality assurance, and maintainability.

The Plan Processor uses state-of-the-art software that meets the strict security standards of the CAT NMS Plan. CAT utilizes a big data processing framework that is extensively used by large data processing companies, such as Apple, Meta, Netflix, IBM and Google. As such, it has substantial commercial support and support in the open-source community. It is also well suited for use with regard to iterative types of algorithms and query functions and analytics that the CAT requires, and it provides the heightened security necessary for the CAT.

The development and implementation of the design of CAT is not and has not been static. CAT LLC and the Plan Processor are always evaluating new innovations and service offerings from AWS and other providers to seek to maximize efficiency and cost avoidance while still satisfying the requirements of the CAT NMS Plan. These efforts have led to substantial savings to date. The cloud hosting costs for 2023 were less than the cloud hosting costs for 2022 by \$8 million despite processing seven trillion more events in 2023 due to the efficiency and cost avoidance efforts for cloud hosting services. For example, when AWS introduced new storage options, FCAT adopted the cost-efficient new storage option after establishing that the new offering would satisfy the security and other standards of the CAT NMS Plan. This change led to millions

of dollars of savings in storage costs. Similarly, when AWS introduced a new compute processor, FCAT adopted this new compute processor, which led to millions of dollars in savings in compute costs. However, in other cases, new cloud technology developments could not be implemented in CAT because they would not satisfy the security or other requirements of the CAT NMS Plan.

When evaluating the design of the CAT, it must be kept in mind that the CAT is not a typical commercial technology project. The ability to make use of technology approaches that may lead to cost avoidance is also subject to the restrictive requirements of the CAT NMS Plan, such as processing timeframes, requirements for retention of data versions, query requirements, and security standards. Because such requirements are set forth in the CAT NMS Plan, any modification of such requirements are subject to the time-consuming process of amending the CAT NMS Plan or seeking an exemption from the relevant requirement. For example, CAT LLC recently has filed an amendment to address several of these expensive Plan requirements.¹⁷⁴

(b) CAT Was Designed To Minimize Industry Member Effort

The CAT System also was designed to minimize the extent to which Industry Members would need to alter their systems to report to CAT. During the design process, Industry Member groups argued that it would make more sense financially for the CAT to accommodate differences in industry systems, than for all Industry Members to change their systems. Moreover, such design choices would facilitate consistency, uniformity and accuracy in reporting. Requiring the CAT to make such accommodations may increase CAT costs while accommodating CAT Reporters.

Based on the requirements in the CAT NMS Plan and/or in response to industry requests for functionality to be embedded with the Plan Processor to streamline or limit Industry Member system changes, the CAT has been designed to limit the effect on Industry Members. The following provides examples of such accommodations:

- **Industry Member Reporting.** In light of the complexity of Industry Member market activity, the CAT's order reporting and linkage scenarios

document for Industry Members is over 800 pages in length, addressing nearly 200 scenarios.¹⁷⁵ The Industry Member Technical Specifications allow for dozens of specific event types, which drive complexity for the Plan Processor, but streamline reporting for Industry Members. Furthermore, the Plan Processor greatly expanded Industry Member linkage requirements to support, among other things, child events and supplemental events, allowing for "stateless as-you-go" and "batch end-of-day" reporting when all data is available. Accordingly, CAT takes on the significant cost and effort of providing the required linkages between CAT events; correspondingly, Industry Members are not required to perform this costly task.

- **File Submission Process.** The CAT was designed to accommodate the varying needs of CAT Reporters with regard to the file submission process. For example, in a 2018 letter, FIF stated that "[t]he SFTP-based submission process is cumbersome, exposes industry members to unnecessary complexity, and puts the burden of support on the CAT Reporter rather than imbedding more functionality into the Plan Processor."¹⁷⁶ Currently, FCAT provides two mechanisms for submitting files: SFTP via a private network, and the Web via Reporter Web Portal.

- **Error Corrections.** The industry also emphasized the need for the CAT to provide error correction tools and functionalities to identify, rectify and re-submit corrections within the required timeframe. For example, FIF stated in a 2018 letter the following:

To be clear, if OATS-like error correction tools are not made available on Day 1, hundreds of firms will be required to create and test their own tools or obtain vendor alternatives prior to the CAT Go-Live Date. Proprietary tools will require additional system builds, access to and ingestion of CAT data to perform system validation, and testing which will further stress the limited number of subject matter experts ("SMEs") dedicated to the implementation of CAT reporting. Should this occur, inevitably firms (especially small firms who lack the necessary IT staff to write code and develop proprietary systems), may be put in the position of passing onto investors the cost required to build hundreds of redundant systems.¹⁷⁷

CAT provides various tools to help Industry Members identify and rectify errors.

¹⁷⁴ See, e.g., Securities Exchange Act Rel. No. 99938 (Apr. 10, 2024), 89 FR 26983 (Apr. 16, 2024); Letter from Brandon Becker, CAT NMS Plan Operating Committee Chair, to Vanessa Countryman, Secretary, Commission (Mar. 27, 2024) (proposing amendments to the CAT NMS Plan for \$23 million in annual savings).

¹⁷⁵ See CAT Industry Member Reporting Scenarios v.4.10 (Oct. 21, 2022).

¹⁷⁶ Letter from Janet Early, FIF, to Thesys CAT (Mar. 29, 2018).

¹⁷⁷ Letter from Christopher Bok, FIF, to Jay Clayton, Chair, Commission at 4 (Dec. 11, 2018).

• *Data Ingestion Format.* The industry also recommended that CAT adopt a flexible input format that provides an option for Industry Members to submit data in formats that are already in use to reduce costs and potential reporting errors. For example, FIF argued the following:

FIF CAT WG is not proposing a specific format; rather, we are proposing flexibility of input formats which includes support of existing formats (e.g., OATS, FIX) as well as a baseline specification where all fields are defined, and normalized. The input formats must be clearly and thoroughly defined in Technical Specifications, including FAQs.

Mandating a uniform format for reporting data to the CAT simplifies the task for the Central Repository of consolidating/storing data, but it puts the burden on each CAT Reporter to accurately translate their current (e.g., OATS) reporting information into a uniform CAT interface. However, that is likely to yield more errors because it is very dependent on accurate, complete and timely information (Technical Specifications, FAQs, meta-data, competent CAT help desk) available to CAT Reporters, availability of sophisticated CAT test tools to validate interface protocols, and the skill levels of the estimated 300+ unique CAT Reporters/Submitters during Phase 1 of CAT. Concentrating the responsibility of data conversions with the Central Repository is a reasonable trade-off that should yield fewer errors, and greater accuracy.¹⁷⁸

CAT provides such a flexible input format.

(c) Effect of Initial Plan Processor Design

The costs for cloud hosting services are appropriate and have not been adversely affected by the original design and approaches of the Initial Plan Processor. FCAT's design costs are the result of the requirements of the Commission-approved CAT NMS Plan.

When FCAT took over as the Plan Processor from Thesys, it utilized certain aspects of the technical specifications created by Thesys in its design. However, FCAT has not maintained aspects of the original design that would not be appropriate for the CAT. FCAT revised and enhanced the original technical specifications of the CAT System to increase its efficiency and efficacy, and to ensure its compliance with the CAT NMS Plan. For example, the Initial Plan Processor's approach utilized many more fields than FCAT's approach, which relies on additional linkages. With the additional linkages, the CAT System takes on more of the CAT-related burdens than the Industry Members. Such an approach

serves to facilitate consistency, uniformity and accuracy in reporting.

Moreover, FCAT did not utilize the system built by the Initial Plan Processor; it rebuilt the CAT System based on revised technical specifications. For example, the Initial Plan Processor used an on-premises processing approach which was not geared toward the huge amounts of data stored in the CAT, while FCAT adopted a cloud-based solution in response to such data demands.

Furthermore, given the very short timeframe to develop the CAT System and the prior optimization of certain query tools (e.g., Diver) for regulatory use with significant amounts of data, FCAT determined to rely upon certain existing FINRA tools and adapt them for use with the CAT.

(iii) Consideration of AWS Alternatives

CAT LLC continues to support the selection of AWS as the cloud hosting services provider for CAT given the compliance, operational, and security requirements of the CAT. Independent analyses confirm these conclusions, noting that "AWS is an excellent choice for either strategic or tactical use and recommends considering AWS for almost all cloud IaaS or IaaS+PaaS scenarios."¹⁷⁹ AWS provides the following benefits to CAT, among others:

- *Broad Suitability.* AWS has a long track record of successfully serving cloud customers with mission-critical projects.

- *Proven Scalability.* AWS has demonstrated that it is capable of building and delivering services on a large scale.

- *Track Record of Innovation.* AWS continues to rapidly innovate, both in terms of new domains of capability and at a fundamental level, thereby facilitating innovation for its customers.

- *Resiliency/Dependability.* Another benefit of AWS is its resiliency; it has a strong track record of stable services. As noted in a review of cloud service providers, "[c]ustomers like to have a broad set of options for resilience and for their cloud providers to have a strong track record of stable services (continuously available, without operational quirks). Only AWS fulfills both desires."¹⁸⁰

- *Technical and Customer Support.* AWS consistently provides high-quality technical and customer support and engagement. Given the size, scope and

regulatory importance of CAT, customer support and engagement that CAT has with the highest levels of AWS are very important to the success of the CAT.

- *Scale.* AWS is capable of supporting large-scale solutions, which is critical given the size and magnitude of the CAT.

- *Security.* AWS provides the security features necessary for the CAT.

In addition, the nature of the CAT, including the amount of data it must process and the size of its data footprint, does not allow for a multi-cloud solution as this would be cost prohibitive and greatly increase the security boundary and associated risk profile of the CAT. For example, a multi-cloud hosting option would increase costs, complexity, and risk for operations with regard to, for example, DevOps, production support, and networking. Similarly, with regard to security, a multi-cloud solution would increase risk, including with regard to the need for data transfers between cloud providers and the expansion of the security boundary. With regard to labor, a multi-cloud solution would lose economies of scale due to the need to support unique cloud requirements. Accordingly, the use of a single-cloud solution continues to provide advantages with regard to cost, complexity, and risk. Indeed, "[t]he best practice is to focus on a single primary strategic provider."¹⁸¹

Furthermore, if another cloud service provider were determined to be a better match for the CAT at some future date, switching cloud service providers would be a very significant, expensive and time-consuming effort. Such an effort would likely be a 10-to-15-year commitment at a substantial expense. Such a move would require the replication or redesign of the underlying cloud environments (e.g., organizational setup, identify management, accounts, environments, DevOps tooling likes release management/config management/network management), as the new provider likely would not have the same infrastructure and software. Once that process has been completed, an exabyte of CAT data would need to be securely migrated to the new platform.

(C) Funding Model Filings

CAT LLC believes that the recovery of costs related to the development of the funding model is appropriate, and that the amount and scope of such costs, as described above, are reasonable.

Funding the CAT is a critical aspect of Rule 613 and the CAT NMS Plan.

¹⁷⁸ Letter from Mary Lou Von Kaenel, Managing Director, FIF, to Brent Fields, Secretary, Commission at 92 (July 18, 2016), <https://www.sec.gov/comments/4-698/4698-13.pdf>.

¹⁷⁹ See, e.g., Lydia Leong and Adrian Wong, Solution Comparison for Strategic Cloud Integrated IaaS and PaaS Providers (July 28, 2023) ("Strategic Cloud Assessment Article").

¹⁸⁰ Strategic Cloud Assessment Article.

¹⁸¹ *Id.*

Article XI of the CAT NMS Plan describes in detail the requirements for funding the CAT, and the Participants are required to comply with and enforce compliance with the funding requirements of the CAT NMS Plan, just as with other aspects of the Plan. Accordingly, the development and implementation of a funding model for the CAT is as much a part of the requirements of the CAT NMS Plan as the development and operation of the CAT System. CAT LLC sees no reason to distinguish the efforts to develop a funding model from, for example, efforts to develop the CAT System, in seeking to recover reasonable CAT costs.

Moreover, in approving the CAT Funding Model, the Commission recognized that it is appropriate to recover reasonable costs for legal services as a part of Historical CAT Assessments. As approved by the SEC, the CAT NMS Plan states that “the reasonably budgeted CAT costs shall include . . . legal costs.”¹⁸² In addition, the CAT NMS Plan also requires Participants to include in their fee filings “a brief description of the amount and type of the Historical CAT Costs, including . . . legal . . . costs.”¹⁸³ In keeping with these provisions, this filing provides a brief description of reasonably budgeted legal costs above. These legal costs include costs related to the development of the CAT Funding Model.

In addition, the legal costs incurred for the assistance in developing the CAT Funding Model are reasonable in both amount and scope and should be recoverable as a part of Historical CAT Assessment 1A. As described above, the specialized services were performed by experienced counsel at negotiated rates for such services that reflect both the extent of the services and market rates. Moreover, the scope of the legal costs associated with the development of the funding model reflect the complexity of the task in satisfying the detailed requirements of the CAT NMS Plan, the standards of the Exchange Act, and the many perspectives of the different market constituents potentially affected by or interested in the funding model, including Industry Members, Participants and investors. The many and varied comments by market participants on CAT funding over the years demonstrate the complexity of the task.

(D) Costs Related to Litigation With the SEC

CAT LLC believes that the recovery of legal costs related to the litigation with the SEC regarding the CAT NMS Plan is appropriate, and that the amount and scope of such costs, as described above, are reasonable.

As a preliminary matter, as discussed above, the Commission recognized that it is appropriate to recover reasonable costs for legal services as a part of Historical CAT Assessments.¹⁸⁴ Moreover, CAT LLC initiated such litigation, and incurred the related legal costs, because it was critical to address the Commission’s interpretations of the CAT NMS Plan. Among other things, such interpretations threatened to impose unnecessary costs on the CAT, which would be borne by the Participants and Industry Members. Indeed, in response to the litigation, the Commission provided exemptive relief that allowed alternative, more cost-effective approaches to the implementation of the CAT. Specifically, in the 2023 exemptive order, the Commission stated:

The conditional exemptive relief in this Order allows for the implementation of alternative regulatory solutions that continue to advance the regulatory goals that Rule 613 and the CAT NMS Plan were intended to promote, while reducing the implementation and operational costs, burdens, and/or difficulties that would otherwise be incurred by the Participants and Industry Members that must fund the CAT.¹⁸⁵

CAT LLC believes it is reasonable and appropriate to incur costs to limit the need to incur even greater costs due to certain interpretations of the Plan.

In addition, the legal costs incurred during the litigation are reasonable in both amount and scope and should be recoverable as a part of Historical CAT Assessment 1A. As described above, the specialized services were performed by experienced counsel at market rates for such services. As such, the legal costs related to this litigation incurred during the period covered by Historical CAT Assessment 1A were reasonable.

Finally, Industry Members will directly benefit from the result of the litigation because it has addressed CAT NMS Plan requirements that would have imposed significantly greater costs on the CAT. Accordingly, it is reasonable and appropriate that the costs of such litigation be included in Historical CAT Costs 1.

(E) Costs Related to the Initial Plan Processor

CAT LLC believes that it is appropriate to recover costs related to the services performed by the Initial Plan Processor prior to November 15, 2017, which was the date by which Participants were required to begin reporting to the CAT, due to the delay in the commencement of reporting to the CAT. As discussed above, the Participants determined to exclude all CAT costs incurred from November 15, 2017 through November 15, 2018, which includes \$37,852,083 in Thesys costs incurred from November 15, 2017 through November 15, 2018 (as well as other CAT costs during this period). The remaining Thesys costs incurred after November 15, 2018 are the \$19,628,791 in capitalized developed technology costs for the period from November 16, 2018 through February 2019 incurred in the development of the CAT by the Initial Plan Processor, as well as a transition fee for the transition from the Initial Plan Processor to the successor Plan Processor. The Participants would remain responsible for 100% of these \$19,628,791 in costs.

CAT LLC believes that it is appropriate to recover costs related to the services performed by the Initial Plan Processor prior to November 15, 2017. CAT LLC notes that the development and implementation of the CAT System, while unprecedented in scope and design, is like any other large and innovative technology project in that, inevitably, there were adjustments and refinements in the technical approach as the project developed, even with substantial planning efforts and oversight prior to the build. This is even more likely when the project faces a very tight implementation schedule, such as the one imposed by the Commission in Rule 613 and the CAT NMS Plan. However, an adjusted approach does not mean that the funds were not valid expenditures and should not be recovered.

The reasonableness of Thesys costs should be evaluated by the Commission as of the time they were incurred, not in hindsight. As detailed above, the Commission concluded in 2016 that “the competitive bidding process to select the Plan Processor is a reasonable and effective way to choose a Plan Processor,” and that “the process set forth in the Selection Plan should be permitted to continue.”¹⁸⁶ Following this process, the Participants notified the Commission of the selection of Thesys as the Initial Plan Processor on

¹⁸² Section 11.1(a)(i) of the CAT NMS Plan.

¹⁸³ Section 11.3(b)(iii)(B)(II) of the CAT NMS Plan.

¹⁸⁴ See Sections 11.1(a)(i) and 11.3(b)(iii)(B)(II) of the CAT NMS Plan.

¹⁸⁵ Settlement Exemptive Order at 77129–30.

¹⁸⁶ CAT NMS Plan Approval Order at 84737.

January 17, 2017.¹⁸⁷ At the time, neither the Commission nor the industry argued that the selection of the Initial Plan Processor was unreasonable or otherwise inconsistent with the CAT NMS Plan, nor did they predict the selection would result in unanticipated delays in the implementation of the CAT System. On the contrary, on April 4, 2017, the President of SIFMA wrote that “SIFMA looks forward to commencing work with the SROs and Thesys.”¹⁸⁸

As noted in the CAT Funding Model Approval Order, the Commission recognized that “[t]he CAT NMS Plan contemplates that the costs of the CAT are to be allocated between the Participants and Industry Members.”¹⁸⁹ If the CAT Funding Model had existed on Day 1, the risk of any unanticipated costs or challenges associated with the Initial Plan Processor would have been fairly and reasonably shared among the Participants and Industry Members on an ongoing basis. Given that the Commission concluded in 2012 that the costs of the CAT would be shared by the Participants and Industry Members, it is not fair or reasonable to determine in hindsight that all of the risk involved in developing the CAT should be allocated entirely to the Participants.

(F) CAIS Implementation Costs

CAT LLC believes that the recovery of CAIS-related costs is appropriate, and that the amount and scope of such costs, as described above, are reasonable, and that the reasonableness of historical costs should be evaluated by the Commission as of the time they were incurred, not in hindsight.

In approving the CAT Funding Model, the Commission recognized that it is appropriate to recover reasonable CAIS operating costs as a part of Historical CAT Assessments. As approved by the SEC, the CAT NMS Plan states that “the reasonably budgeted CAT costs shall include . . . CAIS operating fees.”¹⁹⁰ In addition, the CAT NMS Plan also requires Participants to include in their fee filings “a brief description of the amount and type of the Historical CAT Costs, including . . . CAIS operating

fees.”¹⁹¹ In keeping with these provisions, this filing provides a brief description of reasonably budgeted CAIS operating fees.

In addition, CAT LLC determined that the CAIS operating fees described above are reasonable in both amount and scope and should be recoverable as a part of Historical CAT Assessment 1A. The “CAIS Operating Costs” for Historical CAT Costs 1 total \$9,480,587, with Pre-FAM costs of \$2,072,908, FAM 1 costs of \$254,998, FAM 2 costs of \$1,590,298, and FAM 3 costs of \$5,562,383. As described above, the CAIS operating fees were incurred with regard to two categories of CAIS-related efforts: (1) the acceleration of the reporting of LTIDs; and (2) the development of the CAIS Technical Specifications and the building of CAIS. These two categories of costs are discussed in more detail below.

(i) LTID Reporting

During the period covered by Historical CAT Assessment 1A, the CAIS operating costs included costs related to the acceleration of the reporting of LTIDs earlier than originally contemplated during this period at the request of the SEC and in accordance with exemptive relief granted by the SEC.¹⁹² As the SEC approved in this exemptive relief, the Participants proposed “to require the reporting of LTIDs to the CAT in Phases 2c and 2d, instead of with the rest of Customer Account Information in Phase 2e, which potentially could result in an earlier elimination of broker-dealer recordkeeping, reporting and monitoring requirements of the Large Trader Rule.”¹⁹³ To implement the reporting of LTIDs to the CAT, the following steps were taken during the period covered by Historical CAT Assessment 1A:

- After FCAT developed the LTID Technical Specifications, the LTID Technical Specifications were published on January 31, 2020, with additional updates provided to the LTID Technical Specifications through April 2021.¹⁹⁴
- The LTID account information testing environment opened on August 24, 2020.
- The LTID account information reporting production environment

opened on December 14, 2020. CAT Reporters were required to request their production readiness certification for account information related to LTIDs by the deadline of April 9, 2021.

- The LTID account information reporting for Phases 2a, 2b and 2c for Large Industry Members went live on April 26, 2021.
- The LTID account information reporting for Phases 2d for Large Industry Members went live on December 13, 2021.
- The LTID account information reporting for Phases 2a, 2b, 2c and 2d for Small Industry Members went live on April 26, 2021.

Throughout this project, FCAT and CAT LLC worked closely with the industry on LTID and CAIS reporting. Between December 2019 and December 2021, at least 57 checkpoint calls, webinars, and technical working group meetings with industry representatives were hosted to address issues and to educate CAT Reporters regarding LTID and CAIS reporting.¹⁹⁵

The LTID reporting project was successfully completed in a timely fashion, and the fees related to the project were reasonable. Accordingly, CAT LLC appropriately seeks to recover such costs via Historical CAT Assessment 1A.

(ii) CAIS Reporting

During the period covered by Historical CAT Assessment 1A, FCAT began the development of the full CAIS Technical Specifications and the building of CAIS. The CAIS Technical Specifications were developed during this period as follows:

- Iterative drafts of the CAIS Technical Specifications were published on June 30, 2020, December 1, 2020, and January 1, 2021.¹⁹⁶
- The full, final CAIS Technical Specifications were published on January 29, 2021.
- Updated versions of the CAIS Technical Specifications were published throughout 2021.¹⁹⁷

As discussed above, FCAT and CAT LLC frequently engaged with the industry regarding the development of CAIS, hosting regular checkpoint calls, webinars, and technical working group meetings with industry representatives

¹⁸⁷ Letter from the Participants to Brent J. Fields, Secretary, SEC (Jan. 18, 2017), <https://www.sec.gov/divisions/marketreg/rule613-info-notice-of-plan-processor-selection.pdf>.

¹⁸⁸ Letter from Kenneth E. Bentsen, Jr., SIFMA, to Participants re: Selection of Thesys as CAT Processor (Apr. 4, 2017), <https://www.sifma.org/wp-content/uploads/2017/05/SIFMA-Submits-Comment-Letter-to-SRO-on-the-selection-of-Thesys-as-the-CAT-Processor.pdf>.

¹⁸⁹ CAT Funding Model Approval Order at 13421.

¹⁹⁰ Section 11.1(a)(i) of the CAT NMS Plan.

¹⁹¹ Section 11.3(b)(iii)(B)(II) of the CAT NMS Plan.

¹⁹² See Phased Reporting Exemptive Relief Order at 23079–80.

¹⁹³ *Id.* at 23078–79, n.70.

¹⁹⁴ The LTID Technical Specifications, including original drafts and updated versions, are available on the Industry Member Specifications page of the CAT website (<https://www.catnmsplan.com/specifications/im>).

¹⁹⁵ Such contact points with the industry are described in detail on the Events web page of the CAT website (<https://www.catnmsplan.com/events>).

¹⁹⁶ The CAIS Technical Specifications, including original drafts and updated versions, are available on the Industry Member Specifications page of the CAT website (<https://www.catnmsplan.com/specifications/im>).

¹⁹⁷ Six updated versions of the CAIS Technical Specifications were published during 2021, in March, May, June, August, October and December.

to address any issues, including addressing the interplay between Industry Members' existing customer systems and CAIS, and to educate CAT Reporters regarding LTID and CAIS reporting. Such engagement was critical to the CAIS development process as the CAIS project was unprecedented in terms of its content, scope and complexity.

During this period, FCAT also commenced the building of the CAIS system in accordance with the CAIS Technical Specifications during the period covered by Historical CAT Assessment 1A. The CAIS system was ready for industry testing shortly after the end of this period in January 2022.

The CAIS Technical Specifications and the CAIS system, as developed during this period, continue to be used. Industry Members have been required to report, and have continuously reported, required data to CAIS on a daily basis since November 7, 2022, consistent with interim reporting obligations. The CAIS system accepts and validates the CAIS data submitted by Industry Members and provides Industry Members with initial feedback on data errors. In light of the unprecedented nature of the CAIS system, certain changes to the system, such as changes related to error corrections and the CAIS regulatory portal, were necessary to finalize CAIS reporting. FCAT worked to address these remaining issues,¹⁹⁸ and, as of May 31, 2024, FCAT indicated that it had achieved the final CAIS reporting milestone. Accordingly, CAT LLC appropriately seeks to recover CAIS operating costs via Historical CAT Assessment 1A.

(G) Public Relations Costs

CAT LLC believes that the recovery of public relations costs is appropriate and that the amount and scope of such costs, as described above, are reasonable.

The Commission has long recognized that external public relations costs are reasonably associated with creating, implementing and maintaining the CAT. In the CAT NMS Plan Approval Order, the Commission estimated that the Participants had collectively spent approximately \$2,400,000 in preparation of the CAT NMS Plan on external public relations, legal, and consulting costs, and estimated that the Participants would continue to incur external public relations costs associated with maintaining the CAT upon approval of the CAT NMS Plan.¹⁹⁹

¹⁹⁸ See, e.g., CAT Q4 2023 Quarterly Progress Report (Jan. 30, 2024) (<https://www.catnmsplan.com/sites/default/files/2024-01/CAT-Q4-2023-QPR.pdf>).

¹⁹⁹ CAT NMS Plan Approval Order at 84917–18.

In approving the CAT Funding Model, the Commission recognized that it is appropriate to recover reasonable costs for public relations services as a part of Historical CAT Assessments. As approved by the SEC, the CAT NMS Plan states that “the reasonably budgeted CAT costs shall include . . . public relations costs.”²⁰⁰ In addition, the CAT NMS Plan also requires Participants to include in their fee filings “a brief description of the amount and type of the Historical CAT Costs, including . . . public relations costs.”²⁰¹ In keeping with these provisions, a brief description of reasonable public relations costs are described above.

In addition, CAT LLC determined that the public relations costs described above are reasonable in both amount and scope and should be recoverable as a part of Historical CAT Assessment 1A. The services performed by the public relations firms through 2021 were limited in scope to assist CAT LLC, which has no employees of its own, to be better positioned to understand and address CAT matters to the benefit of all market participants and to communicate on important CAT topics with the public. In addition, the costs for these services were appropriately limited. During the 10-year period covered by Historical CAT Assessment 1A, the average cost per year for these services was approximately \$36,000.

(H) Legal Costs Related to the Limitation of Liability Provision in CAT Reporter Agreements

CAT LLC believes that the recovery of legal costs related to the limitation of liability provision, including costs related to the proceedings before the SEC and costs related to the proposed amendment to the Consolidated Audit Trail Reporter Agreement and the Consolidated Audit Trail Reporting Agent Agreement (the “Reporting Agreements”) is appropriate and that the amount and scope of such costs as described above are reasonable.

As a preliminary matter, as discussed above, the Commission recognized that it is appropriate to recover reasonable costs for legal services as a part of Historical CAT Assessments.²⁰² In addition, CAT LLC determined that the legal costs incurred for the assistance with regard to the limitation of liability provisions are reasonable in both amount and scope and should be

recoverable as a part of Historical CAT Assessment 1A.

Moreover, it is critical that CAT LLC, which has no employees of its own, have the ability to fund a legal defense in litigation and other legal proceedings against it. In response to CAT LLC requiring Industry Members to agree to the limitation of liability provision to submit data to the CAT, SIFMA filed an application for review of actions taken by CAT LLC and the Participants pursuant to Sections 19(d) and 19(f) of the Exchange Act. Contemporaneously with the filing of this proceeding, SIFMA moved for a stay of the requirement that Industry Members sign a Reporter Agreement, or in the alternative, asked the Commission to further delay the launch of CAT reporting on June 22, 2020. CAT LLC must have the resources to defend itself from litigious actions by others, like these.

Although a limitation of liability provision ultimately was not adopted as proposed, it was a reasonable provision to propose for the CAT Reporter Agreements, given that such provisions are in accordance with industry norms. Limitations of liability are ubiquitous within the securities industry and have long governed the economic relationships between self-regulatory organizations and the entities that they regulate. For example, U.S. securities exchanges have adopted rules to limit their liability for losses that Industry Members incur through their use of exchange facilities.²⁰³ Similarly, FINRA's former order audit trail, OATS, which has functioned as an integrated audit trail of order, quote, and trade data for equity securities, required FINRA members to acknowledge an agreement that includes a limitation of liability provision.²⁰⁴ In addition, such a provision was intended to ensure the financial stability of the CAT. Accordingly, it was reasonable for CAT LLC to propose the use of such a provision.²⁰⁵

Furthermore, as described above, the specialized services were performed by experienced counsel at market rates for such services. Accordingly, the legal

²⁰³ See, e.g., NASDAQ Equities Rule 4626.

²⁰⁴ FINRA Rule 1013(a)(1)(R) requires all applicants for FINRA Membership to acknowledge the FINRA Entitlement Program Agreement and Terms of Use, which applies to OATS. Industry Members click to indicate that they agree to its terms—including its limitation of liability provision—every time they access FINRA's OATS system to report trade information (*i.e.*, repeatedly over the course of a trading day for many Industry Members).

²⁰⁵ See Letter from Michael Simon, Chair, CAT Operating Committee, to Vanessa Countryman, Secretary, Commission (Dec. 18, 2020).

²⁰⁰ Section 11.1(a)(i) of the CAT NMS Plan.

²⁰¹ Section 11.3(b)(iii)(B)(II) of the CAT NMS Plan.

²⁰² See Sections 11.1(a)(i) and 11.3(b)(iii)(B)(II) of the CAT NMS Plan.

costs for the efforts related to the limitation of liability provision were reasonable.

(I) Costs for the Chair of the CAT Operating Committee

CAT LLC believes that the recovery of consulting costs related to the Chair of the CAT Operating Committee is appropriate and that the amount and scope of such costs are reasonable.

As a preliminary matter, the selection of the Chair of the Operating Committee complies with the requirements of Section 4.2 of the CAT NMS Plan. The initial Chair that served during the period covered by Historical CAT Assessment 1A was designated by a Participant as the Participant's alternate voting member. Accordingly, the Chair is a representative of the Participants, as required by the CAT NMS Plan.

In addition, in approving the CAT Funding Model, the Commission recognized that it is appropriate to recover reasonable costs for consulting as a part of Historical CAT Assessments. As approved by the SEC, the CAT NMS Plan states that "the reasonably budgeted CAT costs shall include . . . consulting . . ." costs.²⁰⁶ In addition, the CAT NMS Plan also requires Participants to include in their fee filings "a brief description of the amount and type of the Historical CAT Costs, including . . . consulting"²⁰⁷ costs. In keeping with these provisions, a brief description of reasonable consulting costs is included in this filing, and such reasonable consulting costs include the costs related to the Chair position.

The Participants determined that the position of the Chair was a critical role for the implementation of the CAT, and an independent Chair would appropriately consider and address the views of each of the Participants. The Participants also determined that it was important to have a Chair with a strong background regarding issues related to the regulatory obligations of self-regulatory organizations, including their obligations under national market system plans. The compensation paid to the Chair is appropriate for a person with such background and skills. The average annual amount paid to the Chair from 2017 through the end of FAM 3 was \$292,733.30. Separate from the Chair, CAT LLC relies upon a Leadership Team of representatives of the SROs to oversee the day-to-day implementation of the CAT NMS Plan.

CAT LLC does not compensate any member of the Leadership Team.

(11) Fee Implementation Assistance for Industry Members

(A) Reconciliation of CAT Invoices

(i) Reconciliation of CAT Invoices to Underlying Trades Provided by CAT

CAT LLC understands that there are three types of reconciliation processes related to the invoices:

- *Reconciliation of CAT Invoices to Underlying Trades:* Reconciling the CAT invoice amount to the underlying trades provided by CAT;
- *Matching Trades to Books and Records:* Providing the means to match the underlying trades provided by CAT with CAT invoices to other books and records independently maintained by individual CAT Reporters (e.g., exchange trade journals/ acknowledgements) and data sources of self-regulatory organizations independent of CAT; and
- *Order Originator Identification:* Providing the ability to identify the order originator for the underlying trades provided by CAT with CAT invoices, which would facilitate firms' ability to pass through CAT Fees to their customers.

As discussed further below, CAT LLC only considers the first type of process to be a "reconciliation" and the only type of process that is required under the CAT NMS Plan. CAT LLC provides the means to reconcile the CAT invoice amount to the underlying trades provided by CAT.

The CAT NMS Plan does not require CAT LLC to facilitate the second type of process: matching underlying trades for a CAT invoice with a firm's internal books and records. CAT LLC has access only to the underlying trades provided by CAT; it does not have access to a firm's internal books and records. Although beyond the requirements of the CAT NMS Plan and involving firm specific considerations, CAT LLC voluntarily has provided guidance and processes to assist CAT Reporters in their efforts to match the underlying trades with their own books and records.

The CAT NMS Plan also does not require CAT LLC to provide the ability to identify the order originator for the underlying trades for the CAT invoices. Accordingly, the billing guidance and processes do not provide CAT Reporters with the ability to identify the order originator for the underlying trades provided by CAT with CAT invoices. CAT LLC has been working closely with CAT Reporters to explain its billing approach and to address any

outstanding billing questions. But, it should not be lost that CAT LLC provides information sufficient to allow CAT Reporters to reconcile CAT invoice amounts with the underlying trades provided by CAT LLC.

(ii) Match the Underlying Trades Provided by CAT With CAT Invoices to Firms' Internal Books and Records Independent of CAT

The CAT NMS Plan does not require CAT LLC to facilitate the matching of underlying trades for a CAT invoice with a firm's internal books and records, which may consist of trading data from various sources external to CAT. Although beyond the requirements of the CAT NMS Plan and involving firm specific considerations, CAT LLC voluntarily has provided guidance and processes to assist CAT Reporters in their efforts to match the underlying trades with their own books and records.

In this regard, it is important to recognize that CAT LLC has developed a billing approach that greatly improves upon existing billing practices for similar regulatory fees (e.g., fees related to Section 31). Accordingly, with the additional information voluntarily provided by CAT LLC, CAT Reporters generally will have sufficient information to match their underlying trades provided by CAT with their own internal books and records that are independent of CAT or to SRO data that is independent of CAT data. However, CAT LLC emphasizes that providing such additional information is not required by the CAT NMS Plan.

To facilitate the introduction of CAT fees, CAT LLC has worked with FCAT to develop an approach to CAT billing that is consistent with existing billing constructs used with regard to Section 31-related sales values fees, subject to certain enhancements. Under this billing approach, FCAT is providing additional linkage elements, not necessarily provided in the Section 31-sales value fee context, to facilitate CAT Reporters' ability to match the underlying trades provided by CAT with their internal books and records and to reduce the complexity of that process. Specifically, FCAT is providing various key elements of the trade itself, such as the tradeID and branch sequence,²⁰⁸ to CAT Reporters in the

²⁰⁸ See CAT Technical Specifications for Billing Trade Details; Trade Details Schema (<https://catnmsplan.com/sites/default/files/2024-02/02.05.24-Billing-Trade-Details-Schema.json>); CAT Billing Scenarios, Version 1.0 (Nov. 30, 2023) (<https://www.catnmsplan.com/sites/default/files/2024-01/01.12.2024-CAT-Billing-Scenarios-v1.0.pdf>).

²⁰⁶ Section 11.1(a)(i) of the CAT NMS Plan.

²⁰⁷ Section 11.3(b)(iii)(B)(II) of the CAT NMS Plan.

trade billing details provided with their CAT invoices ("Additional Trade Details"). As a result, CAT Reporters now have numerous alternative methods for matching a trade with their internal books and records where they previously did not have such matching methods in other fee contexts.

With the Additional Trade Details, CAT LLC and FCAT believe that the overwhelming majority of underlying trades provided by CAT bills can be matched with a CAT Reporter's internal books and records. CAT LLC recognizes that there may be certain cases in which such matching is more difficult given various firm-specific considerations, but believes that such instances are significantly more limited than with regard to the SRO fees charged in relation to Section 31.²⁰⁹ By providing Additional Trade Details that are not available in other fee contexts, FCAT enhances the Industry Members' ability to match the underlying trades provided with CAT invoices with books and records and SRO data, both of which are independent of CAT data.

(iii) CAT LLC Is Not Required To Facilitate CAT Reporters' Ability To Pass Through Fees to Their Customers

Similar to other regulatory fees, the CAT NMS Plan does not address the manner or extent to which CAT Executing Brokers may seek to pass any CAT fees on to their customers, nor does it impose any obligation on CAT LLC or the Plan Processor to facilitate firms' ability to do so. Accordingly, Historical CAT Assessment 1A does not address the process by which any CAT Reporters may pass through the fee to their customers. Likewise, the CAT billing approach provided by the Plan Processor is designed to address the needs of CAT Reporters with regard to the reconciliation of CAT invoices with the underlying trades provided by CAT LLC with the invoices; they are not designed to address issues related to any pass-through fees. Accordingly, facilitating CAT Reporters' ability to pass through fees to their clients is outside the scope of this fee filing. Nevertheless, as described below, CAT

LLC and the Plan Processor have expended significant efforts to provide technical assistance to Industry Members regarding the implementation of Historical CAT Assessment 1A, including providing Additional Trade Details that provide significant details about each underlying trade.

(a) Originating Brokers Versus Executing Brokers

In its approval of the CAT Funding Model, the Commission approved charging CAT fees to the CAT Executing Broker, rather than the originating broker. This fee filing must comply with the requirements of the CAT Funding Model, and, therefore, charges the Historical CAT Assessment 1A to CAT Executing Brokers.

Moreover, charging originating brokers would introduce significant complexity to the billing process from the CAT's perspective, and would increase the costs of implementing CAT fees. Charging the CAT Executing Broker is simple and straightforward, and leverages a one-to-one relationship between billable events (trades) and billable parties, similar to other transaction-based fees. In contrast, for a single trade event, there may be many originating brokers, and each trade must be broken down on a pro-rata basis, to account for one or more layers of aggregation, disaggregation, and representation of the underlying orders. While CAT is indeed designed to capture and unwind complex aggregation scenarios, the data and linkages are structured to facilitate regulatory use, and not a billing mechanism that assesses fees on a distinct set of executed trades; it is not simply a matter of using existing CAT linkages. Furthermore, charging originating brokers would implicate issues related to lifecycle linkage rates, and issues related to corrections, cancellations and allocations, while charging CAT Executing Brokers would avoid such issues.

(b) Identification of Order Originator for Underlying Trades

As noted, the CAT NMS Plan does not address the manner or extent to which CAT Executing Brokers may seek to pass any CAT Fees on to their customers, nor does it impose any obligation on CAT LLC or the Plan Processor to facilitate firms' ability to do so. Nevertheless, the Additional Trade Details provided with regard to the underlying trades on CAT invoices may assist with this process. Like with Section 31-related sales value fees, however, it is not always possible to trace every fee on a transaction back to the originating party. Industry

Members have faced these issues under Section 31-related sales values fees for many years.²¹⁰ However, with the Additional Trade Details provided under the CAT billing approach, in many cases, CAT Reporters will be able to identify the order originator for the underlying trades provided by CAT with CAT invoices. In some cases, CAT LLC believes that certain issues related to certain types of market activity may implicate CAT Reporters' ability to identify the order originator for a limited set of underlying trades for the CAT invoices. Although CAT LLC does not believe that it is required to address these issues, CAT LLC and FCAT have been carefully researching and analyzing these types of issues as they are identified, and have been working voluntarily to assist CAT Reporters with these issues as necessary and when possible. In addition, CAT LLC intends to continue to provide CAT Reporters with billing guidance through FAQs, CAT Alerts and Helpdesk responses to address outstanding billing questions.

(B) Significant Technical Assistance

CAT LLC has worked with FCAT to provide significant technical assistance to Industry Members to allow the Industry Members to understand how Historical CAT Assessments will be implemented and billed, including webinars, CAT alerts, mock invoices, and responses to questions posed to the FCAT Help Desk.

- *Technical Specifications and Scenarios.* CAT LLC has provided detailed technical documentation for CAT billing, including (1) technical specifications, which describe the CAT Billing Trade Details Files associated with monthly CAT invoices, including detailed information about data elements and file formats as well as access instructions, network and transport options;²¹¹ (2) trade details

²⁰⁹ For years, broker-dealers have faced similar reconciliation issues with regard to SRO fees related to Section 31. Broker-dealers have responded to this issue in the Section 31 context by exercising their discretion as to whether and the manner and extent to which they pass on those fees (e.g., by rounding up its fees to the nearest cent, or decide to charge for, or not charge for, certain transactions, or assess a specific fee or incorporate the costs into other fee programs). See, e.g., Securities Exchange Act Rel. No. 49928 (June 28, 2004), 69 FR 41060, 41072 (July 7, 2004) (noting that broker-dealers may "over-collect" Section 31-related fees charged to their clients due to rounding practices, and double-counting with regard to certain transactions).

²¹⁰ "FINRA charges a Regulatory Transaction Fee ('RTF') to industry members to reimburse FINRA for the Section 31 fees that FINRA pays to the Commission. FINRA does not currently provide industry members with the data that industry members require for proper reconciliation of RTF fees. This has been a major problem for the industry for many years." Letter from Howard Meyerson, Managing Director, FIF, to Robert Cook, Chief Executive Officer, FINRA at 2 (Dec. 15, 2023) (<https://fif.com/index.php/working-groups/category/271-comment-letters?download=2820:fif-letter-to-finra-on-pass-through-of-finra-cat-fees&view=category>).

²¹¹ CAT Technical Specifications for Billing Trade Details, Version 1.0 r1 (Dec. 8, 2023) (https://catnmsplan.com/sites/default/files/2023-12/12.07.2023-CAT-Technical-Specifications-for-Billing-Trade-Details-v1.0r1_CLEAN.pdf).

schemas;²¹² and (3) CAT billing scenarios.²¹³

- *Industry Webinars.* CAT LLC has hosted two industry webinars specifically dedicated to CAT billing. The first webinar, hosted on September 28, 2023, discussed the operational implementation of the CAT Reporter billing process.²¹⁴ The second webinar, hosted on November 7, 2023, provided (1) a demonstration of the CAT Reporter Portal and how to access CAT billing documents, including CAT invoices; and (2) additional information on underlying trade details in relation to the CAT Reporter billing process and an overview of the CAT Contact Management System.²¹⁵ 485 participants and 394 participants attended the two webinars, respectively.

- *CAT Alert.* CAT LLC has published a detailed CAT Alert that describes how FCAT, as the Plan Processor acting on behalf of CAT LLC, will calculate applicable fees, issue invoices to and collect payment from CAT Executing Brokers.²¹⁶

- *Frequently Asked Questions (FAQs).* CAT LLC also has continued to engage with the industry on billing issues by making responses to billing FAQs available on the CAT website. The FAQs address a broad range of frequently asked questions, including, for example, which Industry Members will receive invoices, how fees are calculated, when and how fees are required to be paid, how to access invoices, and how to update the billing contact. To date, responses to 31 FAQs are available on the CAT website, and CAT LLC will provide additional responses to FAQs as warranted.²¹⁷

- *Substantial Past Experience with CAT Billing Processes.* To date, CAT LLC, via FCAT, has billed Industry Members for Historical CAT Assessment 1 and certain Prospective CAT Fees. Industry Members will be billed for Historical CAT Assessment 1A via the same processes established for

Historical CAT Assessment 1 and the Prospective CAT Fees. Accordingly, Industry Members have substantial experience with the CAT billing processes.

- *Help Desk Assistance.* CAT LLC also provides detailed, individualized assistance to Industry Members regarding CAT fees and the billing process through the FCAT Help Desk.²¹⁸ For example, the Help Desk assisted with 406 cases related to the billing of CAT fees from July 2023 through March 2024.

By providing such detailed and sustained assistance to Industry Members regarding CAT fees and billing, CAT LLC has successfully addressed questions raised by Industry Members regarding the CAT fees and billing processes.

(C) Notice to Industry Members

In keeping with past practice, CAT LLC provided notice of the proposed Historical CAT Assessment 1A via CAT Fee Alert on April 1, 2026,²¹⁹ one month prior to the effective date of Historical CAT Assessment 1A on May 1, 2026. Such notice provides Industry Members with sufficient time to address any technological or other requirements necessary for implementing Historical CAT Assessment 1A.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the requirements of the Exchange Act. The Exchange believes that the proposed rule change is consistent with Section 6(b)(5) of the Act,²²⁰ which requires, among other things, that the Exchange's rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest, and not designed to permit unfair discrimination between customers, issuers, brokers and dealers. The Exchange also believes that the proposed rule change is consistent with the provisions of Section 6(b)(4) of the Act,²²¹ because it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using its

facilities and does not unfairly discriminate between customers, issuers, brokers or dealers. The Exchange further believes that the proposed rule change is consistent with Section 6(b)(8) of the Act,²²² which requires that the Exchange's rules not impose any burden on competition that is not necessary or appropriate in furtherance of the purpose of the Exchange Act. These provisions also require that the Exchange be "so organized and [have] the capacity to be able to carry out the purposes" of the Act and "to comply, and . . . to enforce compliance by its members and persons associated with its members," with the provisions of the Exchange Act.²²³ Accordingly, a reasonable reading of the Act indicates that it intended that regulatory funding be sufficient to permit an exchange to fulfill its statutory responsibility under the Act, and contemplated that such funding would be achieved through equitable assessments on the members, issuers, and other users of an exchange's facilities.

(1) Implementation of CAT Funding Model in CAT NMS Plan

Section 11.1(b) of the CAT NMS Plan states that "[t]he Participants shall file with the SEC under Section 19(b) of the Exchange Act any such fees on Industry Members that the Operating Committee approves." Per Section 11.1(b) of the CAT NMS Plan, the Exchange has filed this fee filing to implement the Industry Member CAT fees included in the CAT Funding Model. The Exchange believes that this proposal is consistent with the Exchange Act because it is consistent with, and implements, the CAT Funding Model in the CAT NMS Plan, and is designed to assist the Exchange and its Industry Members in meeting regulatory obligations pursuant to the CAT NMS Plan. In approving the CAT NMS Plan, the SEC noted that the Plan "is necessary and appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanism of a national market system, or is otherwise in furtherance of the purposes of the Act."²²⁴ Similarly, in approving the CAT Funding Model, the SEC concluded that the CAT Funding Model met this standard.²²⁵ As this proposal implements the Plan and the CAT Funding Model described therein, and applies specific requirements to

²¹² Trade Details Schema (<https://catnmsplan.com/sites/default/files/2024-02/02.05.24-Billing-Trade-Details-Schema.json>).

²¹³ CAT Billing Scenarios, Version 1.0 (Nov. 30, 2023) (<https://www.catnmsplan.com/sites/default/files/2024-01/01.12.2024-CAT-Billing-Scenarios-v1.0.pdf>).

²¹⁴ CAT Billing Webinar, Part 1 (Sept. 28, 2023) (<https://www.catnmsplan.com/events/part-1-cat-billing-webinar>).

²¹⁵ CAT Billing Webinar, Part 2 (Nov. 7, 2023) (<https://www.catnmsplan.com/events/part-2-cat-billing-webinar>).

²¹⁶ See CAT Alert 2023-02 (Oct. 12, 2023) (<https://www.catnmsplan.com/sites/default/files/2023-10/10.12.23-CAT-Alert-2023-02.pdf>).

²¹⁷ See CAT Billing FAQs, Section V of CAT FAQs (https://www.catnmsplan.com/faq?search_api_fulltext=&field_topics=271&sort_by=field_faq_number).

²¹⁸ The CAT NMS Plan requires that the Plan Processor "staff a CAT help desk, as described in Appendix D, CAT Help Desk, to provide technical expertise." Section 6.10(c)(vi) of the CAT NMS Plan. See also Section 10.3 of Appendix D of the CAT NMS Plan for a description of the Plan requirements for the CAT Help Desk.

²¹⁹ CAT Fee Alert 2026-1 (Apr. 1, 2026) (<https://www.catnmsplan.com/sites/default/files/2026-04/04.01.26-CAT-Fee-Alert-2026-1.pdf>).

²²⁰ 15 U.S.C. 78f(b)(6).

²²¹ 15 U.S.C. 78f(b)(4).

²²² 15 U.S.C. 78f(b)(8).

²²³ See Section 6(b)(1) of the Exchange Act.

²²⁴ CAT NMS Plan Approval Order at 84696.

²²⁵ CAT Funding Model Approval Order at 13481.

Industry Members in compliance with the Plan, the Exchange believes that this proposal furthers the objectives of the Plan, as identified by the SEC, and is therefore consistent with the Exchange Act.

(2) Calculation of Fee Rate for Historical CAT Assessment 1A Is Reasonable

The SEC has determined that the CAT Funding Model is reasonable and satisfies the requirements of the Exchange Act. Specifically, the SEC has concluded that the method for determining Historical CAT Assessments as set forth in Section 11.3 of the CAT NMS Plan, including the formula for calculating the Historical Fee Rate, the identification of the parties responsible for payment and the transactions subject to the fee rate for the Historical CAT Assessment, is reasonable and satisfies the Exchange Act.²²⁶ In each respect, as discussed above, Historical CAT Assessment 1A is calculated, and would be applied, in accordance with the requirements applicable to Historical CAT Assessments as set forth in the CAT NMS Plan. Furthermore, as discussed below, the Exchange believes that each of the figures for the variables in the SEC-approved formula for calculating the fee rate for Historical CAT Assessment 1A is reasonable and consistent with the Exchange Act. Calculation of the fee rate for Historical CAT Assessment 1A requires the figures for the Historical CAT Costs 1, the executed equivalent share volume for the prior twelve months, the determination of Historical Recovery Period 1A, and the projection of the executed equivalent share volume for Historical Recovery Period 1A. Each of these variables is reasonable and satisfies the Exchange Act, as discussed throughout this filing.

(A) Historical CAT Costs 1

The formula for calculating a Historical Fee Rate requires the amount of Historical CAT Costs to be recovered. Specifically, Section 11.3(b)(iii)(B)(II) of the CAT NMS Plan requires a fee filing to provide:

a brief description of the amount and type of the Historical CAT Costs, including (1) the technology line items of cloud hosting services, operating fees, CAIS operating fees, change request fees, and capitalized developed technology costs, (2) legal, (3) consulting, (4) insurance, (5) professional and administration and (6) public relations costs.

In accordance with this requirement, the Exchange has set forth the amount and type of Historical CAT Costs 1 for each of these categories of costs above.

Section 11.3(b)(iii)(B)(II) of the CAT NMS Plan also requires that the fee filing provide “sufficient detail to demonstrate that the Historical CAT Costs are reasonable and appropriate.” As discussed below, the Exchange believes that the amounts set forth in this filing for each of these cost categories is “reasonable and appropriate.” Each of the costs included in Historical CAT Costs 1 are reasonable and appropriate because the costs are consistent with standard industry practice, based on the need to comply with the requirements of the CAT NMS Plan, incurred subject to negotiations performed on an arm’s length basis, and/or are consistent with the needs of any legal entity, particularly one with no employees.

(i) Technology: Cloud Hosting Services

In approving the CAT Funding Model, the Commission recognized that it is appropriate to recover costs related to cloud hosting services as a part of Historical CAT Assessments.²²⁷ CAT LLC determined that the costs related to cloud hosting services described in this filing are reasonable and should be included as a part of Historical CAT Costs 1. As described above, the cloud hosting services costs reflect, among other things, the breadth of the CAT cloud activities, data volume far in excess of the original volume estimates, the need for specialized cloud services given the volume and unique nature of the CAT, the processing time requirements of the Plan, and regular efforts to seek to minimize costs where permissible under the Plan. CAT LLC determined that use of cloud hosting services is necessary for implementation of the CAT, particularly given the substantial data volumes associated with the CAT, and that the fees for cloud hosting services negotiated by FCAT were reasonable, taking into consideration a variety of factors, including the expected volume of data and the breadth of services provided and market rates for similar services.²²⁸ Indeed, the actual costs of the CAT are far in excess of the original estimated costs of the CAT due to various factors, including the higher volumes and greater complexity of the CAT than

anticipated when Rule 613 was originally adopted.

To comply with the requirements of the Plan, the breadth of the cloud activities related to the CAT is substantial. The cloud services not only include the production environment for the CAT, but they also include two industry testing environments, support environments for quality assurance and stress testing and disaster recovery capabilities. Moreover, the cloud storage costs are driven by the requirements of the Plan, which requires the storage of multiple versions of the data, from the original submitted version of the data through various processing steps, to the final version of the data.

Data volume is a significant driver of costs for cloud hosting services. When the Commission adopted the CAT NMS Plan in 2016, it estimated that the CAT would need to receive 58 billion records per day²²⁹ and that annual operating costs for the CAT would range from \$36.5 million to \$55 million.²³⁰

Through 2021, the actual data volumes have been five times that original estimate. The data volumes for each period are set forth in detail above.²³¹

In addition to the effect of the data volume on the cloud hosting costs, the processing timelines set forth in the Plan contribute to the cloud hosting costs. Although CAT LLC has proactively sought to manage cloud hosting costs while complying with the Plan, including through requests to the Commission for exemptive relief and an amendment to the CAT NMS Plan, stringent CAT NMS Plan requirements do not allow for any material flexibility in cloud architecture design choices, processing timelines (e.g., the use of non-peak processing windows), or lower-cost storage tiers. As a result, the required CAT processing timelines contribute to the cloud hosting costs of the CAT.

The costs for cloud hosting services also reflect the need for specialized cloud hosting services given the data volume and unique processing needs of the CAT. The data volume as well as the data processing needs of the CAT necessitate the use of cloud hosting services. The equipment, power and services required for an on-premises data model, the alternative to cloud hosting services, would be cost prohibitive. Moreover, as CAT was being developed, there were limited cloud hosting providers that could

²²⁷ Section 11.3(b)(iii)(B)(II)(B)(1) of the CAT NMS Plan.

²²⁸ For a discussion of the amount and type of cloud hosting services fees, see Sections 3(a)(2)(B)(i)(a)(I), 3(a)(2)(B)(i)(b)(I), 3(a)(2)(B)(i)(c)(I) and 3(a)(2)(B)(i)(d)(I) above.

²²⁹ Appendix D–4 of the CAT NMS Plan at n.262.

²³⁰ CAT NMS Plan Approval Order at 84801.

²³¹ See Sections 3(a)(2)(B)(i)(a)(I), 3(a)(2)(B)(i)(b)(I), 3(a)(2)(B)(i)(c)(I) and 3(a)(2)(B)(i)(d)(I) above.

²²⁶ *Id.*

satisfy all the necessary CAT requirements, including the operational and security criteria. Over time more providers offering cloud hosting services that would satisfy these criteria have entered the market. CAT LLC will continue to evaluate alternative cloud hosting services, recognizing that the time and cost to move to an alternative cloud provider would be substantial.

The reasonableness of the cloud hosting services costs is further supported by key cost discipline mechanisms for the CAT—a cost-based funding structure, cost transparency, cost management efforts (including regular efforts to lower compute and storage costs where permitted by the Plan) and oversight. Together, these mechanisms help ensure the ongoing reasonableness of the CAT's costs and the level of fees assessed to support those costs.²³²

(ii) Technology: Operating Fees

In approving the CAT Funding Model, the SEC recognized that it is appropriate to recover costs related to operating fees as a part of Historical CAT Assessments.²³³ CAT LLC determined that the costs related to operating fees described in this filing are reasonable and should be included as a part of Historical CAT Costs 1. The operating fees include the negotiated fees paid by CAT LLC to the Plan Processor to operate and maintain the system for order-related information and to perform business operations related to the system, including compliance, security, testing, training, communications with the industry (*e.g.*, management of the FINRA CAT Helpdesk, FAQs, website and webinars) and program management. CAT LLC determined that the selection of FCAT as the Plan Processor was reasonable and appropriate given its expertise with securities regulatory reporting, after a process of considering other potential candidates.²³⁴ CAT LLC also determined that the fixed price contract, negotiated on an arm's length basis with the goals of managing costs and receiving services required to comply with the CAT NMS Plan and Rule 613, was reasonable and appropriate, taking into consideration a variety of factors, including the breadth of services provided and market rates for similar

types of activity.²³⁵ The services performed by FCAT for each period and the costs related to such services are described above.²³⁶

(iii) Technology: CAIS Operating Fees

In approving the CAT Funding Model, the SEC recognized that it is appropriate to recover costs related to CAIS operating fees as a part of Historical CAT Assessments.²³⁷ CAT LLC determined that the costs related to CAIS operating fees described in this filing are reasonable and should be included as a part of Historical CAT Costs 1. The CAIS operating fees include the fees paid to the Plan Processor to operate and maintain CAIS and to perform the business operations related to the system, including compliance, security, testing, training, communications with the industry (*e.g.*, management of the FINRA CAT Helpdesk, FAQs, website and webinars) and program management. CAT LLC determined that the FCAT-negotiated fees for Kingland's CAIS-related services, negotiated on an arm's length basis with the goals of managing costs and receiving services required to comply with the CAT NMS Plan, taking into consideration a variety of factors, including the services to be provided and market rates for similar types of activity, were reasonable and appropriate.²³⁸ The services performed by Kingland for each period and the costs for each period are described above.²³⁹

(iv) Technology: Change Request Fees

In approving the CAT Funding Model, the SEC recognized that it is appropriate to recover costs related to change request fees as a part of Historical CAT Assessments.²⁴⁰ CAT LLC determined that the costs related to change request fees described in this filing are reasonable and should be included as a part of Historical CAT Costs 1. It is common practice to utilize a change request process to address evolving needs in technology projects. This is particularly true for a project like CAT that is the first of its kind, both in substance and in scale. The substance and costs of each of the change requests are evaluated by the Operating

Committee, and approved in accordance with the requirements for Operating Committee meetings. In each case, CAT LLC determined that the change requests were necessary to implement the CAT. As described above, the change requests cover various technology changes, including, for example, changes related to CAT reporting, data feeds and exchange functionality. CAT LLC also determined that the costs for each change request were appropriate for the relevant technology change. A description of the change requests for each FAM Period and their total costs is described above.²⁴¹ As noted above, the total costs for change requests through FAM Period 3 represent a small percentage of Historical CAT Costs 1—that is, 0.25% of Historical CAT Costs 1.

(v) Capitalized Developed Technology Costs

In approving the CAT Funding Model, the SEC recognized that it is appropriate to recover costs related to capitalized developed technology costs as a part of Historical CAT Assessments.²⁴² Capitalized developed technology costs include costs related to certain development costs, costs related to certain modifications, upgrades and other changes to the CAT, CAIS implementation fees and license fees. The amount and type of costs for each period are described in more detail above.²⁴³ CAT LLC determined that these costs are reasonable and should be included as a part of Historical CAT Costs 1.

These costs involve the activity of both the Initial Plan Processor and FCAT, as the successor Plan Processor.²⁴⁴ With regard to the Initial Plan Processor, the Participants utilized an RFP to seek proposals to build and operate the CAT, receiving a number of proposals in response to the RFP. The Participants carefully reviewed and considered each of the proposals, including holding in-person meetings with each of the Bidders. After several rounds of review, the Participants selected the Initial Plan Processor in accordance with the CAT NMS Plan. CAT LLC entered into an agreement with the Initial Plan Processor in which CAT LLC would pay the Initial Plan Processor a negotiated, fixed price

²³⁵ See Sections 3(a)(2)(B)(i)(a)(II), 3(a)(2)(B)(i)(b)(II), 3(a)(2)(B)(i)(c)(II) and 3(a)(2)(B)(i)(d)(II) above.

²³⁶ *Id.*

²³⁷ Section 11.3(b)(iii)(B)(II)(B)(1) of the CAT NMS Plan.

²³⁸ See Sections 3(a)(2)(B)(i)(a)(III), 3(a)(2)(B)(i)(b)(III), 3(a)(2)(B)(i)(c)(III) and 3(a)(2)(B)(i)(d)(III) above.

²³⁹ *Id.*

²⁴⁰ Section 11.3(b)(iii)(B)(II)(B)(1) of the CAT NMS Plan.

²⁴¹ See Sections 3(a)(2)(B)(i)(a)(IV), 3(a)(2)(B)(i)(b)(IV), 3(a)(2)(B)(i)(c)(IV) and 3(a)(2)(B)(i)(d)(IV) above.

²⁴² Section 11.3(b)(iii)(B)(II)(B)(1) of the CAT NMS Plan.

²⁴³ See Sections 3(a)(2)(B)(i)(a)(V), 3(a)(2)(B)(i)(b)(V), 3(a)(2)(B)(i)(c)(V) and 3(a)(2)(B)(i)(d)(V) above.

²⁴⁴ *Id.*

²³² See Securities Exchange Act Rel. No. 97151 (Mar. 15, 2023), 88 FR 17086, 17117 (Mar. 21, 2023) (describing key cost discipline mechanisms for the CAT).

²³³ Section 11.3(b)(iii)(B)(II)(B)(1) of the CAT NMS Plan.

²³⁴ See Section 3(a)(2)(B)(i)(a)(II) above.

fee.²⁴⁵ In addition, as described above, CAT LLC determined that it is appropriate to enter into an agreement with FCAT as the successor Plan Processor.²⁴⁶

(vi) Legal

In approving the CAT Funding Model, the SEC recognized that it is appropriate to recover costs related to legal fees as a part of Historical CAT Assessments.²⁴⁷ CAT LLC determined that the legal costs described in this filing are reasonable and should be included as a part of Historical CAT Costs 1. Given the unique nature of the CAT, the number of parties involved with the CAT (including, for example, the SEC, Participants, Industry Members, and vendors) and the many regulatory issues associated with the CAT, the scope of the necessary legal services is substantial. CAT LLC determined that the scope of the legal services is necessary to implement and maintain the CAT and that the legal rates reflect the specialized services necessary for such a project. When hiring each law firm for a CAT project, CAT LLC interviewed multiple firms, and determined to hire each firm based on a variety of factors, including the relevant expertise and fees. In each case, CAT LLC determined that the hourly fee rates were in line with market rates for the specialized legal expertise. In addition, CAT LLC determined that the total costs incurred for each CAT project were appropriate given the breadth of services provided. The services performed by each law firm for each period and the costs related to such services are described above.²⁴⁸

(vii) Consulting

In approving the CAT Funding Model, the SEC recognized that it is appropriate to recover consulting costs as a part of Historical CAT Assessments.²⁴⁹ CAT LLC determined that the consulting costs described in this filing are reasonable and should be included as a part of Historical CAT Costs 1. Because there are no CAT employees²⁵⁰ and because of the significant number of issues associated with the CAT, the

consultants provided assistance in the management of various CAT matters and the processes related to such matters.²⁵¹ CAT LLC considered a variety of factors in choosing a consulting firm and determined to select Deloitte after an interview process.²⁵² CAT LLC also determined that the consulting services were provided at reasonable market rates, as the fees were negotiated annually and comparable to the rates charged by other consulting firms for similar work.²⁵³ Moreover, the total costs for such consulting services were appropriate in light of the breadth of services provided by Deloitte. The services performed by Deloitte and the costs related to such services are described above.²⁵⁴

(viii) Insurance

In approving the CAT Funding Model, the SEC recognized that it is appropriate to recover insurance costs as a part of Historical CAT Assessments.²⁵⁵ CAT LLC determined that the insurance costs described in this filing are reasonable and should be included as a part of Historical CAT Costs 1. CAT LLC determined that it is common practice to have directors' and officers' liability insurance, and errors and omissions liability insurance. CAT LLC further determined that it was important to have cyber security insurance given the nature of the CAT, and such a decision is consistent with the CAT NMS Plan, which states that the cyber incident response plan may include "[i]nsurance against security breaches."²⁵⁶ In selecting the insurance providers for these policies, CAT LLC engaged in an evaluation of alternative insurers, including a comparison of the pricing offered by the alternative insurers.²⁵⁷ Based on this analysis, CAT LLC determined that the selected insurance policies provided appropriate coverage at reasonable market rates.²⁵⁸

(ix) Professional and Administration

In approving the CAT Funding Model, the SEC recognized that it is appropriate to recover professional and

administration costs as a part of Historical CAT Assessments.²⁵⁹ CAT LLC determined that the professional and administration costs described in this filing are reasonable and should be included as a part of Historical CAT Costs 1. Because there are no CAT employees, all required accounting, financial, tax, cash management and treasury functions for CAT LLC have been outsourced at market rates. In addition, the required annual financial statement audit of CAT LLC is included in professional and administration costs, which costs are also at market rates.

CAT LLC determined to hire a financial advisory firm, Anchin, to assist with financial matters for the CAT. CAT LLC interviewed Anchin as well as other potential financial advisory firms to assist with the CAT project, considering a variety of factors in its analysis, including the firm's relevant expertise and fees.²⁶⁰ The hourly fee rates for this firm were in line with market rates for the financial advisory services provided.²⁶¹ Moreover, the total costs for such financial advisory services was appropriate in light of the breadth of services provided by Anchin. The services performed by Anchin and the costs related to such services are described above.²⁶²

CAT LLC also determined to engage an independent accounting firm, Grant Thornton, to complete the audit of CAT LLC's financial statements, in accordance with the requirements of the CAT NMS Plan. CAT LLC interviewed this firm as well as another potential accounting firm to audit CAT LLC's financial statements, considering a variety of factors in its analysis, including the relevant expertise and fees of each of the firms. CAT LLC determined that Grant Thornton was well-qualified for the role given the balance of these considerations.²⁶³ Grant Thornton's fixed fee rate compensation arrangement was reasonable and appropriate, and in line with the market rates charged for these types of accounting services.²⁶⁴ Moreover, the total costs for such financial advisory services was appropriate in light of the breadth of

²⁴⁵ See Section 3(a)(2)(B)(i)(a)(V) above.

²⁴⁶ See Section 3(a)(2)(B)(i)(a)(III) above.

²⁴⁷ Section 11.3(b)(iii)(B)(II)(B)(2) of the CAT NMS Plan.

²⁴⁸ See Sections 3(a)(2)(B)(i)(a)(VI), 3(a)(2)(B)(i)(b)(VI), 3(a)(2)(B)(i)(c)(VI) and 3(a)(2)(B)(i)(d)(VI) above.

²⁴⁹ Section 11.3(b)(iii)(B)(II)(B)(3) of the CAT NMS Plan.

²⁵⁰ As stated in the filing of the proposed CAT NMS Plan, "[i]t is the intent of the Participants that the Company have no employees." Securities Exchange Act Rel. No. 77724 (Apr. 27, 2016), 81 FR 30614, 30621 (May 17, 2016).

²⁵¹ CAT LLC uses certain third parties to perform tasks that may be performed by administrators for other NMS Plans. See, e.g., CTA Plan and CQ Plan.

²⁵² See Section 3(a)(2)(B)(i)(a)(VII) above.

²⁵³ See Sections 3(a)(2)(B)(i)(a)(VII), 3(a)(2)(B)(i)(b)(VII), 3(a)(2)(B)(i)(c)(VII) and 3(a)(2)(B)(i)(d)(VII) above.

²⁵⁴ *Id.*

²⁵⁵ Section 11.3(b)(iii)(B)(II)(B)(4) of the CAT NMS Plan.

²⁵⁶ Section 4.1.5 of Appendix D of the CAT NMS Plan.

²⁵⁷ See Sections 3(a)(2)(B)(i)(a)(VIII), 3(a)(2)(B)(i)(b)(VIII), 3(a)(2)(B)(i)(c)(VIII) and 3(a)(2)(B)(i)(d)(VIII) above.

²⁵⁸ *Id.*

²⁵⁹ Section 11.3(b)(iii)(B)(II)(B)(5) of the CAT NMS Plan.

²⁶⁰ See Section 3(a)(2)(B)(i)(a)(IX) above.

²⁶¹ See Sections 3(a)(2)(B)(i)(a)(IX), 3(a)(2)(B)(i)(b)(IX), 3(a)(2)(B)(i)(c)(IX) and 3(a)(2)(B)(i)(d)(IX) above.

²⁶² *Id.*

²⁶³ See Section 3(a)(2)(B)(i)(a)(IX) above.

²⁶⁴ See Sections 3(a)(2)(B)(i)(a)(IX), 3(a)(2)(B)(i)(b)(IX), 3(a)(2)(B)(i)(c)(IX) and 3(a)(2)(B)(i)(d)(IX) above.

services provided by Grant Thornton. The services performed by Grant Thornton and the costs related to such services are described above.²⁶⁵

The professional and administrative costs also include costs related to the receipt of certain market data from Exegy. After performing an analysis of the available market data vendors to confirm that the data provided met the SIP Data requirements of the CAT NMS Plan and comparing the costs of the vendors providing the required SIP Data, CAT LLC determined to purchase market data from Exegy. Exegy provided the data elements required by the CAT NMS Plan, and the fees were reasonable and in line with market rates for the market data received.²⁶⁶

The professional and administrative costs also include costs related to a third party security assessment of the CAT performed by RSM. The assessment was designed to verify and validate the effective design, implementation and operation of the controls specified by NIST Special Publication 800–53, Revision 4 and related standards and guidelines. Such a security assessment is in line with industry practice and important given the data included in the CAT. CAT LLC determined to engage RSM to perform the security assessment, after considering a variety of factors in its analysis, including the firm's relevant expertise and fees. The fees were reasonable and in line with market rates for such an assessment.²⁶⁷

(x) Public Relations Costs

In approving the CAT Funding Model, the SEC recognized that it is appropriate to recover public relations costs as a part of Historical CAT Assessments.²⁶⁸ CAT LLC determined that the public relations costs described in this filing are reasonable and should be included as a part of Historical CAT Costs 1. CAT LLC determined that the types of public relations services utilized were beneficial to the CAT and market participants more generally. Public relations services were important for various reasons, including monitoring comments made by market participants about CAT and understanding issues related to the CAT discussed on the public record.²⁶⁹ By engaging a public relations firm, CAT LLC was better positioned to understand and address CAT issues to the benefit of all market

participants.²⁷⁰ Moreover, CAT LLC determined that the rates charged for such services were in line with market rates.²⁷¹ As noted above, the total public relations costs through FAM Period 3 represent a small percentage of Historical CAT Costs 1—that is, 0.1% of Historical CAT Costs 1.

(B) Total Executed Equivalent Share Volume for the Prior 12 Months

The total executed equivalent share volume of transactions in Eligible Securities for the 12-month period from March 2025 through February 2026 was 5,980,937,549,360.49 executed equivalent shares. CAT LLC determined the total executed equivalent share volume for the prior twelve months by counting executed equivalent shares in the same manner as it will count executed equivalent shares for CAT billing purposes.

(C) Historical Recovery Period 1A

CAT LLC has determined to establish a Historical Recovery Period of 24 months for Historical CAT Assessment 1A and that such length is reasonable. CAT LLC determined that the length of Historical Recovery Period 1A appropriately weighs the need for a reasonable fee rate for Historical CAT Assessment 1A that spreads the Historical CAT Costs over an appropriate amount of time and the need to repay the loans notes to the Participants in a timely fashion. CAT LLC determined that 24 months for Historical Recovery Period 1A would establish a fee rate that is lower than other transaction-based fees, including fees assessed pursuant to Section 31.²⁷² In addition, in establishing a Historical Recovery Period of 24 months, CAT LLC recognized that the total cost for Historical CAT Assessment 1A was less than the total costs for 2022 and 2023, and therefore it would be appropriate to recover those costs in two years.

(D) Projected Executed Equivalent Share Volume for Historical Recovery Period 1A

CAT LLC has determined to calculate the projected total executed equivalent share volume for the 24 months of Historical Recovery Period 1A by doubling the executed equivalent share volume for the prior 12 months. The Operating Committee determined that

such an approach was reasonable as the CAT's annual executed equivalent share volume has increased from prior years (e.g., the executed equivalent share volume for 2024 was 4,295,884,600,069.4) and the Operating Committee believes that it is reasonable to conclude that the annual executed equivalent share volume will remain at the higher level. Accordingly, the projected total executed equivalent share volume for Historical Recovery Period 1A is projected to be 11,961,875,098,720.98 executed equivalent shares.²⁷³

(E) Actual Fee Rate for Historical CAT Assessment 1A

(i) Decimal Places

As noted in the Plan amendment for the CAT Funding Model, as a practical matter, the fee filing for a Historical CAT Assessment would provide the exact fee per executed equivalent share to be paid for each Historical CAT Assessment, and describe the relevant number of decimal places for the fee rate.²⁷⁴ Accordingly, proposed paragraph (a)(2)(B) of the fee schedule would set forth a fee rate of \$0.000002 per executed equivalent share. CAT LLC determined that the use of six decimal places is reasonable as it balances the accuracy of the calculation with the potential systems and other impracticalities of using additional decimal places in the calculation.

(ii) Reasonable Fee Level

The Exchange believes that imposing Historical CAT Assessment 1A with a fee rate of \$0.000002 per executed equivalent share is reasonable because it provides for a revenue stream for the Company that is aligned with the remaining Historical CAT Costs 1 and such costs would be spread out over an appropriate recovery period, as discussed above. Moreover, the Exchange believes that the level of the fee rate is reasonable, as it is comparable to other transaction-based fees. Indeed, Historical CAT Assessment 1A is significantly lower than fees assessed pursuant to Section 31 (e.g., \$0.00007 per share to \$0.00072 per share),²⁷⁵ and, as a result, the magnitude of Historical CAT Assessment 1A is small, and therefore will mitigate any potential adverse economic effects or inefficiencies. Furthermore, the reasonable fee rate for Historical CAT

²⁶⁵ *Id.*

²⁶⁶ See Section 3(a)(2)(B)(i)(a)(IX) above.

²⁶⁷ *Id.*

²⁶⁸ Section 11.3(b)(iii)(B)(II)(B)(6) of the CAT NMS Plan.

²⁶⁹ See Section 3(a)(2)(B)(i)(a)(X) above.

²⁷⁰ See Sections 3(a)(2)(B)(i)(a)(X), 3(a)(2)(B)(i)(b)(X), 3(a)(2)(B)(i)(c)(X) and 3(a)(2)(B)(i)(d)(X) above.

²⁷¹ *Id.*

²⁷² As the SEC noted in the CAT Funding Model Approval Order, recent Section 31 fees ranged from \$0.00007 per share to \$0.00072 per share. CAT Funding Model Approval Order at 13469.

²⁷³ This projection was calculated by multiplying 5,980,937,549,360.49 executed equivalent shares by two.

²⁷⁴ CAT Funding Model Approval Order at 13445, n.677.

²⁷⁵ *Id.* at 13469.

Assessment 1A further supports CAT LLC's decision to seek to recover the costs described herein.

(3) Historical CAT Assessment 1A Provides for an Equitable Allocation of Fees

Historical CAT Assessment 1A provides for an equitable allocation of fees, as it equitably allocates CAT costs between and among the Participants and Industry Members. The SEC approved the CAT Funding Model, finding that each aspect of the CAT Funding Model satisfied the requirements of the Exchange Act, including the formula for calculating Historical CAT Assessments as well as the Industry Members to be charged the Historical CAT Assessments.²⁷⁶ In approving the CAT Funding Model, the SEC stated that "[t]he Participants have sufficiently demonstrated that the proposed allocation of fees is appropriate."²⁷⁷ Accordingly, the CAT Funding Model sets forth the requirements for allocating fees related to Historical CAT Costs among Participants and Industry Members, and the fee filings for Historical CAT Assessments must comply with those requirements.

Historical CAT Assessment 1A provides for an equitable allocation of fees as it complies with the requirements regarding the calculation of Historical CAT Assessments as set forth in the CAT NMS Plan. For example, as described above, the calculation of Historical CAT Assessment 1A complies with the formula set forth in Section 11.3(b) of the CAT NMS Plan. In addition, Historical CAT Assessment 1A would be charged to CEBBs and CEBs in accordance with Section 11.3(b) of the CAT NMS Plan. Furthermore, the Participants would continue to remain responsible for their designated share of Past CAT Costs through the cancellation of loans made by the Participants to CAT LLC.

In addition, as discussed above, each of the inputs into the calculation of Historical CAT Assessment 1A—Historical CAT Costs 1 (including Excluded Costs) and the exclusion of costs previously invoiced via Historical CAT Assessment 1, the count for the executed equivalent share volume for the prior 12 months, the length of the Historical Recovery Period, and the projected executed equivalent share volume for the Historical Recovery Period—are reasonable. Moreover, these inputs lead to a reasonable fee rate for Historical CAT Assessment 1A that is

lower than other fee rates for transaction-based fees. A reasonable fee rate allocated in accordance with the requirements of the CAT Funding Model provides for an equitable allocation of fees.

(4) Historical CAT Assessment 1A Is Not Unfairly Discriminatory

Historical CAT Assessment 1A is not an unfairly discriminatory fee. The SEC approved the CAT Funding Model, finding that each aspect of the CAT Funding Model satisfied the requirements of the Exchange Act. In reaching this conclusion, the SEC analyzed the potential effect of Historical CAT Assessments calculated pursuant to the CAT Funding Model on affected categories of market participants, including Participants (including exchanges and FINRA), Industry Members (including subcategories of Industry Members, such as alternative trading systems, CAT Executing Brokers and market makers), and investors generally, and considered market effects related to equities and options, among other things. Historical CAT Assessment 1A complies with the requirements regarding the calculation of Historical CAT Assessments as set forth in the CAT NMS Plan. In addition, as discussed above, each of the inputs into the calculation of Historical CAT Assessment 1A and the resulting fee rate for Historical CAT Assessment 1A is reasonable. Therefore, Historical CAT Assessment 1A does not impose an unfairly discriminatory fee on Industry Members.

Finally, the Exchange believes the proposed fees established pursuant to the CAT Funding Model promote just and equitable principles of trade, and, in general, protect investors and the public interest, and are provided in a transparent manner and specificity in the fee schedule. The Exchange also believes that the proposed fees are reasonable because they would provide ease of calculation, ease of billing and other administrative functions, and predictability of a fee based on fixed rate per executed equivalent share. Such factors are crucial to estimating a reliable revenue stream for CAT LLC and for permitting Exchange members to reasonably predict their payment obligations for budgeting purposes.

B. Self-Regulatory Organization's Statement on Burden on Competition

Section 6(b)(8) of the Act²⁷⁸ requires that the Exchange's rules not impose any burden on competition that is not necessary or appropriate in furtherance

of the purpose of the Exchange Act. The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange notes that Historical CAT Assessment 1A implements provisions of the CAT NMS Plan that were approved by the Commission and is designed to assist the Exchange in meeting its regulatory obligations pursuant to the Plan.

In addition, all Participants (including exchanges and FINRA) are proposing to introduce Historical CAT Assessment 1A on behalf of CAT LLC to implement the requirements of the CAT NMS Plan. Therefore, this is not a competitive fee filing, and, therefore, it does not raise competition issues between and among the Participants.

Furthermore, in approving the CAT Funding Model, the SEC analyzed the potential competitive impact of the CAT Funding Model, including competitive issues related to market services, trading services and regulatory services, efficiency concerns, and capital formation.²⁷⁹ The SEC also analyzed the potential effect of CAT fees calculated pursuant to the CAT Funding Model on affected categories of market participants, including Participants (including exchanges and FINRA), Industry Members (including subcategories of Industry Members, such as alternative trading systems, CAT Executing Brokers and market makers), and investors generally, and considered market effects related to equities and options, among other things. Based on this analysis, the SEC approved the CAT Funding Model as compliant with the Exchange Act. Historical CAT Assessment 1A is calculated and implemented in accordance with the CAT Funding Model as approved by the SEC.

As discussed above, each of the inputs into the calculation of Historical CAT Assessment 1A is reasonable and the resulting fee rate for Historical CAT Assessment 1A calculated in accordance with the CAT Funding Model is reasonable. Therefore, Historical CAT Assessment 1A would not impose any burden on competition that is not necessary or appropriate in furtherance of the purpose of the Exchange Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Not applicable.

²⁷⁶ See Section 11.3(b) of the CAT NMS Plan.

²⁷⁷ CAT Funding Model Approval Order at 13412.

²⁷⁸ 15 U.S.C. 78f(b)(8).

²⁷⁹ CAT Funding Model Approval Order at 13479–13481.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act²⁸⁰ and paragraph (f) of Rule 19b-4²⁸¹ thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and

arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-CboeBZX-2026-037 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.

All submissions should refer to file number SR-CboeBZX-2026-037. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's

internet website (<https://www.sec.gov/rules/sro.shtml>). Copies of the filing will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR-CboeBZX-2026-037 and should be submitted on or before June 4, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁸²

J. Matthew DeLesDernier,

Deputy Secretary.

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²⁸⁰ 15 U.S.C. 78s(b)(3)(A).

²⁸¹ 17 CFR 240.19b-4(f).

²⁸² 17 CFR 200.30-3(a)(12).



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Part VIII

Commodity Futures Trading Commission

17 CFR Ch. I

Order Granting Conditional Substituted Compliance in Connection With Certain Capital and Financial Reporting Requirements Applicable to a Nonbank Swap Dealer Domiciled in the French Republic and Subject to the European Union's Investment Firms Regulation and Investment Firms Directive; Final Rule

COMMODITY FUTURES TRADING COMMISSION

17 CFR Chapter I

Order Granting Conditional Substituted Compliance in Connection With Certain Capital and Financial Reporting Requirements Applicable to a Nonbank Swap Dealer Domiciled in the French Republic and Subject to the European Union's Investment Firms Regulation and Investment Firms Directive

AGENCY: Commodity Futures Trading Commission.

ACTION: Order.

SUMMARY: The Commodity Futures Trading Commission ("Commission" or "CFTC") is issuing an order regarding an application submitted by Goldman Sachs Paris Inc. et Cie requesting that the Commission determine that the capital and financial reporting laws and regulations of the European Union applicable to a CFTC-registered swap dealer, which is organized and domiciled in the French Republic and subject to the Investment Firms Regulation (EU) 2019/2033 ("IFR") and Investment Firms Directive (EU) 2019/2034 ("IFD") legislative package, provide sufficient bases for an affirmative finding of comparability with respect to the Commission's swap dealer capital and financial reporting requirements adopted under the Commodity Exchange Act. The order provides that a nonbank swap dealer organized and domiciled in the French Republic and subject to the IFR and IFD legislative package may satisfy the capital requirements and the financial reporting rules under the applicable provisions of the Commodity Exchange Act and Commission regulations by complying with certain specified European Union laws and regulations and conditions set forth in the order.

DATES: This determination was made and issued by the Commission on May 12, 2026.

FOR FURTHER INFORMATION CONTACT: Thomas Smith, Acting Director, 202-418-5495, tsmith@cftc.gov; Liliya Bozhanova, Associate Director, 202-418-6232, lbozhanova@cftc.gov; Christine McKeveny, Attorney-Advisor, 646-746-3923, cmckeveny@cftc.gov; Jennifer M. Narvaez, Attorney-Advisor, 202-418-5742, jnarvaez@cftc.gov; Rafael Martinez, Associate Director, 202-418-5462, rmartinez@cftc.gov; Thomas Littlefield, Senior Financial Risk Analyst, 202-418-5405, tlittlefield@cftc.gov; Lihong McPhail, Research Economist, 202-418-5722,

lmcp@mail@cftc.gov, Market Participants Division; Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581.

SUPPLEMENTARY INFORMATION: Sections 4s(e)¹ and 4s(f)² of the Commodity Exchange Act ("CEA") direct the Commodity Futures Trading Commission ("Commission" or "CFTC") to impose capital requirements and financial reporting obligations on each swap dealer and major swap participant that is not subject to regulation by a prudential regulator ("nonbank SD" and "nonbank MSP", respectively). Commission Regulation 23.106³ establishes a substituted compliance framework whereby the Commission may determine that compliance by a foreign nonbank SD or foreign nonbank MSP with its home country's capital and financial reporting requirements will satisfy all or parts of the Commission's capital and financial reporting requirements.

On July 18, 2024, the Commission issued four comparability determinations and related comparability orders granting substituted compliance in connection with the CFTC's capital and financial reporting requirements to CFTC-registered nonbank SDs organized and domiciled in Japan, Mexico, the European Union (France and Germany), and the United Kingdom, subject to certain conditions set forth in each order.⁴ In preparing each of the comparability determinations and related comparability orders, the

Commission reviewed, analyzed, and assessed the regulatory requirements of each relevant foreign jurisdiction. Additionally, each of the comparability determinations and related comparability orders, including the 2024 EU Comparability Order, was issued after discussions with market participants and foreign regulators, and after reviewing and incorporating relevant comments received from the public. The Commission, therefore, has gained an understanding of the capital and financial reporting requirements of each relevant jurisdiction, including the European Union ("EU").

On September 3, 2024, Goldman Sachs Paris Inc. et Cie ("Goldman Sachs Paris" or "Applicant") submitted an application (the "EU IFR/IFD Application"),⁵ requesting that the Commission determine that a registered nonbank swap dealer ("nonbank SD")⁶ organized and domiciled within the EU (specifically, the French Republic ("France")) may satisfy certain capital and financial reporting requirements under the CEA⁷ by being subject to, and complying with, comparable capital and financial reporting requirements established under the EU Investment Firms Regulation ("IFR")⁸ and Investment Firms Directive ("IFD").⁹ Although the Applicant is subject to a similar regulatory regime and is domiciled in the same jurisdiction as some of the nonbank SDs included in the 2024 EU Comparability Order, it cannot rely on the 2024 EU Comparability Order because of the scope of the order.¹⁰ The Commission is

¹ 17 U.S.C. 6s(e).

² 17 U.S.C. 6s(f).

³ 17 CFR 23.106. Commission regulations referred to in this release are found at 17 CFR chapter I, and are accessible on the Commission's website: <https://www.cftc.gov/LawRegulation/CommodityExchangeAct/index.htm>.

⁴ See Order Granting Conditional Substituted Compliance in Connection With Certain Capital and Financial Reporting Requirements Applicable to Nonbank Swap Dealers Subject to Regulation by the Financial Services Agency of Japan, 89 FR 58470 (July 18, 2024); Order Granting Conditional Substituted Compliance in Connection With Certain Capital and Financial Reporting Requirements Applicable to Nonbank Swap Dealer Subject to Regulation by the Mexican Comision Nacional Bancaria y de Valores and Banco de Mexico, 89 FR 58505 (July 18, 2024); Order Granting Conditional Substituted Compliance in Connection With Certain Capital and Financial Reporting Requirements Applicable to Nonbank Swap Dealers Domiciled in the French Republic and Federal Republic of Germany and Subject to Regulation in the European Union, 89 FR 58572 (July 18, 2024) (the "2024 EU Comparability Order"); and Order Granting Conditional Substituted Compliance in Connection With Certain Capital and Financial Reporting Requirements Applicable to Nonbank Swap Dealers Subject to Regulation by the United Kingdom Prudential Regulation Authority, 89 FR 58535 (July 18, 2024).

⁵ See Letter dated September 3, 2024, submitted on behalf of Goldman Sachs Paris. The EU IFR/IFD Application is available on the Commission's website at <https://www.cftc.gov/LawRegulation/DoddFrankAct/CDSCLP/index.htm>.

⁶ As discussed in Section I.A. immediately below, the Commission has the authority to impose capital requirements on registered swap dealers that are not subject to regulation by a U.S. prudential regulator (i.e., nonbank SDs).

⁷ 17 U.S.C. 1 *et seq.* The CEA may be accessed through the Commission's website at <https://www.cftc.gov/LawRegulation/CommodityExchangeAct/index.htm>.

⁸ Regulation (EU) 2019/2033 of the European Parliament and of the Council of 27 November 2019 on the prudential requirements of investment firms and amending Regulations (EU) No 1093/2010, (EU) No 575/2013, (EU) No 600/2014 and EU No 806/2014 ("Investment Firms Regulation" or "IFR").

⁹ Directive (EU) 2019/2034 of the European Parliament and of the Council of 27 November 2019 on the prudential supervision of investment firms and amending Directives 2002/87/EC, 2009/65/EC, 2011/61/EU, 2013/36/EU, 2014/59/EU and 2014/65/EU ("Investment Firms Directive" or "IFD").

¹⁰ The 2024 EU Comparability Order only conducted an analysis on nonbank SDs that are subject to the capital and financial reporting requirements established under the Capital Requirements Regulation and the Capital Requirements Directive and, therefore, does not

issuing an order under which such nonbank SD (“EU IFR/IFD nonbank SD”) organized and domiciled in France will be able, subject to defined conditions, to comply with certain CFTC nonbank SD capital and financial reporting requirements in the manner set forth in the order discussed below.¹¹

I. Introduction

A. Regulatory Background—Swap Dealer and Major Swap Participant Capital and Financial Reporting Requirements

Section 4s(e) of the CEA¹² directs the Commission and “prudential regulators”¹³ to impose capital requirements on all swap dealers (“SDs”) and major swap participants (“MSPs”) registered with the Commission.¹⁴ Sections 4s(e) also directs the Commission and prudential regulators to adopt regulations imposing initial and variation margin requirements on swaps entered into by SDs and MSPs that are not cleared by a CFTC-registered derivatives clearing organization (“uncleared swaps”).

Section 4s(e) applies a bifurcated approach with respect to the above Congressional directives, requiring each SD and MSP that is subject to regulation by a prudential regulator (“bank SDs”

and “bank MSPs,” respectively) to meet the minimum capital requirements and uncleared swaps margin requirements adopted by the applicable prudential regulator, and requiring each SD and MSP that is not subject to regulation by a prudential regulator (“nonbank SD” and “nonbank MSP,” respectively) to meet the minimum capital requirements and uncleared swaps margin requirements adopted by the Commission.¹⁵ Therefore, the Commission’s authority to impose capital and margin requirements extends to nonbank SDs and nonbank MSPs, including nonbanking subsidiaries of bank holding companies regulated by the Federal Reserve Board.¹⁶

The prudential regulators implemented Section 4s(e) in 2015 by amending existing capital requirements applicable to bank SDs and bank MSPs to incorporate swap transactions into their respective bank capital frameworks, and by adopting rules imposing initial and variation margin requirements on bank SDs and bank MSPs that engage in uncleared swap transactions.¹⁷ The Commission adopted final rules imposing initial and variation margin obligations on nonbank SDs and nonbank MSPs for uncleared swap transactions on January 6, 2016.¹⁸ The Commission also approved final capital requirements for nonbank SDs and nonbank MSPs on July 24, 2020, which were published in the **Federal Register** on September 15, 2020, with a compliance date of October 6, 2021 (“CFTC Capital Rules”).¹⁹

Section 4s(f) of the CEA addresses SD and MSP financial reporting requirements.²⁰ Section 4s(f) of the CEA authorizes the Commission to adopt rules imposing financial condition reporting obligations on all SDs and MSPs (*i.e.*, nonbank SDs, nonbank MSPs, bank SDs, and bank MSPs). Specifically, Section 4s(f)(1)(A) of the CEA provides, in relevant part, that each registered SD and MSP must make financial condition reports as required by regulations adopted by the Commission.²¹ The Commission’s financial reporting obligations were adopted with the Commission’s

nonbank SD and nonbank MSP capital requirements, and have a compliance date of October 6, 2021 (“CFTC Financial Reporting Rules”).²²

B. Commission Comparability Determinations for Non-U.S. Nonbank Swap Dealers and Non-U.S. Nonbank Major Swap Participants

Commission Regulation 23.106 establishes a substituted compliance framework whereby the Commission may determine that compliance by a non-U.S. domiciled nonbank SD or non-U.S. domiciled nonbank MSP with its home country’s capital and financial reporting requirements will satisfy all or parts of the CFTC Capital Rules and all or parts of the CFTC Financial Reporting Rules (such a determination referred to as a “Comparability Determination”).²³ The Commission’s capital adequacy and financial reporting requirements are designed to address and manage risks that arise from a firm’s operation as an SD or MSP. Given their functions, both sets of requirements and rules must be applied on an entity-level basis (meaning that the rules apply on a firm-wide basis, irrespective of the type of transactions involved) to effectively address risk to the firm as a whole. The availability of such substituted compliance is conditioned upon the Commission issuing a determination that the relevant foreign jurisdiction’s capital adequacy and financial reporting requirements for non-U.S. nonbank SDs and/or non-U.S. nonbank MSPs are comparable to the corresponding CFTC

encompass nonbank SDs that are subject to IFR and IFD.

¹¹ As further discussed below, Goldman Sachs Paris is currently the only CFTC-registered nonbank SD organized and domiciled in France that is subject to the capital and financial reporting requirements established under IFR and IFD.

¹² 7 U.S.C. 6s(e). The CEA may be found at 7 U.S.C. 1 *et seq.*, and may be accessed through the Commission’s website, <https://www.cftc.gov>.

¹³ The term “prudential regulators” is defined in the CEA to mean the Board of Governors of the Federal Reserve System (“Federal Reserve Board”); the Office of the Comptroller of the Currency; the Federal Deposit Insurance Corporation; the Farm Credit Administration; and the Federal Housing Finance Agency. See 7 U.S.C. 1a(39).

¹⁴ Subject to certain exceptions, the term “swap dealer” is generally defined in the CEA as any person that: (i) holds itself out as a dealer in swaps; (ii) makes a market in swaps; (iii) regularly enters into swaps with counterparties as an ordinary course of business for its own account; or (iv) engages in any activity causing the person to be commonly known in the trade as a dealer or market maker in swaps. 7 U.S.C. 1a(49). The term “major swap participant” is generally defined in the CEA as any person who is not an SD, and: (i) subject to certain exclusions, maintains a substantial position in swaps for any of the major swap categories as determined by the Commission; (ii) whose outstanding swaps create substantial counterparty exposure that could have serious adverse effects on the financial stability of the U.S. banking system or financial markets; or (iii) is a financial entity that: (a) is highly leveraged relative to the amount of capital it holds and that is not subject to capital requirements established by an appropriate Federal banking agency; and (b) maintains a substantial position in outstanding swaps in any major swap category as determined by the Commission. 7 U.S.C. 1a(33).

¹⁵ 7 U.S.C. 6s(e)(2).

¹⁶ 7 U.S.C. 6s(e)(1) and (2).

¹⁷ See *Margin and Capital Requirements for Covered Swap Entities*, 80 FR 74840 (Nov. 30, 2015).

¹⁸ See *Margin Requirements for Uncleared Swaps for Swap Dealers and Major Swap Participants*, 81 FR 636 (Jan. 6, 2016).

¹⁹ See *Capital Requirements of Swap Dealers and Major Swap Participants*, 85 FR 57462 (Sept. 15, 2020).

²⁰ 7 U.S.C. 6s(f).

²¹ 7 U.S.C. 6s(f)(1)(A).

²² See 85 FR 57462.

²³ 17 CFR 23.106. Commission Regulation 23.106(a)(1) provides that a request for a Comparability Determination may be submitted by a non-U.S. nonbank SD or a non-U.S. nonbank MSP, a trade association or other similar group on behalf of its nonbank SD or nonbank MSP members, or a foreign regulatory authority that has direct supervisory authority over one or more non-U.S. nonbank SDs or non-U.S. nonbank MSPs. However, Commission regulations provide that any non-U.S. nonbank SD or non-U.S. nonbank MSP that is dually registered with the Commission as a futures commission merchant (“FCM”) is subject to the capital requirements of Commission Regulation 1.17 (17 CFR 1.17) and may not petition the Commission for a Comparability Determination. 17 CFR 23.101(a)(5) and (b)(3), respectively. Furthermore, substituted compliance is not available to non-U.S. bank SDs and non-U.S. bank MSPs with respect to their respective financial reporting requirements under Commission Regulation 23.105(p). Commission Regulation 23.105(p), however, permits non-U.S. bank SDs and non-U.S. bank MSPs that do not submit financial reports to a U.S. prudential regulator to file with the Commission a statement of financial condition, certain regulatory capital information, and Schedule 1 of Appendix C to Subpart E of Part 23 of the Commission’s regulations prepared and presented in accordance with the accounting standards permitted by the non-U.S. bank SD’s or non-U.S. bank MSP’s home country regulatory authorities. 17 CFR 23.105(p)(2).

Capital Rules and CFTC Financial Reporting Rules.²⁴ The Commission will issue a Comparability Determination in the form of an order (“Comparability Order”).²⁵

The Commission’s approach for conducting a Comparability Determination with respect to the CFTC Capital Rules and the CFTC Financial Reporting Rules is a principles-based, holistic approach. It is not a line-by-line evaluation or comparison of a foreign jurisdiction’s regulatory requirements with the Commission’s requirements,²⁶ but focuses on whether the applicable foreign jurisdiction’s capital and financial reporting requirements achieve comparable outcomes to the corresponding CFTC requirements.²⁷ In performing the analysis, the Commission recognizes that jurisdictions may adopt differing approaches to achieving regulatory objectives and comparable outcomes, and the Commission will focus on whether the foreign jurisdiction’s capital and financial reporting requirements are based on regulatory objectives, and produce regulatory outcomes, that are comparable to the Commission’s in purpose and effect, and not whether they are comparable in every aspect or contain identical elements.

The approach and standards set forth in Commission Regulation 23.106, with the focus on “comparable outcomes,” are also consistent with the Commission’s precedents of undertaking a principles-based, holistic assessment of the comparability of foreign regulatory regimes for purposes of substituted compliance for cross-border swap transactions. In 2013, the Commission issued an Interpretive Guidance and Policy Statement Regarding Compliance with Certain Swap Regulations, establishing that it would assess foreign regulatory systems holistically.²⁸ In the Guidance, the Commission stated that, when evaluating foreign regimes, it will take into consideration all relevant factors, including: (i) the scope and objectives of the foreign rules; (ii) the comprehensiveness of requirements; and (iii) the strength of supervisory and enforcement programs.²⁹ A foreign regime, therefore, does not need to be

identical to the CFTC requirements to be deemed comparable.

In 2016, the Commission issued final rules to address the cross-border application of the Commission’s margin requirements for uncleared swap transactions, which reaffirmed its outcome based method when assessing comparability of foreign margin rules.³⁰ The Commission recognized that jurisdictions may adopt different approaches to achieving the same outcome and, therefore, focused on whether the foreign jurisdiction’s margin requirements are comparable to the Commission’s in purpose and effect, not whether they are comparable in every aspect or contain identical elements.³¹ The Commission’s policy thus reflects an understanding that a line-by-line evaluation of a foreign jurisdiction’s regulatory regime is not the optimum approach to assessing the comparability of complex structures whose individual components may differ based on jurisdiction-specific considerations, but which achieve the objective and outcomes set forth in the Commission’s framework.

A person requesting a Comparability Determination is required to submit an application to the Commission containing: (i) a description of the objectives of the relevant foreign jurisdiction’s capital adequacy and financial reporting requirements applicable to entities that are subject to the CFTC Capital Rules and the CFTC Financial Reporting Rules; (ii) a description (including specific legal and regulatory provisions) of how the relevant foreign jurisdiction’s capital adequacy and financial reporting requirements address the elements of the CFTC Capital Rules and CFTC Financial Reporting Rules, including, at a minimum, the methodologies for establishing and calculating capital adequacy requirements and whether such methodologies comport with any international standards; and (iii) a description of the ability of the relevant foreign regulatory authority to supervise and enforce compliance with the relevant foreign jurisdiction’s capital adequacy and financial reporting requirements. The applicant must also submit, upon request, such other information and documentation that the Commission deems necessary to evaluate the comparability of the capital adequacy and financial reporting

requirements of the foreign jurisdiction.³²

The Commission will consider an application for a Comparability Determination to be a representation by the applicant that the laws and regulations of the foreign jurisdiction that are submitted in support of the application are finalized and in force, that the description of such laws and regulations is accurate and complete, and that, unless otherwise noted, the scope of such laws and regulations encompasses the relevant non-U.S. nonbank SDs and/or non-U.S. nonbank MSPs domiciled in the foreign jurisdiction.³³ Each non-U.S. nonbank SD or non-U.S. nonbank MSP that seeks to rely on a Comparability Order is responsible for determining whether it is subject to the foreign laws and regulations found comparable in the Comparability Order. A non-U.S. nonbank SD or non-U.S. nonbank MSP that is not legally required to comply with a foreign jurisdiction’s laws or regulations determined to be comparable in a Comparability Order may not voluntarily comply with such laws and/or regulations in lieu of compliance with the CFTC Capital Rules and the CFTC Financial Reporting Rules.

The Commission may consider all relevant factors in making a Comparability Determination, including: (i) the scope and objectives of the relevant foreign jurisdiction’s capital and financial reporting requirements; (ii) whether the relevant foreign jurisdiction’s capital and financial reporting requirements achieve comparable outcomes to the Commission’s corresponding capital and financial reporting requirements; (iii) the ability of the relevant foreign regulatory authority or authorities to supervise and enforce compliance with the relevant foreign jurisdiction’s capital adequacy and financial reporting requirements; and (iv) any other facts or circumstances the Commission deems relevant, including whether the Commission and foreign regulatory authority or authorities have a memorandum of understanding (“MOU”) or similar arrangement that

³² 17 CFR 23.106(a)(2).

³³ The Commission provides the applicant with an opportunity to review for accuracy and completeness the Commission’s description of relevant home country laws and regulations on which a proposed Comparability Determination and a proposed Comparability Order are based. The Commission relies on this review, and any corrections or feedback received, as part of the comparability assessment. A Comparability Determination and Comparability Order based on an inaccurate description of foreign laws and regulations may not be valid.

²⁴ 17 CFR 23.106(a)(3). See also 85 FR 57462 at 57521.

²⁵ 17 CFR 23.106(a)(3).

²⁶ 85 FR 57462 at 57521.

²⁷ *Id.*

²⁸ *Interpretative Guidance and Policy Statement Regarding Compliance with Certain Swap Regulations*, 78 FR 45292 (July 26, 2013) (“Guidance”).

²⁹ Guidance at 45343.

³⁰ *Margin Requirements for Uncleared Swaps for Swap Dealers and Major Swap Participants—Cross-Border Application of the Margin Requirements*, 81 FR 34817, 34836–34837 (May 31, 2016).

³¹ *Id.*

would facilitate supervisory cooperation.³⁴

In performing the comparability assessment for foreign nonbank SDs, the Commission's review will include the extent to which the foreign jurisdiction's requirements address: (i) the process of establishing minimum capital requirements for nonbank SDs and how such process addresses risk, including market risk and credit risk of the nonbank SD's on-balance sheet and off-balance sheet exposures; (ii) the types of equity and debt instruments that qualify as regulatory capital in meeting minimum requirements; (iii) the financial reports and other financial information submitted by a nonbank SD to its relevant regulatory authority and whether such information provides the regulatory authority with the means necessary to effectively monitor the financial condition of the nonbank SD; and (iv) the regulatory notices and other communications between a nonbank SD and its foreign regulatory authority that address potential adverse financial or operational issues that may impact the firm. With respect to the ability of the relevant foreign regulatory authority to supervise and enforce compliance with the foreign jurisdiction's capital adequacy and financial reporting requirements, the Commission's assessment will include a review of the foreign jurisdiction's surveillance program for monitoring nonbank SDs' compliance with such capital adequacy and financial reporting requirements, and the disciplinary process imposed on firms that fail to comply with such requirements.³⁵

Commission Regulation 23.106 further provides that the Commission may impose terms and conditions it deems appropriate in issuing a Comparability Determination.³⁶ Any specific terms or conditions with respect to capital adequacy or financial reporting requirements will be set forth in the Commission's Comparability Order. Consistent with the Commission's holistic, principles-based approach to conducting comparability assessments, certain conditions included in a Comparability Order may be designed to ensure the Commission's direct access to books and records required to be maintained by a nonbank

SD registered with the Commission, whereas other conditions may address areas where the foreign jurisdiction lacks analogous requirements to those set forth in Commission regulations.³⁷ As a general condition to all Comparability Orders, the Commission will require notification from applicants of any material changes to information submitted by the applicants in support of a comparability finding, including, but not limited to, changes in the relevant foreign jurisdiction's supervisory or regulatory regime.

To rely on a Comparability Order, a nonbank SD or nonbank MSP domiciled in the foreign jurisdiction and subject to supervision by the relevant regulatory authority (or authorities) in the foreign jurisdiction must file a notice with the Commission of its intent to comply with the applicable capital adequacy and financial reporting requirements of the foreign jurisdiction in lieu of all or parts of the CFTC Capital Rules and/or CFTC Financial Reporting Rules.³⁸ Notices must be filed electronically with the Commission's Market Participants Division ("MPD").³⁹ The filing of a notice by a non-U.S. nonbank SD or non-U.S. nonbank MSP provides MPD staff with the opportunity to engage with the firm and to obtain representations that it is subject to, and complies with, the laws and regulations cited in the Comparability Order and that it will comply with any listed conditions. MPD will issue a letter under delegated authority from the Commission confirming that the non-U.S. nonbank SD or non-U.S. nonbank MSP may comply with the foreign laws and regulations cited in the Comparability Order in lieu of the CFTC Capital Rules and the CFTC Financial Reporting Rules upon MPD's confirmation through discussions with the non-U.S. nonbank SD or non-U.S. nonbank MSP that the firm is subject to, and complies with, such foreign laws and regulations, is subject to the jurisdiction of the applicable foreign regulatory authority (or authorities), and can meet the conditions in the Comparability Order.⁴⁰

Each non-U.S. nonbank SD and each non-U.S. nonbank MSP that receives confirmation from the Commission that it may comply with a foreign jurisdiction's capital adequacy and

financial reporting requirements will be deemed in compliance with the Commission's corresponding CFTC Capital Rules and/or CFTC Financial Reporting Rules.⁴¹ A non-U.S. nonbank SD or non-U.S. nonbank MSP that receives confirmation of substituted compliance remains subject, however, to the Commission's examination and enforcement authority.⁴² Accordingly, if a nonbank SD or nonbank MSP fails to comply with the foreign jurisdiction's capital adequacy and/or financial reporting requirements, the Commission may initiate an action for a violation of the corresponding CFTC Capital Rules and/or CFTC Financial Reporting Rules.⁴³

C. Application for a Comparability Determination for an EU IFR/IFD Nonbank Swap Dealer Organized and Domiciled in France

The Applicant represented that the capital adequacy and financial reporting requirements applicable to financial institutions licensed to operate in a member state of the EU ("EU Member State") are established by EU regulations and directives. In this regard, the Capital Requirements Regulation⁴⁴ and the Capital Requirements Directive⁴⁵ set forth capital and financial reporting requirements applicable to entities defined as "credit institutions" or "investment firms" within the EU. The term "credit institution" includes an entity engaged in taking deposits or other repayable funds from the public and lending its own funds and taking on the full financial risk of such lending activity ("Banking Activities").⁴⁶ An entity engaged in Banking Activities is subject to the capital and financial reporting requirements of CRR and CRD.

The term "credit institution" also includes an entity engaged in: (i) dealing for its own account; (ii) underwriting financial instruments; or (iii) placing financial instruments on a firm commitment basis (collectively, "Investment Activities"), provided that

³⁴ 17 CFR 23.106(a)(3), 85 FR 57462 at 57520–57522.

³⁵ The Commission would conduct a similar analysis, adjusted as appropriate to account for regulatory distinctions, in performing a comparability assessment for foreign nonbank MSPs. Commission Regulation 23.101(b) requires a nonbank MSP to maintain positive tangible net worth. There are no MSPs currently registered with the Commission. 17 CFR 23.101(b).

³⁶ 17 CFR 23.106(a)(5).

³⁷ See e.g., Guidance at 45343 and *Comparability Determination for the European Union: Certain Transaction Level Requirements*, 78 FR 78878 (December 27, 2013) at 78880.

³⁸ 17 CFR 23.106(a)(4)(i).

³⁹ Notices must be filed in electronic form to the following email address: MPDFinancialRequirements@cftc.gov.

⁴⁰ 17 CFR 23.106(a)(4)(ii); 17 CFR 140.91(a)(11).

⁴¹ 17 CFR 23.106(a)(4)(ii); 17 CFR 140.91(a)(11).

⁴² 17 CFR 23.106(a)(4)(ii).

⁴³ *Id.*

⁴⁴ *Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and amending Regulation (EU) No 648/2012, as amended* ("Capital Requirements Regulation" or "CRR").

⁴⁵ *Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC, as amended* ("Capital Requirements Directive" or "CRD").

⁴⁶ CRR, Article 4(1)(1) (defining the term "credit institution").

the entity also meets certain defined financial thresholds set forth in the definition.⁴⁷ Specifically, an entity engaged in Investment Activities that maintains a total value of consolidated assets equal to or in excess of EUR 30 billion is required to be authorized as a “credit institution” and is subject to the capital and financial reporting requirements of CRR and CRD.⁴⁸

Credit institutions that qualify as “significant supervised entities” are subject to the direct prudential supervision of the European Central Bank (“ECB”).⁴⁹ Credit institutions that are “less significant supervised entities” are prudentially supervised by the applicable prudential supervisory authority in the entity’s home EU Member State (*i.e.*, “national competent authority”).⁵⁰

⁴⁷ *Id.*

⁴⁸ *Id.* and CRD, Articles 8 and 8a (requiring an entity that engages in Investment Activities and meets the financial thresholds to submit an application for authorization as a “credit institution” under the relevant provisions of the applicable national law). CRR, Article 4(1)(1) provides that an entity carrying out Investment Activities meets the financial threshold for authorization as a credit institution if: (i) the total value of the consolidated assets of the entity is equal to or in excess of EUR 30 billion; (ii) the total value of the assets of the entity is less than EUR 30 billion, and the entity is part of a group in which the total value of the consolidated assets of all entities in that group that individually have total assets of less than EUR 30 billion and that engage in Investment Activities is equal to or in excess of EUR 30 billion; or (iii) the total value of the assets of the entity is less than EUR 30 billion, and the entity is part of a group in which the total value of the consolidated assets of all entities in the group that engage in Investment Activities is equal to or in excess of EUR 30 billion, where the consolidated supervisor, in consultation with the supervisory college, decides that the entity must be authorized as a credit institution to address potential risks of circumvention and potential risks for financial stability of the EU.

⁴⁹ See generally, *Council Regulation (EU) 1024/2013 of 15 October 2013 Conferring Specific Tasks to the European Central Bank Concerning Policies Relating to the Prudential Supervision of Credit Institutions* (“SSM Regulation”) and *Regulation (EU) No 468/2014 of the European Central Bank of 16 April 2014 Establishing the Framework for Cooperation within the Single Supervisory Mechanism Between the European Central Bank and the National Competent Authorities and with National Designated Authorities* (“SSM Framework Regulation”). The criteria for determining whether credit institutions are considered “significant supervised entities” include size, economic importance for the specific EU Member State or the EU economy, significance of cross-border activities, and request for or receipt of direct public financial assistance. SSM Regulation, Article 6 and SSM Framework Regulation, Articles 39–44 and 50–62.

⁵⁰ SSM Regulation, Article 6. Less significant entities are supervised by their national competent authorities in close cooperation with the ECB. With respect to the prudential supervision of less significant entities, the ECB has the power to issue regulations, guidelines or general instructions to the national competent authorities. SSM Regulation, Article 6(5)(a). At any time, the ECB can also decide to directly supervise a less significant entity to ensure that high supervisory standards are applied consistently. SSM Regulation, Article 6(5)(b).

The term “investment firm” is defined as an entity authorized under the Markets in Financial Instruments Directive,⁵¹ and whose regular business is the provision of one or more investment services to third parties and/or the performance of one or more investment-related activities on a professional basis (including Investment Activities as defined above).⁵² An investment firm that engages in Investment Activities and maintains total consolidated assets of at least EUR 15 billion is subject to the capital and financial reporting requirements of CRR and CRD.⁵³ The investment firm, however, is not required to be authorized as a “credit institution” under the relevant provisions of the applicable national law in the EU Member State and is prudentially

⁵¹ *Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU* (“Markets in Financial Instruments Directive” or “MiFID 2”).

⁵² CRR, Article 4(1)(2) cross-referencing Article 4(1)(1) of MiFID 2.

⁵³ *Regulation (EU) 2019/2033 of the European Parliament and of the Council of 27 November 2019 on the prudential requirements of investment firms and amending Regulations (EU) No 1093/2010, (EU) No 575/2013, (EU) No 600/2014 and (EU) No 806/2014* (“Investment Firms Regulation” or “IFR”), Article 1(1) and (1)(2) (indicating that an investment firm that engages in Investment Activities is subject to CRR (and by cross-reference to CRD) if any of the following applies: (i) the total value of the consolidated assets of the investment firm is equal to or exceeds EUR 15 billion; (ii) the total value of the consolidated assets of the investment firm is less than EUR 15 billion, and the investment firm is part of a group in which the total value of the consolidated assets of all investment firms in the group that individually have total assets of less than EUR 15 billion and that engage in Investment Activities is equal to or exceeds EUR 15 billion; or (iii) the total value of the consolidated assets of the investment firm is equal to or exceeds EUR 5 billion, the investment firm engages in Investment Activities, and the competent authority has determined that the investment firm should be subject to CRR based on criteria set forth in Article 5 of Directive (EU) 2019/2034). See also, *Directive (EU) 2019/2034 of the European Parliament and of the Council of 27 November 2019 on the prudential supervision of investment firms and amending Directives 2002/87/EC, 2009/65/EC, 2011/61/EU, 2013/36/EU, 2014/59/EU and 2014/65/EU* (“Investment Firms Directive” or “IFD”), Article 5 (providing that the competent authority may decide to apply the requirements of CRR to an investment firm whose consolidated assets are equal or exceed EUR 5 billion and that engages in Investment Activities if one or more of the following criteria apply: (i) the investment firm engages in Investment Activities on a scale that the failure or distress of the investment firm could lead to systemic risk; (ii) the investment firm is a clearing member; and/or (iii) the competent authority considers it to be justified in light of the size, nature, scale, and complexity of the activities of the investment firm considering the importance of the investment firm for the economy of the EU or of the relevant EU Member State, the significance of the investment firm’s cross-border activities, and the interconnectedness of the investment firm with the financial system).

supervised by the national competent authority.

Lastly, an entity defined as an “investment firm” that does not engage in Investment Activities, or that engages in Investment Activities but does not meet the criteria of either maintaining consolidated assets of at least EUR 15 billion or maintaining consolidated assets of at least EUR 5 billion and meeting certain criteria of significance and interconnectedness, is not subject to CRR and CRD.⁵⁴ Such an investment firm is subject to capital and financial reporting requirements established by IFR and IFD (“IFR/IFD Framework”) and is subject to prudential supervision by the national competent authority.⁵⁵

The IFR/IFD Framework was developed to replace bank-centric CRR and CRD rules that did not address the diverse business models of smaller investment firms. The IFR/IFD Framework is designed to better reflect the nature, size and complexity of investment firms’ activities compared to the CRR and CRD framework.⁵⁶ The IFR/IFD Framework also provides simpler and more bespoke capital requirements for investment firms (“EU Investment Firms Capital Rules”) ⁵⁷ and proportionate corresponding regulatory reporting requirements.⁵⁸

IFR, as a regulation, is binding in its entirety and directly applicable in all

⁵⁴ IFD Article 5 (setting forth the criteria that may justify a decision by the competent authority to apply the requirements of CRR to an investment firm that engages in Investment Activities and whose consolidated assets equal or exceed EUR 5 billion).

⁵⁵ IFR Article 1 and IFD Article 2. The national competent authority may exempt firms that qualify as “small and non-interconnected” as set forth in Article 12(1) of IFR from some of the requirements of the IFR/IFD Framework. IFR Article 6. This Comparability Determination does not address small and non-interconnected firms as none of the EU-domiciled, CFTC-registered nonbank SDs falls into this category.

⁵⁶ *Prudential rules for investment firms* issued by the European Commission and available at https://finance.ec.europa.eu/capital-markets-union-and-financial-markets/financial-markets/prudential-rules-investment-firms_en#framework.

⁵⁷ IFR Recital (10) (stating that the specific prudential regime for investment firms which, by virtue of their size and interconnectedness with other financial and economic actors, are not considered to be systemic should address the specific business practices of different types of investment firms), IFD Recital 2 (stating that the existing prudential regimes under the CRR and CRD are largely based on successive iterations of the international regulatory standards set for large banking groups that only partially address the specific risks inherent to the diverse activities of a large number of investment firms).

⁵⁸ IFR, Recital (29) (stating that a proportionate regulatory reporting framework should be developed in conjunction with the new prudential regime and should be carefully tailored to the business of investment firms and the requirements of the prudential framework).

EU Member States.⁵⁹ IFD, as a directive, was required to be transposed into EU Member States' national law.⁶⁰ EU Member States were required to adopt and apply IFR and IFD by June 26, 2021.⁶¹ France implemented IFD by Ordinance No. 2021–796 of 23 June 2021 and Decree No. 2021–941 of 15 July 2021.⁶²

With respect to financial reporting, IFR and IFD are complemented by implementing technical standards for supervisory reporting under IFR.⁶³ In addition, Directive 2013/34/EU⁶⁴ also contains relevant provisions, including a mandate that entities of a certain size be required to prepare annual audited financial statements and a management report.⁶⁵ The relevant provisions of the Accounting Directive are implemented in Articles L.511–35, L.511–37, and L.511–38 of the French Monetary and Financial Code (“French MFC”) and, together with the financial reporting

requirements established by the IFR/IFD Framework and the Reporting ITS, are referred to in this Comparability Determination as the “EU Investment Firms Financial Reporting Rules.”

On September 3, 2024, the Applicant submitted the EU IFR/IFD Application requesting that the Commission conduct a Comparability Determination and issue a Comparability Order finding that compliance by Goldman Sachs Paris with the EU capital and the EU financial reporting requirements established pursuant to the IFR/IFD Framework and applicable to CFTC-registered nonbank SDs licensed as investment firms in France are comparable in purpose and effect with corresponding CFTC Capital Rules and CFTC Financial Reporting Rules applicable to a registered nonbank SD under Sections 4s(e) and 4s(f) of the CEA and Commission Regulations 23.101 and 23.105.⁶⁶ Goldman Sachs Paris is currently the only CFTC-registered nonbank SD organized and domiciled in France that is a licensed investment firm subject to the requirements established under the IFR/IFD Framework.⁶⁷

Given that Goldman Sachs Paris is the only EU IFR/IFD nonbank SD that is currently registered with the Commission and subject to the IFR/IFD Framework, the Commission's analysis involved an assessment of how the relevant IFD framework was implemented into the national laws of France.⁶⁸ The Commission did not review how other EU Member States adopted and implemented the relevant IFD framework into their respective national laws. The Commission's review of the applicable supervisory framework was also limited to the supervisory authority and practices of the *Autorité de contrôle prudentiel et de résolution* (“ACPR”), the French authority

responsible for the prudential supervision of Goldman Sachs Paris.⁶⁹ Therefore, an entity organized and domiciled in an EU Member State other than France that seeks to register with the Commission as a nonbank SD and to comply with the Commission's capital and financial reporting rules via substituted compliance with the IFR/IFD Framework must submit an application under Commission Regulation 23.106.

II. General Overview of Commission and EU IFR/IFD Nonbank Swap Dealer Capital Rules

A. General Overview of the CFTC Nonbank Swap Dealer Capital Rules

The CFTC Capital Rules provide nonbank SDs with three alternative capital approaches: (i) the Tangible Net Worth Capital Approach (“TNW Approach”); (ii) the Net Liquid Assets Capital Approach (“NLA Approach”); and (iii) the Bank-Based Capital Approach (“Bank-Based Approach”).⁷⁰

(i) Tangible Net Worth Approach

Nonbank SDs that are “predominantly engaged in non-financial activities” may elect the TNW Approach.⁷¹ The TNW Approach requires a nonbank SD to maintain a level of “tangible net worth”⁷² equal to or greater than the higher of: (i) \$20 million plus the amount of the nonbank SD's “market risk exposure requirement”⁷³ and

⁶⁹ The ACPR (referred to in this Comparability Determination as the “competent authority” or the “relevant regulatory authority”) is an independent “administrative authority” responsible for the oversight of the banking and insurance sectors in France, which includes the prudential supervision of investment firms. See *The ACPR at a Glance*, available at the ACPR's website here: <https://acpr.banque-france.fr/en/lacpr/about-us>.

⁷⁰ 17 CFR 23.101.

⁷¹ 17 CFR 23.101(a)(2). The term “predominantly engaged in non-financial activities” is defined in Commission Regulation 23.100 and generally provides that: (i) the nonbank SD's, or its parent entity's, annual gross financial revenues for either of the previous two completed fiscal years represents less than 15 percent of the nonbank SD's, or the nonbank SD's parent's, annual gross revenues for all operations (*i.e.*, commercial and financial) for such years, and (ii) the nonbank SD's, or its parent entity's, total financial assets at the end of its two most recently completed fiscal years represents less than 15 percent of the nonbank SD's, or its parent's, total consolidated financial and nonfinancial assets as of the end of such years. 17 CFR 23.100.

⁷² The term “tangible net worth” is defined in Commission Regulation 23.100 and generally means the net worth (*i.e.*, assets less liabilities) of a nonbank SD, computed in accordance with applicable accounting principles, with assets further reduced by a nonbank SD's recorded goodwill and other intangible assets. 17 CFR 23.100.

⁷³ The terms “market risk exposure” and “market risk exposure requirement” are defined in Commission Regulation 23.100 and generally mean

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⁵⁹ Consolidated Version of the Treaty on the Functioning of the European Union, OJ (C 326) 171, Oct. 26, 2012 (“TFEU”), Article 288. Accordingly, IFR is directly applicable and binding law in France, the EU Member State where the EU IFR/IFD nonbank SD is organized and operating.

⁶⁰ TFEU, Article 288 (stating that a directive is binding as to the result to be achieved upon each EU Member State to which the directive is addressed, and further providing, however, that each EU Member State elects the form and method of implementing the directive). In this connection, EU Member States were required to implement and start applying IFD by June 26, 2021, with limited exceptions.

⁶¹ IFR Article 66 and IFD Article 67.

⁶² Ordinance No. 2021–796 of 23 June 2021 transposing Directive (EU) 2021 of the European Parliament and of the Council of 27 November 2019 on the prudential supervision of investment firms and Decree No. 2021–941 of 15 July 2021 transposing Directive (EU) 2021 of the European Parliament and of the Council of 27 November 2019 on the prudential supervision of investment firms.

⁶³ Commission Implementing Regulation (EU) 2021/2284 laying down implementing technical standards for the application of Regulation (EU) 2019/2033 of the European Parliament and of the Council with regard to supervisory reporting and disclosures of investment firms, December 10, 2021 (“Reporting ITS”), available here: https://eur-lex.europa.eu/eli/reg_impl/2021/2284/oj/eng (Implementing regulation—2021/2284–EN–EUR–Lex).

⁶⁴ Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/394/EEC (“Accounting Directive”).

⁶⁵ Accounting Directive, Article 4 (providing the minimum requirements and schedules to be included in the annual financial statements: the balance sheet, the statement of profit and loss, and notes to the financial statements), Article 34 (stating that Member States must ensure that the financial statements of firms are, when required, audited by approved auditors), and Article 19 (stating that the management report must include a fair review of the development and performance of the firm's business and of its positions, together with a description of the principal risks).

⁶⁶ The EU IFR/IFD Application.

⁶⁷ The Commission previously issued a Comparability Order on June 24, 2024 to nonbank SDs organized and domiciled in France that are licensed as credit institutions or investment firms and subject to, among other conditions, the capital and financial reporting requirements of CRR and CRD. *Order Granting Conditional Substituted Compliance in Connection with Certain Capital and Financial Reporting Requirements Applicable to Nonbank Swap Dealers Domiciled in the French Republic and Federal Republic of Germany and Subject to Regulation in the European Union*, 89 FR 58572 (July 18, 2024). There are currently no MSPs registered with the Commission and the Applicant has not requested that the Commission issue a Comparability Order with respect to EU nonbank MSPs. Accordingly, the Commission's Comparability Determination and Comparability Order do not address EU nonbank MSPs.

⁶⁸ Goldman Sachs Paris was initially subject to the capital and financial reporting requirements of the CRR and CRD, however, at the direction of its national competent authority, the firm was informed that it would be subject to the IFR/IFD Framework effective March 31, 2024.

“credit risk exposure requirement”⁷⁴ associated with the nonbank SD’s swap and related hedge positions that are part of the nonbank SD’s swap dealing activities; (ii) 8 percent of the nonbank SD’s “uncleared swap margin” amount;⁷⁵ or (iii) the amount of capital required by a registered futures association of which the nonbank SD is a member.⁷⁶ The TNW Approach is intended to ensure the safety and soundness of a qualifying nonbank SD by requiring the firm to maintain a minimum level of tangible net worth that is based on the nonbank SD’s swap dealing activities to provide a sufficient level of capital to absorb losses resulting from its swap dealing and other business activities.

The TNW approach requires a nonbank SD to compute its market risk exposure requirement and credit risk exposure requirement using standardized capital charges contained in Securities and Exchange Commission (“SEC”) Rule 18a–1⁷⁷ that are applicable to entities registered with the SEC as security-based swap dealers (“SBSDs”) or standardized capital charges set forth in Commission Regulation 1.17 applicable to entities registered as FCMs or entities dually registered as an FCM and nonbank SD.⁷⁸

the risk of loss in a financial position or portfolio of financial positions resulting from movements in market prices and other factors. 17 CFR 23.100. Market risk exposure is the sum of: (i) general market risks including changes in the market value of a particular asset that results from broad market movements, which may include an additive for changes in market value under stressed conditions; (ii) specific risk, which includes risks that affect the market value of a specific instrument but do not materially alter broad market conditions; (iii) incremental risk, which means the risk of loss on a position that could result from the failure of an obligor to make timely payments of principal and interest; and (iv) comprehensive risk, which is the measure of all material price risks of one or more portfolios of correlation trading positions.

⁷⁴ The term “credit risk exposure requirement” is defined in Commission Regulation 23.100 and generally reflects the amount at risk if a counterparty defaults before the final settlement of a swap transaction’s cash flows. 17 CFR 23.100.

⁷⁵ The term “uncleared swap margin” is defined in Commission Regulation 23.100 to generally mean the amount of initial margin that a nonbank SD would be required to collect from each counterparty for each outstanding swap position of the nonbank SD. 17 CFR 23.100. A nonbank SD must include all swap positions in the calculation of the uncleared swap margin amount, including swaps that are exempt or excluded from the scope of the Commission’s uncleared swap margin regulations. A nonbank SD must compute the uncleared swap margin amount in accordance with the Commission’s margin rules for uncleared swaps. See 17 CFR 23.154.

⁷⁶ The National Futures Association (“NFA”) is currently the only entity that is a registered futures association. The Commission will refer to NFA in this document when referring to the requirements or obligations of a registered futures association.

⁷⁷ 17 CFR 240.18a–1.

⁷⁸ 17 CFR 23.101(a)(2)(ii)(A).

Nonbank SDs that have received Commission or NFA approval pursuant to Commission Regulation 23.102 may use internal models to compute market risk and/or credit risk exposures in calculating their capital requirements in lieu of applying the SEC and CFTC standardized capital charges.⁷⁹

(ii) Net Liquid Asset Approach

A nonbank SD that elects the NLA Approach is required to maintain “net capital” in an amount that equals or exceeds the greater of: (i) \$20 million; (ii) 2 percent of the nonbank SD’s uncleared swap margin amount; or (iii) the amount of capital required by NFA.⁸⁰ The NLA Approach is intended to ensure the safety and soundness of a nonbank SD by requiring the firm to maintain at all times at least one dollar of highly liquid assets to cover each dollar of the nonbank SD’s liabilities.

A nonbank SD is required to reduce the value of its highly liquid assets by the market risk exposure requirement and/or the credit risk exposure requirement in computing its net capital.⁸¹ A nonbank SD that does not have Commission or NFA approval to use internal models must compute its market risk exposure requirement and/or credit risk exposure requirement using standardized capital charges contained in SEC Rule 18a–1 as modified by the Commission’s rule.⁸²

A nonbank SD that has obtained Commission or NFA approval may use internal market risk and/or credit risk models to compute its market risk exposure requirement and/or credit risk exposure requirement in lieu of applying the standardized capital charges.⁸³ A nonbank SD that is approved to use models to compute its market risk exposure requirement or

⁷⁹ *Id.*

⁸⁰ 17 CFR 23.101(a)(1)(ii)(A). “Net capital” consists of a nonbank SD’s highly liquid assets (subject to haircuts) less the firm’s liabilities, excluding certain qualified subordinated debt. 17 CFR 240.18a–1 (calculation of “net capital.”)

⁸¹ 17 CFR 240.18a–1(c) and (d).

⁸² 17 CFR 23.101(a)(1)(ii). Commission modifications, for example, provide that a nonbank SD may recognize initial margin posted by a counterparty with a third-party custodian for its swap transactions with the nonbank SD in accordance with Commission Regulation 23.157(b) as funds held by the nonbank SD in computing any undermargined capital charges when computing its adjusted net capital notwithstanding SEC Rule 18a–1(c)(ix)(C) which requires a security-based swap dealer to exclude initial margin posted by its counterparty with third-party custodians in computing undermargined capital charges unless certain conditions are met, including that the dealer, custodian, and counterparty have executed a legally binding agreement that provides the dealer with the right to access the collateral in the event of the default of the counterparty. 17 CFR 23.101(a)(1)(ii)(C).

⁸³ 17 CFR 23.102.

credit risk exposure requirement is further required to maintain a minimum of \$100 million of “tentative net capital.”⁸⁴ The Commission’s NLA Approach is consistent with the SEC’s capital rule for SBSDs and is based on the Commission’s capital rule for FCMs and the SEC’s capital rule for securities broker-dealers (“BDs”). The quantitative and qualitative requirements for NLA Approach internal market and credit risk models are also consistent with the quantitative and qualitative requirements under the Commission’s Bank-Based Approach as described below.

(iii) Bank-Based Approach

The Commission’s Bank-Based Approach for computing regulatory capital for nonbank SDs is based on certain capital requirements imposed by the Federal Reserve Board for bank holding companies.⁸⁵ The Bank-Based Approach also is consistent with the Basel Committee on Banking Supervision’s (“BCBS”) international framework for bank capital requirements (“BCBS framework” or “Basel standards”).⁸⁶ The Bank-Based Approach requires a nonbank SD to maintain regulatory capital equal to or in excess of each of the following requirements: (i) \$20 million of common equity tier 1 capital; (ii) an aggregate of common equity tier 1 capital, additional tier 1 capital, and tier 2 capital (including qualifying subordinated debt) equal to or greater than 8 percent of the nonbank SD’s risk-weighted assets (provided that common equity tier 1 capital comprises at least 6.5 percent of the 8 percent minimum requirement); (iii) an aggregate of common equity tier 1 capital, additional tier 1 capital, and tier 2 capital equal to or greater than 8 percent of the nonbank SD’s uncleared swap margin amount; and (iv) an amount of capital required by NFA.⁸⁷ The Bank-Based Approach is intended to ensure the safety and soundness of a nonbank SD by requiring the firm to maintain at all times qualifying capital

⁸⁴ 17 CFR 23.101(a)(1)(ii)(A)(1). The term “tentative net capital” is defined in Commission Regulation 23.101(a)(1)(ii)(A)(1) by reference to SEC Rule 18a–1 and generally means a nonbank SD’s net capital prior to deducting market risk and credit risk capital charges.

⁸⁵ 17 CFR 23.101(a)(1)(i).

⁸⁶ The BCBS is the primary global standard-setter for the prudential regulation of banks and provides a forum for cooperation on banking supervisory matters. Institutions represented on the BCBS include the Federal Reserve Board, the European Central Bank, Deutsche Bundesbank, Bank of England, Bank of France, Bank of Japan, Banco de Mexico, and Bank of Canada. The BCBS framework is available at https://www.bis.org/basel_framework/.

⁸⁷ 17 CFR 23.101(a)(1)(i).

in an amount sufficient to absorb decreases in firm assets, absorb increases in firm liabilities, and meet obligations to swap counterparties, other creditors, and market participants, without the firm becoming insolvent.

The terms used in the Commission's Bank-Based Approach are defined by reference to regulations of the Federal Reserve Board.⁸⁸ The term "common equity tier 1 capital" is defined for purposes of the CFTC Capital Rules to generally mean the sum of a nonbank SD's common stock instruments and any related surpluses, retained earnings, and accumulated other comprehensive income.⁸⁹ The term "additional tier 1 capital" is defined to include equity instruments that are subordinated to claims of general creditors and subordinated debt holders, but contain certain provisions that are not available to common stock, such as the right of nonbank SD to call the instruments for redemption or to convert the instruments to other forms of equity.⁹⁰ The term "tier 2 capital" is defined to include certain types of instruments that include both debt and equity characteristics (e.g., certain perpetual preferred stock instruments and subordinated term debt instruments).⁹¹ Subordinated debt also must meet certain requirements to qualify as tier 2 capital, including that the term of the subordinated debt instrument is at least one year (with the exception of approved revolving subordinated debt agreements which may have a maturity term that is less than one year), and the debt instrument is an effective subordination of the rights of the lender to receive any payment, including accrued interest, to other creditors.⁹² Common equity tier 1 capital, additional tier 1 capital, and tier 2 capital are unencumbered and generally long-term or permanent forms of capital that help ensure that a nonbank SD will be able to absorb losses resulting from its operations and maintain confidence in the nonbank SD as a going concern. In addition, in setting an equity ratio requirement, this limits the amount of

asset growth and leverage a nonbank SD can incur, as a nonbank SD must fund its asset growth with a certain percentage of regulatory capital.

A nonbank SD must also compute its risk-weighted assets using standardized charges or, if approved, internal models. The process of risk-weighting assets involves adjusting the notional or carrying value of each asset based on the inherent risk of the asset. Less risky assets are adjusted to lower values (i.e., they have less risk weight) than more risky assets. As a result, nonbank SDs are required to hold lower levels of regulatory capital for less risky assets and higher levels of regulatory capital for riskier assets.

Nonbank SDs not approved to use internal models to risk-weight their assets must compute market risk capital charges using the standardized charges contained in Commission Regulation 1.17 and SEC Rule 18a-1, and must compute their credit risk charges using the standardized capital charges set forth in regulations of the Federal Reserve Board for bank holding companies in Subpart D of 12 CFR part 217.⁹³

Standardized market risk charges are computed under Commission Regulation 1.17 and SEC Rule 18a-1 by multiplying, as appropriate to the specific asset schedule, the notional value or market value of the nonbank SD's proprietary financial positions (such as swaps, security-based swaps, futures, equities, and U.S. Treasuries) by fixed percentages set forth in the Regulation or Rule.⁹⁴ Standardized credit risk charges require the nonbank SD to multiply on-balance sheet and off-balance sheet exposures (such as receivables from counterparties, debt instruments, and exposures from derivatives) by predefined percentages set forth in the applicable Federal Reserve Board regulations contained in Subpart D of 12 CFR part 217.

A nonbank SD also may apply to the Commission or NFA for approval to use internal models to compute market risk exposure and/or credit risk exposure for purposes of determining its total risk-weighted assets.⁹⁵ Nonbank SDs approved to use models for the calculation of credit risk or market risk, or both, must follow the model requirements set forth in Federal Reserve Board regulations for bank holding companies (Subpart E and F, respectively, of 12 CFR part 217). Credit

risk and market risk capital charges computed with internal models require the estimation of potential losses, with a certain degree of likelihood, within a specified time period, of a portfolio of assets. Internal models allow for consideration of potential co-movement of prices across assets in the portfolio, leading to offsets of gains and losses. Internal credit risk models can also further include an estimation of the likelihood of default of counterparties.

B. General Overview of Capital Rules for EU IFR/IFD Nonbank Swap Dealers

The Applicant stated that the aim of IFR and IFD is to apply tailored prudential requirements and supervisory measures to the risk profile and business model of investment firms to ensure that such investment firms operate on a sound financial basis and are managed in an orderly manner, including in the best interest of their clients, while ensuring financial stability.⁹⁶ The Applicant further stated that the EU Investment Firms Capital Rules require each EU IFR/IFD nonbank SD to hold a sufficient amount of equity capital and qualifying subordinated debt, based on the firm's size, complexity, and activities, to absorb potential losses that the firm may incur if the firm were to experience financial distress.⁹⁷ In that regard, the EU Investment Firms Capital Rules impose capital requirements that are specific to firms which are not systemic by virtue of their size and interconnectedness with other financial and economic actors.⁹⁸ The capital requirements for such firms are intended to be proportionate to the size, activities, and degree of interconnectedness of the firm and are calculated according to certain metrics which have been designed as proxies for the risks associated with the firm, its counterparties, and creditor obligations.⁹⁹

The EU Investment Firms Capital Rules require EU IFR/IFD nonbank SDs to maintain regulatory capital in the form of common equity tier 1 capital, additional tier 1 capital, and tier 2

⁸⁸ *Id.* Commission Regulation 23.101(a)(1)(i) references Federal Reserve Board Rule 217.20 for purposes of defining the terms used in establishing the minimum capital requirements under the Bank-Based Approach. 17 CFR 23.101(a)(1)(i) and 12 CFR 217.20.

⁸⁹ 12 CFR 217.20(b).

⁹⁰ 12 CFR 217.20(c).

⁹¹ 12 CFR 217.20(d).

⁹² The subordinated debt must meet the requirements set forth in SEC Rule 18a-1d (17 CFR 240.18a-1d). 17 CFR 23.101(a)(1)(i)(B) provides that the subordinated debt used by a nonbank SD to meet its minimum capital requirement under the Bank-Based Approach must satisfy the conditions for subordinated debt under SEC Rule 18a-1d.

⁹³ 17 CFR 23.101(a)(1)(i)(B), 17 CFR 23.100 (providing the definition of the term BHC risk-weighted assets).

⁹⁴ 17 CFR 1.17(c)(5) and 17 CFR 240.15c3-1(c)(2).

⁹⁵ 17 CFR 23.102.

⁹⁶ EU IFR/IFD Application at 2; IFR Recital (10) and IFD Recital (4) (stating that the requirements of the CRR and CRD are designed to address risk faced by credit institutions (i.e., banks) through economic cycles and to protect depositors from possible failure, and that the risks faced and posed by most investment firms are substantially different and such differences should be clearly reflected in the prudential framework for investment firms).

⁹⁷ EU IFR/IFD Application at 3; IFR Recitals (14)–(16) and (23)–(26) (stating minimum capital requirements for investment firms).

⁹⁸ IFR Recitals (9)–(16).

⁹⁹ EU IFR/IFD Application at 3; IFR Recitals (14)–(16) and (23)–(26).

capital¹⁰⁰ in an amount that equals or exceeds the highest of the EU IFR/IFD nonbank SD's "permanent minimum requirement" ("PMR"), "fixed overheads requirement" ("FOR"), and the sum of the firm's "K-factor requirements" ("KFR").¹⁰¹ The resulting total minimum capital requirement ("total own funds requirement" or "TOFR") may also be supplemented with additional requirements imposed by the EU IFR/IFD nonbank SD's relevant regulatory authority.¹⁰² Common equity tier 1 capital must comprise at least 56 percent of the EU IFR/IFD nonbank SD's TOFR and tier 1 capital must comprise at least 75 percent of TOFR.¹⁰³

Under the EU Investment Firms Capital Rules, common equity tier 1 capital is composed of common equity capital instruments, retained earnings, accumulated other comprehensive income, and other unrestricted reserves of the EU IFR/IFD nonbank SD.¹⁰⁴ Additional tier 1 capital is composed of capital instruments other than common equity and retained earnings (*i.e.*, common equity tier 1 capital), and includes certain convertible debt securities and preferred stock.¹⁰⁵ Tier 2 capital instruments, which provide an additional layer of supplementary capital, includes other reserves, hybrid capital instruments, and certain subordinated debt.¹⁰⁶

To qualify as tier 2 regulatory capital, capital instruments and subordinated debt must meet certain conditions including that: (i) the capital instruments are issued by the EU IFR/IFD nonbank SD and are fully paid-up; (ii) the capital instruments are not purchased by the EU IFR/IFD nonbank SD or its subsidiaries; (iii) the claims on the principal amount of the capital instruments rank below any claim from instruments that are "eligible liabilities,"¹⁰⁷ meaning that they are

effectively subordinated to claims of all non-subordinated creditors of the EU IFR/IFD nonbank SD; (iii) the capital instruments have an original maturity of at least five years; and (iv) the provisions governing the capital instruments do not include any incentive for the principal amount to be repaid by the EU IFR/IFD nonbank SD prior to the capital instruments' respective maturity.¹⁰⁸

As noted above, the amount of regulatory capital that an EU IFR/IFD nonbank SD is required to hold is the highest of the firm's PMR, FOR, or KFR. The PMR for an EU IFR/IFD nonbank SD is 750,000 euros ("EUR").¹⁰⁹ The FOR is an amount equal to one quarter of the firm's relevant expenditures (calculated by taking the firm's total expenditures before distribution of profits and deducting certain expenses) in the previous year.¹¹⁰ As described in more detail below, the KFR is a mixture of activity-based and exposure-based capital requirements, including capital charges related to net position risk in trading positions ("K-NPR"), the value of the firm's daily trading flow ("K-DTF"), and the risk of trading counterparty default (including counterparties to over the counter ("OTC") derivatives) ("K-TCD").¹¹¹

The Applicant represented that while the PMR, which is effectively the floor of an investment firm's minimum capital requirements, is relatively modest at EUR 750,000, in practice, an EU IFR/IFD nonbank SD's minimum capital requirement is likely to be greater—either the FOR or, more likely, the KFR.¹¹² The EU Investment Firms Capital Rules set forth three broad risk categories of "K-factors" that, as applicable and relevant to an individual EU IFR/IFD, are to be included in the calculation of total KFR:¹¹³

(1) "Risk-to-client" K-factors, which covers risks carried by an investment firm during its services, actions, or responsibilities, which could negatively impact clients. These relate to assets under management ("K-AUM"),¹¹⁴

client money held ("K-CMH"),¹¹⁵ assets safeguarded and administered ("K-ASA"),¹¹⁶ and client orders handled ("K-COH");¹¹⁷

(2) "Risk-to-market" K-factors, which apply capital requirements against the impact an investment firm could have on the markets in which it operates, and on the counterparties with which it trades. This relates to net position risk ("K-NPR")¹¹⁸ or, where permitted by the relevant regulatory authority for specific types of investment firms that deal on own account through clearing members, to the total margins required by an investment firm's clearing member ("K-CMG");¹¹⁹ and

(3) "Risk-to-firm" K-factors, which are intended to capture an investment firm's exposure to the default of its trading counterparties ("K-TCD"),¹²⁰ concentration risk in an investment firm's large exposures to specific

currency at that time, excluding the three most recent monthly values. IFR Article 17(1).

¹¹⁵ K-CMH is calculated on the first business day of each month as the rolling average of the value of total daily money held measured at the end of each business day for the previous nine months, excluding the three most recent months. IFR Article 18(1).

¹¹⁶ K-ASA is calculated on the first business day of each month as the rolling average of the value of the total daily assets safeguarded and administered measured at the end of each business day for the previous nine months, excluding the three most recent months. IFR Article 19(1).

¹¹⁷ K-COH is calculated on the first business day of each month as the rolling average of the value of the total daily client orders handled, measured throughout each business day over the previous six months, excluding the three most recent months. IFR Article 20(1).

¹¹⁸ K-NPR is calculated by using one of the permitted approaches to calculating market risk under CRR. IFR Article 22 (cross-referencing CRR with respect to the calculation methodologies for K-NPR) and Article 57 (setting out transitional provisions regarding the calculation methodologies applicable under CRR to market risk in the period before the methodologies referred to in IFR Article 22 become effective).

¹¹⁹ K-CMG is calculated as the third highest amount of total margin required on a daily basis by a clearing member carrying the account and clearing the positions of the EU IFR/IFD nonbank SD at a qualified central counterparty ("QCCP") over the preceding three months, multiplied by a factor of 1.3. IFR Article 23(2). A "QCCP" is defined as a central counterparty that has been authorized or recognized by an appropriate regulatory authority.

¹²⁰ K-TCD is calculated by multiplying the exposure value, a risk factor ranging from 1.6 percent to 8 percent depending on the counterparty type, the credit valuation adjustment ("CVA"), and a factor of 1.2. IFR, Article 26. The exposure value equals the replacement cost plus the potential future exposure (for derivatives contracts) minus the value of eligible collateral, as determined in accordance with IFR Articles 28–30. IFR Article 27. The CVA is an adjustment to the mid-market valuation of the portfolio of transactions with a counterparty to reflect the current market value of the credit risk of the counterparty and is determined in accordance with IFR Article 32.

¹⁰⁰ IFR Articles 9 and 11. As further discussed below, the EU Investment Firms Capital Rules incorporate the CRR for definitions of the categories of instruments that qualify as regulatory capital.

¹⁰¹ IFR Article 11(1).

¹⁰² IFR Article 11(3); IFD Articles 40–41.

¹⁰³ IFR Article 9.

¹⁰⁴ IFR Article 9. Common Equity Tier 1 capital is defined in accordance with Chapter 2 of Title I of Part Two of CRR.

¹⁰⁵ IFR Article 9. Additional Tier 1 capital is defined in accordance with Chapter 3 of Title I of Part Two of CRR.

¹⁰⁶ IFR Article 9. Tier 2 capital is defined in accordance with Chapter 4 of Title I of Part Two of CRR.

¹⁰⁷ "Eligible liabilities" are non-capital instruments, including instruments that are directly issued by the EU IFR/IFD nonbank SD and fully paid up with remaining maturities of at least a year. CRR, Articles 72a and 72b. In addition, the liabilities cannot be owned, secured, or guaranteed,

by the EU IFR/IFD nonbank SD itself, and the EU IFR/IFD nonbank SD cannot have either directly or indirectly funded their purchase. CRR, Article 72b.

¹⁰⁸ IFR Article 9 and CRR Article 63.

¹⁰⁹ IFD Article 9.

¹¹⁰ IFR Article 13. Expenses that may be deducted include staff bonuses and other compensation, to the extent the expenses depend on the net profit of the investment firm in the respective year.

¹¹¹ IFR Article 15.

¹¹² EU IFR/IFD Application at 6.

¹¹³ IFR Article 15.

¹¹⁴ K-AUM is calculated on the first business day of each month as the rolling average of the value of the monthly assets under management measured on the last business day of each of the previous 15 months converted into the entities' functional

counterparties (“K–CON”),¹²¹ and operational risks from an investment firm’s daily trading flow (“K–DTF”).¹²²

In computing its TOFR based on K-factors, an EU IFR/IFD nonbank SD would apply a K-factor coefficient calibration to the K-factors as follows: (i) K–AUM 0.02%; (ii) K–CMH (on segregated accounts) 0.4%; (iii) K–CMH (non-segregated accounts) 0.5%; (iv) K–ASA 0.04%; (v) K–COH cash trades 0.1%; (vi) K–COH derivatives 0.01%; (vii) K–DTF cash trades 0.1%; and (viii) K–DTF derivatives 0.01%.¹²³ There is no coefficient calibration applied to the K-factor for K–NPR and K–CON.¹²⁴ The coefficients set forth in IFR were designed to reflect the inherent risk of each metric, based on historical data and benchmarking. In addition, the European Banking Authority (“EBA”) ¹²⁵ developed regulatory technical standards, adopted by the European Commission in the form of delegated regulations, to further specify certain elements of the K-factors calculation, including adjustments to K–DTF coefficients in stressed market conditions.¹²⁶

¹²¹ K–CON is calculated as an aggregate amount of a capital add-on requirement computed for each client or group of connected clients to whom the EU IFR/IFD nonbank SD has exposures exceeding certain thresholds specified in IFR Article 39. Article 39 of IFR sets out the circumstances that trigger a client-level add-on and the scope of exposures to be assessed; the add-ons for all affected clients/connected groups are then aggregated to produce the firms’ K–CON amount.

¹²² K–DTF is calculated on the first business day of each month as the rolling average of the value of the total daily trading flow for the investment firm’s trades, executed for its own account or on behalf of clients, measured each business day over the previous nine months, excluding the three most recent months. The DTF is measured as the sum of the absolute value of buy and sell for both cash trades and derivatives transactions. For cash trades, the value is the amount paid or received on each trade. For derivatives, the value of the trade is the notional amount of the contract. IFR Article 33.

¹²³ For example, if an EU IFR/IFD nonbank SD held customer funds on behalf of its clients that are required to be segregated as part of its Investment Activities, the firm would calculate its K–CMH as the rolling average of the value of total daily money held for customers at the end of each business day for the previous nine months (excluding the most recent three months) multiplied by a coefficient factor of .4%. Assuming that the EU IFR/IFD nonbank SD was holding 500 million EUR of customer funds, the K–CMH would be 2,000,000 EUR (500,000,000 × .004).

¹²⁴ IFR Article 15.

¹²⁵ The EBA is an independent EU authority that contributes to the stability and effectiveness of the European financial system through clear, consistent, transparent and fair regulation.

¹²⁶ Commission Delegated Regulation (EU) 2022/76 of 22 September 2021 supplementing Regulation (EU) 2019/2033 of the European Parliament and of the Council with regard to regulatory technical standards specifying adjustments to the K-factor “daily trading flow” (K–DTF) coefficients (September 22, 2021). See also Commission Delegated Regulation (EU); Commission Delegated

The K-factor requirements that are potentially most relevant to investment firms, including EU IFR/IFD nonbank SDs, engaging in swap dealing activities include K–NPR, K–CMG, and K–TCD. The K-factor requirement for net position risk, K–NPR, is intended to capture market risk in an EU IFR/IFD nonbank SD’s trading book, including positions in debt instruments, equity instruments, and collective investment undertakings.¹²⁷ K–NPR also applies to positions that are not in the trading book but create foreign exchange or commodities risk.¹²⁸

The K–NPR is calculated using the methodologies for determining risk-based capital amounts for market risk under the CRR.¹²⁹ For the purpose of calculating K–NPR, an EU IFR/IFD nonbank SD can either apply a standardized approach to market risk, or, if approved by the relevant

Regulation (EU) 2022/25 of 22 September 2021 supplementing Regulation (EU) 2019/2033 of the European Parliament and of the Council with regard to regulatory technical standards specifying the methods for measuring the K-factors referred to in Article 15 of that Regulation (September 22, 2021) and Commission Delegated Regulation (EU) 2022/244 of 24 September 2021 supplementing Regulation (EU) 2019/2033 of the European Parliament and the Council with regard to regulatory technical standards specifying the amount of total margin for calculation of the K-factor “clear margin given” (K–CMG) (September 24, 2021). A list of implementing and delegated acts for IFR is available at the European Commission’s website: https://finance.ec.europa.eu/regulation-and-supervision/financial-services-legislation/implementing-and-delegated-acts/investment-firms-regulation_en.

¹²⁷ IFR Article 21(3). In addition, the term “trading book” is defined as all positions in financial instruments and commodities held by an institution either with trading intent or to hedge positions held with trading intent. IFR Article 4(54). The term “positions held with trading intent” is, in turn, defined as: (i) proprietary positions and positions arising from client servicing and market making; (ii) positions held to be resold in the short term; or (iii) positions intended to benefit from actual or expected short-term price differences between buying and selling prices or from other price or interest rate variations. IFR Article 4(55).

¹²⁸ IFR Article 21(4).

¹²⁹ IFR Articles 22 and 57. As noted, the CRR sets forth the calculating methodologies for the risk-based capital requirements for market risk applicable to larger and interconnected nonbank SDs that are considered as “credit institutions” (*i.e.*, treated as banks) for prudential requirements purposes. For reference, the Commission has considered the capital requirements for market risk under CRR in connection with its assessment of the capital requirements applicable to larger and interconnected nonbank SDs domiciled in the EU and subject to the CRR/CRD framework. The Commission has found the capital requirements applicable to nonbank SDs under CRR/CRD comparable to the capital requirements under the CFTC Capital Rules. See *Order Granting Conditional Substituted Compliance in Connection With Certain Capital and Financial Reporting Requirements Applicable to Nonbank Swap Dealers Domiciled in the French Republic and Federal Republic of Germany and Subject to Regulation in the European Union*, 89 FR 58572 (July 18, 2024).

regulatory authority, use an internal model.¹³⁰ Following the effective date of certain amendments to CRR, planned for January 1, 2027, the current model approach will be replaced by an alternative standardized approach and an alternative internal model approach, further discussed below.¹³¹

Standardized market risk charges are generally calculated by multiplying the notional or carrying amount of net positions or of adjusted net positions by risk-weighting factors, which are based on the underlying market risk of each asset or exposure. The sum of the calculated amounts comprises the portion of the risk exposure amount attributable to market risk.¹³²

Standardized calculation of market risk exposures under the EU Investment Firms Capital Rules may follow one of three approaches. The first is the sum of a flat percentage rate for net positions, with netting allowed among tightly defined sets, plus another flat percentage rate for the gross position.¹³³ The other two standardized approaches are based on maturity-ladders, where unmatched portions of each maturity band (*i.e.*, portions that do not net out to zero) are charged at a step-up rate in comparison to the base charges for matched portions.¹³⁴

The EU Investment Firms Capital Rules address the risk of derivatives positions by generally treating them as exposures on their underlying assets,¹³⁵ with options being delta-adjusted.¹³⁶ Positions in gold are subject to the same treatment as foreign exchange risk.¹³⁷ The standardized schedules of the EU Investment Firms Capital Rules provide a narrowly defined asset classification

¹³⁰ IFR Articles 22 and 57 and CRR (as amended by Regulation (EU) 2019/630), Part Three, Title IV.

¹³¹ IFR Articles 22 and 57. The standardized approach for market risk is set out in Chapters 2, 3 and 4 of Title IV of Part Three of CRR. The alternative standardized approach and the alternative internal model approach for market risk are set out in Chapter 1a and Chapter 1b, respectively, of Title IV of Part Three of CRR. The effective date of the provisions setting forth the alternative standardized approach and alternative internal model approach was postponed from June 26, 2026 (originally planned as set forth in IFR Article 57) to January 1, 2027. See European Commission’s announcement of June 12, 2025, available here: https://finance.ec.europa.eu/news/commission-proposes-postpone-one-additional-year-market-risk-prudential-requirements-under-basel-iii-2025-06-12_en.

¹³² CRR, Part Three, Title IV, Chapter 2.

¹³³ CRR, Part Three, Title IV, Chapter 4, Article 360.

¹³⁴ CRR, Part Three, Title IV, Chapter 4, Articles 359 and 361.

¹³⁵ CRR, Part Three, Title II, Chapter 6, Section 5, Articles 276–278.

¹³⁶ CRR, Part Three, Title IV, Chapter 2, Section 1, Articles 328–330.

¹³⁷ CRR, Part Three, Title IV, Chapter 4, Articles 357–358.

to assign risk-weighting factors, trading off more generous offsets within narrower sets of positions to which they apply. For instance, the maturity-based method for calculating market risk charges on debt instruments required by EU Investment Firms Capital Rules permits netting across maturity bands at increased capital charges.¹³⁸ EU IFR/IFD nonbank SDs may also apply to the relevant regulatory authority for permission to use an internal model to compute their market risk exposure (K–NPR).¹³⁹ The EU IFR/IFD Capital Rules set forth quantitative and qualitative requirements that models must meet to receive approval.¹⁴⁰ Quantitative and qualitative requirements address, among other issues, governance, validation, monitoring, and review. Modeled market risk charges generally require the estimation of potential losses, with a certain degree of likelihood, within a specified period, of a portfolio of assets. Models allow for consideration of potential co-movement of prices across assets in the portfolio, leading to offsets of gains and losses.¹⁴¹

As noted above, following the effective date of certain amendments to CRR, planned for January 1, 2027, the current market risk model approach will be replaced. In addition to the existing standardized approach, the calculation methodologies for capital requirement for market risk will include an alternative standardized approach and an alternative model approach. The alternative standardized approach uses a sensitivities-based method that includes a residual risk add-on and a default risk charge.¹⁴² The sensitivities-based method aggregates shocked factor losses across calibrated risk weights, buckets, and three correlation scenarios, and takes the most conservative result.¹⁴³ The alternative models approach incorporates an aggregate modifiable risk charge, an expected-shortfall component, a stressed expected shortfall charge for non-modifiable risk factors, a default risk charge, and a profit and loss (P&L) attribution add-on,

but derives these charges from validated internal models subject to P&L attribution and back-testing and therefore depends on firm-specific model estimation subject to supervisory approval.¹⁴⁴

The EU IFR/IFD nonbank SD may also apply to the relevant regulatory authority for permission to use K–CMG, instead of K–NPR, to calculate its market risk requirement for specified positions, where clearing and settlement take place under the responsibility of a clearing member of a central clearing counterparty (“CCP”).¹⁴⁵ To calculate K–CMG, an EU IFR/IFD nonbank SD needs to record its total margin required, as calculated by applying the margin model of the relevant clearing member or CCP, as applicable, on a daily basis for the previous three months, and using the third highest amount (the “total margin”). The total margin amount is then multiplied by a coefficient calibration factor of 1.3 to determine the firm’s minimum total own funds requirement under K–CMG.¹⁴⁶

EU IFR/IFD nonbank SDs’ positions are also subject to charges for credit risk. More specifically, the trading counterparty default K-factor requirement, K–TCD, is designed to capture the risk of EU IFR/IFD nonbank SD’s exposure to the default of its trading counterparties in respect to certain types of transactions that are recorded in the trading book of the EU IFR/IFD nonbank SD that trades in its own name, including OTC derivative contracts.¹⁴⁷ The capital requirements for K–TCD are calculated by using a formula that takes into account the transaction’s exposure value, the risk factor that applies to the counterparty type, and the CVA.¹⁴⁸ The exposure value is determined by using replacement cost and potential future exposure, and takes into consideration collateral held against the exposure.¹⁴⁹ The risk factor is either 1.6 percent for counterparties that are central

governments, central banks, public sector entities, credit institutions or investment firms, or 8 percent for other counterparties.¹⁵⁰ The CVA, which is 1 or 1.5 depending on the transaction, makes an adjustment to the mid-market valuation of the portfolio of transactions with a counterparty to reflect the current market value of the credit risk of the counterparty to the EU IFR/IFD nonbank SD.¹⁵¹ As reflected in the calculation formula, the capital requirements for K–TCD are determined using a simplified application of the requirements for counterparty credit risk under CRR.¹⁵² An EU IFR/IFD nonbank SD may also ask permission from the relevant competent authority to apply the standardized approach for measuring counterparty credit risk (“SA–CCR”) to calculate the capital requirements for credit risk.¹⁵³

Furthermore, in addition to the minimum capital requirement established by the PMR, FOR, or K-factors, the EU Investment Firms Capital Rules also impose separate liquidity requirements on EU IFR/IFD nonbank SDs to address liquidity risk. Specifically, under the EU Investment Firms Capital Rules’ “minimum liquidity requirement,” an EU IFR/IFD

¹⁵⁰ IFR Article 26.

¹⁵¹ IFR Articles 26 and 32.

¹⁵² European Commission, *Proposal for a Regulation of the European Parliament and of the Council on the prudential requirements of investment firms and amending Regulations (EU) No 575/2013, (EU) No 600/2014 and (EU) No 1093/2010*, (Dec. 20, 2017) at p. 5 (“IFR Proposal”) at 13. For reference, the Commission has considered the capital requirements for counterparty risk under CRR in connection with its assessment of the capital requirements applicable to larger and interconnected nonbank SDs domiciled in the EU and subject to the CRR/CRD framework. The Commission has found the capital requirements applicable to nonbank SDs under CRR/CRD comparable to the capital requirements under the CFTC Capital Rules. See *Order Granting Conditional Substituted Compliance in Connection With Certain Capital and Financial Reporting Requirements Applicable to Nonbank Swap Dealers Domiciled in the French Republic and Federal Republic of Germany and Subject to Regulation in the European Union*, 89 FR 58572 (July 18, 2024).

¹⁵³ IFR Article 25(4) (cross-referencing CRR, Part Three, Title II (Capital Requirements for Credit Risk), Chapter 6 (Counterparty Credit Risk), Sections 3 (Standardised Approach for Counterparty Credit risk), 4 (Simplified Standardised Approach for Counterparty Credit Risk), or 5 (Original Exposure Method)). Of the three methods cross-referenced in IFR Article 25(4), only SA–CCR is available to the EU IFR/IFD nonbank SD discussed in this Comparability Determination. CRR Article 237a (setting forth conditions for using simplified methods for calculating the exposure value depending on whether the size of the firm’s on- and off-balance sheet derivatives business exceeds certain thresholds). As further discussed below, SA–CCR is a non-model, rule-based approach to calculating counterparty credit risk established by the BCBS framework and available under both the CFTC Capital Rules and CRR.

¹³⁸ CRR, Part Three, Title IV, Chapter 2, Section 2, Subsection 2.

¹³⁹ For EU IFR/IFD nonbank SDs domiciled in France, such as Goldman Sachs Paris, the relevant regulatory authority is the ACPR.

¹⁴⁰ IFR Article 22 and CRR, Articles 365–367 (as amended by Regulation (EU) 2019/630).

¹⁴¹ The EU IFR/IFD Capital Rules require EU IFR/IFD nonbank SDs with internal model approval for market risk to use a VaR model with a 99 percent, one-tailed confidence interval with: (i) price change equivalent to 10 business-day movement in rates and prices; (ii) effective historical observation periods of at least one year; and (iii) at least monthly data set updates. CRR, Article 365(1).

¹⁴² IFR Article 22(b) (cross-referencing CRR, Part III, Title IV, Chapter 1a, Article 325c–325ay).

¹⁴³ *Id.* CRR Articles 325d–325h.

¹⁴⁴ IFR Article 22(b) (cross-referencing CRR, Part III, Title IV, Chapter 1b, Articles 325az–325bp).

¹⁴⁵ IFR Article 23.

¹⁴⁶ *Id.*

¹⁴⁷ But excluding derivative contracts directly or indirectly cleared through a CCP (provided various conditions are met), exchange-traded derivative contracts and derivatives contracts held for hedging a position of the firm resulting from an activity outside of the trading book. Furthermore, transactions with central government and central banks, where the underlying exposures receive a 0 percent risk weight under Article 114 of CRR, multilateral development banks listed in Article 117(2) of CRR and international organizations listed in Article 118 of CRR need not to be included when calculating K–TCD.

¹⁴⁸ IFR Article 26.

¹⁴⁹ IFR Articles 26 and 27.

nonbank SD is required to hold a minimum amount of high quality liquid assets generally equivalent to at least one third of the firm's fixed overheads requirement or FOR after applying appropriate haircuts to account for market risk.¹⁵⁴ The EU IFR/IFD Capital Rules' liquidity requirements are intended to help ensure that EU IFR/IFD nonbank SDs can fund the initial stages of a wind-down process, if wind-down becomes necessary. The objective of the "minimum liquidity requirement" is to ensure that investment firms can function in an orderly manner over time, without the need to set aside liquidity specifically for times of stress.¹⁵⁵

In addition, under the internal capital adequacy and risk assessment ("ICARA") process requirements, an EU IFR/IFD nonbank SD is required to implement sound, effective, and comprehensive arrangements, strategies, and processes to assess and maintain on an ongoing basis the amounts, types, and distribution of capital and liquid assets that it considers adequate to cover the nature and level of risk which the firm may pose to others and to which the firm itself is or might be exposed.¹⁵⁶ The arrangements, strategies, and processes must be appropriate to the nature, scale and complexity of the activities of the EU IFR/IFD nonbank SD and subject to regular internal review.¹⁵⁷ An EU IFR/IFD nonbank SD determines through the ICARA process any additional capital and liquidity requirements it meet in addition to the minimum requirements.

III. Commission Analysis of the Comparability of the EU Investment Firms Capital and the EU Investment Firms Financial Reporting Rules With the CFTC Capital Rules and CFTC Financial Reporting Rules

The following section provides a comparison and analysis of the regulatory requirements of the EU Investment Firms Capital Rules and EU Investment Firms Financial Reporting Rules with the CFTC Capital Rules and CFTC Financial Reporting Rules. Immediately following a description of the requirement(s) of the CFTC Capital

Rules and CFTC Financial Reporting Rules for which a comparability determination was requested by the Applicant, the Commission provides a description of the EU's comparable laws, regulations, and rules. The Commission then provides a discussion of the comparability of, or differences between, the EU Investment Firms Capital Rules and the EU Investment Firms Reporting Rules with the corresponding CFTC Capital Rules and CFTC Financial Reporting Rules, including any material differences between the respective rules.

The Commission understands that EU IFR/IFD nonbank SDs, as of the date of this determination, are subject to risk-based capital requirements, which contain elements of the BCBS international framework for banking institutions while aiming to better align the applicable requirements to the EU IFR/IFD nonbank SDs' business model. As such, the Commission performed this Comparability Determination by primarily assessing the comparability of the EU Investment Firms Capital Rules with the Commission's Bank-Based Approach. For clarity, the Commission did not assess the comparability of the EU Investment Firms Capital Rules to the Commission's TNW Approach or NLA Approach.

The capital and financial reporting regimes are complex structures comprised of interrelated regulatory components. Differences in how jurisdictions approach and implement these regimes are expected, even among jurisdictions that base their requirements on international principles and standards such as the those set forth in the BCBS international framework. Therefore, the Commission's comparability determination involves an assessment of the relevant requirements of the foreign jurisdiction and how those requirements, viewed in the aggregate, lead to an outcome that is comparable to the CFTC's corresponding requirements. Consistent with this approach, the Commission has grouped the CFTC's capital and financial reporting rules into key categories that help focus the analysis on whether the foreign jurisdiction's capital and financial reporting requirements are comparable to the Commission's in purpose and effect, and not whether the foreign jurisdiction's requirements meet every aspect or contain identical elements.

The key categories of the EU Investment Firms Capital Rules and EU Investment Firms Reporting Rules reviewed by the Commission and discussed below include: (i) the quality of the equity and debt instruments that

qualify as regulatory capital, and the extent to which the regulatory capital represents committed and permanent capital that would be available to absorb unexpected losses or counterparty defaults; (ii) the process of establishing minimum capital requirements for an EU IFR/IFD nonbank SD and how such process addresses market risk and credit risk of the firm's on-balance sheet and off-balance sheet exposures; (iii) the financial reports and other financial information submitted by an EU IFR/IFD nonbank SD to its regulatory authority to effectively monitor the financial condition of the firm; and (iv) the regulatory notices and other communications between an EU IFR/IFD nonbank SD and the relevant regulatory authority that detail potential adverse financial or operational issues that may impact the firm.

A. Regulatory Objectives of CFTC Capital Rules and CFTC Financial Reporting Rules and EU Investment Firms Capital Rules and the EU Financial Reporting Rules

1. Regulatory Objectives of CFTC Capital Rules and CFTC Financial Reporting Rules

The regulatory objectives of the CFTC Capital Rules and the CFTC Financial Reporting Rules are to further the Congressional mandate to ensure the safety and soundness of nonbank SDs to mitigate the greater risk to nonbank SDs and the financial system arising from the use of swaps that are not cleared.¹⁵⁸ A primary function of the nonbank SD's capital is to protect the solvency of the firm from decreases in the value of firm assets, increases in the value of firm liabilities, and firm losses, including losses resulting from counterparty defaults and margin collateral failures, by requiring the firm to maintain an appropriate level of quality capital, including qualifying subordinated debt, to absorb such losses without becoming insolvent. With respect to swap positions, capital and margin perform complementary risk mitigation functions by protecting nonbank SDs, containing the amount of risk in the financial system as a whole, and reducing the potential for contagion arising from uncleared swaps.

The objective of the CFTC Financial Reporting Rules is to provide the Commission with the means to monitor and assess a nonbank SD's financial condition, including the nonbank SD's compliance with minimum capital requirements. The CFTC Financial Reporting Rules are designed to provide

¹⁵⁴ IFR Article 43 and IFR Recital 28.

¹⁵⁵ IFR Recital 28. IFR Recital 28 provides that investment firms should have internal procedures to monitor and manage liquidity requirements. IFR Recital 28 further provides that investment firms should hold a minimum of one third of their FOR in high quality, liquid assets at all times.

¹⁵⁶ IFD Article 24; French MFC Article L. 533-2-2 and Order of November 3, 2014, on the prudential supervision and risk assessment process for banking service providers and investment firms other than portfolio management companies.

¹⁵⁷ IFD Article 24.

¹⁵⁸ 7 U.S.C. 6s(e)(3)(A).

the Commission and NFA, which, along with the Commission, oversees nonbank SDs' compliance with Commission regulations, with a comprehensive view of the financial health and activities of the nonbank SD. The Commission's rules require nonbank SDs to file financial information, including periodic unaudited and annual audited financial statements, specific financial position information, and notices of certain events that may indicate a potential financial or operational issue that may adversely impact the firm's ability to meet its obligations to counterparties and other creditors in the swaps market, or impact the firm's solvency.¹⁵⁹

2. Regulatory Objective of the EU Investment Firms Capital Rules and the EU Investment Firms Reporting Rules

The regulatory objective of the EU Investment Firms Capital Rules is to ensure the safety and soundness of EU IFR/IFD nonbank SDs in order to protect counterparties and customers and the derivatives and financial markets more generally.¹⁶⁰ The EU Investment Firms Capital Rules are designed to preserve the financial stability and solvency of an EU IFR/IFD nonbank SD by requiring the firm to maintain sufficient equity and qualifying subordinated debt based on the EU IFR/IFD nonbank SD's activities and specific business practices.¹⁶¹ The purpose of the EU Investment Firms Capital Rules is to impose prudential requirements that are calibrated in a manner proportionate to the type of investment firm, the best interests of the clients of that type of firm, and the promotion of the smooth and orderly functioning of the markets in which that type of firm operates.¹⁶² The EU Investment Firms Capital Rules are also designed to ensure that EU IFR/IFD nonbank SDs have sufficient liquidity to meet their financial obligations to counterparties and other creditors in a distress scenario by requiring each firm to hold a minimum amount of high quality liquid assets based on the firm's FOR.¹⁶³

With respect to financial reporting, the objective of the EU Investment Firms Reporting Rules is to enable the relevant regulatory authority to assess the financial condition and safety and soundness of EU IFR/IFD nonbank SDs.¹⁶⁴ The EU Investment Firms Reporting Rules aim to achieve this objective by requiring an EU IFR/IFD nonbank SD to provide financial reports and other capital information to its relevant regulatory authority on a regular basis.¹⁶⁵ The financial reporting by an EU IFR/IFD nonbank SD provides the relevant regulatory authority with information necessary to effectively monitor the EU IFR/IFD nonbank SD's overall financial condition and its ability to meet its regulatory obligations as a nonbank SD.

In addition, the Applicant represented that the ACPR has the power to require the EU IFR/IFD nonbank SD to provide all necessary information in order for the authorities to carry out their supervisory tasks;¹⁶⁶ examine the books and records of the EU IFR/IFD nonbank SD; obtain written and oral explanations from the EU IFR/IFD nonbank SD's management, staff, and other persons;¹⁶⁷ conduct all necessary inspections at the business premises of the EU IFR/IFD nonbank SD and other group entities;¹⁶⁸ and the power to impose sanctions on firms that breach their regulatory obligations, including the requirements imposed under the EU Investment Firms Capital and Reporting Framework, such as public censure, financial penalties, and ultimately the cancellation of the EU IFR/IFD nonbank SD's permission to carry on regulated activities in the EU.¹⁶⁹

3. Commission Analysis

The Commission has reviewed the EU IFR/IFD Application and the relevant EU laws and regulations, and has determined that the overall objectives of the EU Investment Firms Capital Rules and CFTC Capital Rules are comparable

in that both sets of rules are intended to ensure the safety and soundness of nonbank SDs by establishing a regulatory regime that requires nonbank SDs to maintain a sufficient amount of qualifying regulatory capital to absorb losses, including losses from swaps and other trading activities, and to absorb decreases in the value of firm assets and increases in the value of firm liabilities without the firm becoming insolvent. While the EU Investment Firms Capital Rules impose prudential requirements tailored to the risks that investment firms, including EU IFR/IFD nonbank SDs, pose to market participants and the general market, both the EU Investment Firms Capital Rules and the CFTC Capital Rules are consistent with or have elements that are similar to the standards in the international bank capital framework adopted by the BCBS, which is also designed with the objective of requiring banking entities to hold sufficient levels of qualifying regulatory capital to absorb losses and decreases in the value of assets and increases in the value of liabilities without the banks becoming insolvent. The levels of regulatory capital that a nonbank SD is required to hold are based on the risks associated with the nonbank SD's on-balance sheet and off-balance sheet exposures under both the EU Investment Firms Capital Rules and CFTC Capital Rules. The EU Investment Firms Capital Rules and CFTC Capital Rules also provide for the comparable calculation of the market risk exposures using standardized or model-based approaches that are also consistent with the BCBS framework, including provisions requiring a robust model risk management program. Both sets of rules also provide for the calculation of credit risk charges. While the EU Investment Firms Capital Rules differ from the CFTC Capital Rule in that they do not permit the use of credit risk models, both sets of rules provide for the computation of credit risk charges through comparable standardized approaches based on the standardized treatment of counterparty credit risk established by the BCBS Framework.¹⁷⁰

In contrast with the CFTC Capital Rules, which do not have a distinct liquidity requirement, the EU Investment Firms Capital Rules impose specific liquidity requirements on EU IFR/IFD nonbank SDs. The EU Investment Firms Capital Rules, therefore, provide an additional layer of protection to help ensure that firms are capable of meeting their obligations to

¹⁵⁹ 17 CFR 23.105.

¹⁶⁰ IFR Recital 10, which provides that prudential requirements should be calibrated in a manner proportionate to the type of investment firm, the best interest of the clients of that type of investment firm and the promotion of the smooth and orderly functioning of the markets in which that type of investment firm operates. See also *Prudential Rules for Investment Firms*, Publication of the European Commission, https://finance.ec.europa.eu/capital-markets-union-and-financial-markets/financial-markets/prudential-rules-investment-firms_en.

¹⁶¹ *Id.*

¹⁶² *Id.*

¹⁶³ IFR Recital 28, which provides that investment firms should have internal procedures

to monitor and manage liquidity requirements and help ensure that the firms can function in an orderly manner over time, without the need to set aside liquidity specifically for times of stress, and Article 43, which requires an investment firm to hold an amount of liquid assets equivalent to at least one third of its FOR.

¹⁶⁴ IFR Article 54, which requires investment firms to provide appropriate regulatory authorities with quarterly and annual financial reporting regarding the firm's balance sheet, revenue, capital, and liquidity. In France, the ACPR is the French regulatory authority with prudential supervision authority over French financial firms, including Goldman Sachs Paris.

¹⁶⁵ *Id.*

¹⁶⁶ French MFC, Article L.612–24.

¹⁶⁷ French MFC, Article L.612–24.

¹⁶⁸ French MFC, Articles L.612–23 and L.612–26.

¹⁶⁹ IFD Article 18 and seq.

¹⁷⁰ 17 CFR 23.103 and IFR Article 26.

counterparties, including during periods of stressed market conditions.¹⁷¹

The EU Investment Firms Capital Rules and CFTC Capital Rules are also comparable in that both sets of rules limit the capital instruments that may qualify as regulatory capital to high quality equity capital and qualifying subordinated debt that satisfy specified conditions. High quality capital is determined by the degree to which the capital is permanently contributed or readily available on an unrestricted basis to the nonbank SD to absorb unexpected losses, including losses from swaps trading and other activities, without the nonbank SD becoming insolvent.

With respect to financial reporting, both the EU Investment Firms Reporting Rules and the CFTC Financial Reporting Rules require nonbank SDs to file periodic financial reports, including periodic unaudited and annual audited financial reports, with the relevant regulatory authority, and further require nonbank SDs to file regulatory notices if certain defined conditions are met or limits breached. These financial reports and notices provide regulators, including the ACPR, Commission, and NFA with information necessary to comprehensively assess the financial condition and safety and soundness of the nonbank SDs, and to monitor their ongoing compliance with applicable minimum capital requirements. The monitoring of nonbank SDs by the appropriate regulators helps ensure that nonbank SDs do not disrupt the swaps market in general, and the financial markets more broadly, by failing to have capital to absorb losses to prevent the firm from becoming insolvent during a time of market stress.

Having compared the objectives of the EU Investment Firms Capital and Reporting Framework to the objectives of the Commission's capital and financial reporting requirements, and having considered those objectives in the broader context of the prudential oversight of EU IFR/IFD nonbank SDs' capital requirements, the Commission finds that the objectives of the EU Investment Firms Capital Rules and the EU Investment Firms Reporting Rules are comparable to the objectives of the CFTC Capital Rules and CFTC Financial Reporting Rules.

B. Nonbank Swap Dealer Qualifying Capital

1. CFTC Capital Rules: Qualifying Capital Under Bank-Based Approach

The CFTC Capital Rules require a nonbank SD electing the Bank-Based Approach to maintain regulatory capital in the form of common equity tier 1 capital, additional tier 1 capital, and tier 2 capital in amounts that meet certain stated minimum requirements set forth in Commission Regulation 23.101.¹⁷² Common equity tier 1 capital, additional tier 1 capital, and tier 2 capital are composed of certain defined forms of equity of the nonbank SD, including common stock, retained earnings, and qualifying subordinated debt.¹⁷³ The Commission's requirement for a nonbank SD to maintain a minimum amount of defined qualifying capital and subordinated debt is intended to ensure that the firm maintains a sufficient amount of regulatory capital to absorb decreases in the value of firm assets and increases in the value of firm liabilities, and to cover losses resulting from the business activities, including the firm's swap dealing activities.

Common equity tier 1 capital is generally composed of an entity's common stock instruments and any related surpluses, retained earnings, and accumulated other comprehensive income. Common equity tier 1 capital is a more conservative or permanent form of capital than additional tier 1 and tier 2 capital and is last in line to receive distributions in the event of the entity's insolvency.¹⁷⁴ Additional tier 1 capital is generally composed of equity instruments such as preferred stock and certain hybrid securities that may be converted to common stock if triggering events occur and may have a preference in distributions over common equity tier 1 capital in the event of an insolvency.¹⁷⁵ Total tier 1 capital is composed of common equity tier 1 capital and further includes additional tier 1 capital.¹⁷⁶ Tier 2 capital includes certain types of instruments that include both debt and equity characteristics such as qualifying subordinated debt.¹⁷⁷

Subordinated debt must meet certain conditions to qualify as tier 2 capital under the CFTC Capital Rules. Specifically, subordinated debt instruments must have a term of at least

one year (except for approved revolving subordinated debt agreements which may have a maturity term that is less than one year) and contain terms that effectively subordinate the rights of lenders to receive any payments, including accrued interest, to other creditors of the firm.¹⁷⁸

2. EU Investment Firms Capital Rules: Qualifying Capital

The EU Investment Firms Capital Rules require an EU IFR/IFD nonbank SD to maintain regulatory capital in amounts that meet certain stated minimum requirements. An EU IFR/IFD nonbank SD's regulatory capital may be composed of: (i) common equity tier 1 capital, which generally include the EU IFR/IFD nonbank SD's common equity, retained earnings, and other comprehensive income;¹⁷⁹ (ii) additional tier 1 instruments, which include other capital instruments and certain long-term convertible debt instruments;¹⁸⁰ and (iii) tier 2 capital, which includes certain other reserves, hybrid capital instruments, and certain qualifying subordinated debt.¹⁸¹

Subordinated debt instruments must meet certain conditions to qualify as tier 2 capital under the EU Investment Firms Capital Rules, including that the: (i) loans are not granted by the EU IFR/IFD nonbank SD or its subsidiaries; (ii) claims on the principal amount of the subordinated loans under the provisions governing the subordinated loan agreement rank below any claim from eligible liabilities instruments (*i.e.*, certain non-capital instruments), meaning that they are effectively subordinated to claims of all non-subordinated creditors of the EU IFR/IFD nonbank SD; (iii) subordinated loans are not secured, or subject to a guarantee that enhances the seniority of the claim by the EU IFR/IFD nonbank SD, its subsidiaries, or affiliates; (iv) loans have an original maturity of at least five years; and (v) provisions governing the loans do not include any incentive for the principal amount to be

¹⁷⁸ The subordinated debt must meet the requirements set forth in SEC Rule 18a-1d (17 CFR 240.18a-1d). 17 CFR 23.101(a)(1)(i)(B) (providing that the subordinated debt used by a nonbank SD to meet its minimum capital requirement under the Bank-Based Approach must satisfy the conditions for subordinated debt under SEC Rule 18a-1d).

¹⁷⁹ IFR Article 9. Common equity tier 1 capital is defined in accordance with Chapter 2 of Title I of Part Two of CRR.

¹⁸⁰ *Id.* Additional tier 1 capital is defined in accordance with Chapter 3 of Title I of Part Two of CRR.

¹⁸¹ *Id.* Tier 2 capital is defined in accordance with Chapter 4 of Title I of Part Two of CRR.

¹⁷² 17 CFR 23.101(a)(1)(i).

¹⁷³ The terms "common equity tier 1 capital," "additional tier 1 capital," and "tier 2 capital" are defined in the bank holding company regulations of the Federal Reserve Board. See 12 CFR 217.20.

¹⁷⁴ 12 CFR 217.20.

¹⁷⁵ *Id.*

¹⁷⁶ *Id.*

¹⁷⁷ *Id.*

¹⁷¹ IFR Recital 28 and Article 43.

repaid by the EU IFR/IFD nonbank SD prior to the loans' maturity.¹⁸²

The EU Investment Firms Capital Rules also impose different ratios for the various components of regulatory capital that an EU IFR/IFD nonbank SD must hold. Specifically, common equity tier 1 capital must comprise at least 56 percent of the EU IFR/IFD nonbank SD's total minimum capital requirement and tier 1 capital must comprise at least 75 percent of the total minimum capital requirement.¹⁸³

Common equity tier 1 capital, additional tier 1 capital, and tier 2 capital are permitted to be included in an EU IFR/IFD nonbank SD's regulatory capital and used to meet the firm's minimum capital requirement due to their characteristics of being permanent forms of capital that are subordinate to the claims of other creditors, which ensures that an EU IFR/IFD nonbank SD will have this regulatory capital to absorb decreases in the value of the firm's assets and increases in the value of the firm's liabilities, and to cover losses from business activities, including swap dealing activities.

3. Commission Analysis

The Commission has reviewed the EU IFR/IFD Application and the relevant EU laws and regulations, and has determined that the EU Investment Firms Capital Rules are comparable in purpose and effect to the CFTC Capital Rule with regard to the type and characteristics of a nonbank SD's equity that qualifies as regulatory capital in meeting its minimum requirements. The EU Investment Firms Capital Rules and the CFTC Capital Rules for nonbank SDs both require a nonbank SD to maintain a quantity of high-quality and permanent capital that, based on the firm's activities and on-balance sheet and off-balance sheet exposures, is sufficient to absorb losses and decreases in the value of assets and increases in the value of the firm's liabilities without resulting in the firm becoming insolvent. Equity instruments that qualify as common equity tier 1 capital and additional tier 1 capital under the EU Investment Firms Capital Rules and the CFTC Capital Rules have similar characteristics (e.g., the equity must be in the form of high-quality, committed, and permanent capital) and the equity instruments generally have no priority in distribution of firm assets or income with respect to other shareholders or creditors of the firm, which makes the equity available to a nonbank SD to

absorb unexpected losses, including counterparty defaults.¹⁸⁴

In addition, the Commission has determined that the conditions imposed on subordinated debt instruments under the EU Investment Firms Capital Rules and the CFTC Capital Rules are comparable and designed to ensure that the subordinated debt has qualities that support its recognition by a nonbank SD as equity for capital purposes. In both sets of rules, the conditions include a requirement that the debt holders have effectively subordinated their claims for repayment of the debt to the claims of other creditors of the nonbank SD.¹⁸⁵

Having reviewed the EU IFR/IFD Application and the relevant EU laws and regulations, the Commission has determined that the EU Investment Firms Capital Rules and CFTC Capital Rules impose comparable requirements on EU IFR/IFD nonbank SDs with respect to the types and characteristics of equity capital that must be used to meet minimum regulatory capital requirements.

C. Nonbank Swap Dealer Minimum Capital Requirement

1. CFTC Capital Rules: Nonbank Swap Dealer Minimum Capital Requirement

The CFTC Capital Rules require a nonbank SD electing the Bank-Based Approach to maintain regulatory capital that satisfies each of the following criteria: (i) an amount of common equity tier 1 capital of at least \$20 million; (ii) an aggregate amount of common equity tier 1 capital, additional tier 1 capital, and tier 2 capital equal to or greater than 8 percent of the nonbank SD's total risk-weighted assets, provided that common equity tier 1 capital comprises at least 6.5 percent of the 8 percent of regulatory capital; (iii) an aggregate of common equity tier 1 capital, additional tier 1 capital, and tier 2 capital in an amount equal to or in excess of 8 percent of the nonbank SD's uncleared swap margin amount; and (iv) the amount of capital required by NFA.¹⁸⁶

¹⁸⁴ Compare 12 CFR 217.20(b) (defining capital instruments that qualify as common equity tier 1 capital under the rules of the Federal Reserve Board) and 12 CFR 217.20(c) (defining capital instruments that qualify as additional tier 1 capital under the rules of the Federal Reserve Board) with IFR Article 9 (referring to definitions of capital instruments in Chapter 2 of Title I of Part Two of CRR), CRR, Articles 26 and 28 (defining items and capital instruments that qualify as common equity tier 1 capital), and CRR, Article 52 (defining capital instruments that qualify as additional tier 1 capital).

¹⁸⁵ Compare 17 CFR 240.18a-1d with IFR Article 9 and CRR, Article 63(d).

¹⁸⁶ 17 CFR 23.101(a)(1)(i). NFA has adopted the Commission's capital requirements as its own requirements and has not adopted any additional or stricter minimum capital requirements. See NFA rulebook, Financial Requirements Section 18 Swap

Prong (i) above requires each nonbank SD electing the Bank-Based Approach to maintain a minimum of \$20 million of common equity tier 1 capital to operate as a nonbank SD. The requirement that each nonbank SD electing the CFTC Bank-Based Approach maintain a minimum of \$20 million of common equity tier 1 capital is also consistent with the minimum capital requirement for nonbank SDs electing the NLA Approach and the TNW Approach.¹⁸⁷ The CFTC's \$20 million fixed-dollar minimum capital requirement is intended to ensure that each nonbank SD maintains a level of regulatory capital, without regard to the level of the firm's dealing and other activities, sufficient to meet its obligations to swap market participants given the firm's status as a CFTC-registered nonbank SD and to help ensure the safety and soundness of the nonbank SD.¹⁸⁸

Prong (ii) above is a minimum capital requirement that is based on the Federal Reserve Board's capital requirements for bank holding companies and is consistent with the BCBS framework for banking institutions. As noted above, a nonbank SD under prong (ii) must maintain an aggregate of common equity tier 1 capital, additional tier 1 capital, and tier 2 capital in an amount equal to or greater than 8 percent of the nonbank SD's total risk-weighted assets, with common equity tier 1 capital comprising at least 6.5 percent of the 8 percent. Risk-weighted assets are a nonbank SD's on-balance sheet and off-balance sheet exposures, including proprietary swap, security-based swap, equity, and futures positions, weighted according to risk. The Bank-Based Approach requires each nonbank SD to maintain regulatory capital in an amount that equals or exceeds 8 percent of the firm's total risk-weighted assets to help ensure that the nonbank SD's level of capital is sufficient to absorb decreases in the value of the firm's assets and increases in the value of the firm's liabilities, and to cover unexpected losses resulting from business activities, including uncollateralized defaults from swap counterparties, without the nonbank SD becoming insolvent.

Dealer and Major Swap Participant Financial Requirements, available at nfa.futures.org.

¹⁸⁷ Nonbank SDs electing the NLA Approach are subject to a minimum capital requirement that includes a fixed minimum dollar amount of net capital of \$20 million. 17 CFR 23.101(a)(1)(ii)(A)(1). Nonbank SDs electing the TNW Approach are required to maintain levels of tangible net worth that equals or exceeds \$20 million plus the amount of the nonbank SDs' market risk and credit risk associated with the firms' dealing activities. 17 CFR 23.101(a)(2)(ii)(A).

¹⁸⁸ 85 FR 57462 at 57492.

¹⁸² IFR Article 9, CRR Article 63.

¹⁸³ IFR Article 9.

A nonbank SD must compute its risk-weighted assets amounts for market and credit risk using a standardized approach, unless the nonbank SD has been approved by the Commission or NFA to use internal models.¹⁸⁹ With respect to the calculation of standardized risk-weighted asset amounts for market risk, the Commission incorporated by reference the standardized market risk charges set forth in Commission Regulation 1.17 for FCMs and SEC Rule 18a–1 for nonbank SBSs.¹⁹⁰ The standardized market risk charges under Commission Regulation 1.17 and SEC Rule 18a–1 are calculated as a standardized or table-based percentage of the market value or notional value of the nonbank SD's marketable securities and derivatives positions, with the percentages applied to the market value or notional value increasing as the expected or anticipated risk of the positions increase.¹⁹¹ For example, CFTC Capital Rules require nonbank SDs to calculate standardized market risk-weighted asset amounts for uncleared swaps based on notional values of the swap positions multiplied by percentages set forth in the applicable rules.¹⁹² In addition, market risk-weighted asset amounts for readily marketable equity securities are calculated by multiplying the fair market value of the securities by 15 percent.¹⁹³ The resulting total market risk-weighted amount is multiplied by a factor of 12.5 to cancel the effect of the 8 percent multiplication factor applied to all of the nonbank SD's risk-weighted assets under prong (ii) of the CFTC Capital Rules' minimum capital requirements described above. As a result, a nonbank SD is effectively required to hold qualifying regulatory capital equal to or greater than 100 percent of the amount of its market risk exposure amount.¹⁹⁴

¹⁸⁹ See 17 CFR 23.101(a)(1)(i)(B) and the definition of the term *BHC equivalent risk-weighted assets* in 17 CFR 23.100.

¹⁹⁰ See paragraph (3) of the definition of the term *BHC equivalent risk-weighted assets* in 17 CFR 23.100.

¹⁹¹ 17 CFR 1.17(c)(5) and 17 CFR 240.18a–1(c)(1).

¹⁹² 17 CFR 1.17(c)(5)(iii).

¹⁹³ 17 CFR 1.17(c)(5)(v), referencing SEC Rule 15c3–1(c)(2)(vi) (17 CFR 240.15c3–1(c)(2)(vi)).

¹⁹⁴ 17 CFR 23.100 (Definition of *BHC equivalent risk-weighted assets*). As noted, a nonbank SD is required to maintain qualifying capital (*i.e.*, an aggregate of common equity tier 1 capital, additional tier 1 capital, and tier 2 capital) in an amount that equals or exceeds 8 percent of its risk-weighted assets. The regulations, however, require the nonbank SD to effectively maintain qualifying capital equal to or in excess of 100 percent of its market risk-weighted assets by requiring the nonbank SD to multiply its market-risk-weighted assets by 12.5. For example, the market risk exposure amount for marketable equity securities with a current fair market value of \$250,000 is

With respect to standardized risk-weighted asset amounts for credit risk, a nonbank SD must compute its on-balance sheet and off-balance sheet exposures in accordance with the standardized risk-weighting requirements adopted by the Federal Reserve Board and set forth in Subpart D of 12 CFR 217.¹⁹⁵ Standardized risk-weighted amounts for credit risk are computed by multiplying the amount of the exposure by defined counterparty credit risk factors that range from 0 percent to 150 percent.¹⁹⁶ A nonbank SD with off-balance sheet exposures is required to calculate a risk-weighted amount for credit risk by multiplying each exposure by a credit conversion factor that ranges from 0 percent to 100 percent, depending on the type of exposure.¹⁹⁷

With respect to counterparty credit risk for derivatives positions, a nonbank SD may compute standardized credit risk exposures, using either the current exposure method (“CEM”) or the standardized approach for measuring counterparty credit risk (“SA–CCR”).¹⁹⁸ Both CEM and SA–CCR are non-model, rules-based approaches to calculating counterparty credit risk exposures for derivatives positions. Credit risk exposure under the CEM is the sum of: (i) the current exposure (*i.e.*, the positive mark-to-market) of the derivatives contract; and (ii) the potential future exposure, which is calculated as the product of the notional principal

\$37,500 (market value of \$250,000 × 15 standardized market risk factor). The nonbank SD is required to maintain regulatory capital equal to or in excess of full market risk exposure amount of \$37,500 (risk exposure amount of \$37,500 × 8 percent regulatory capital requirement equals \$3,000; the regulatory capital requirement is then multiplied by a factor of 12.5, which effectively requires the nonbank SD to hold regulatory capital in an amount equal to at least 100 percent of the market risk exposure amount (\$3,000 × 12.5 factor equals \$37,500)).

¹⁹⁵ 17 CFR 23.101(a)(1)(i)(B) and paragraph (1) of the definition of the term *BHC equivalent risk-weighted assets* in 17 CFR 23.100.

¹⁹⁶ 17 CFR 217.32. Lower credit risk factors are assigned to entities with lower credit risk and higher credit risk factors are assigned to entities with higher credit risk. For example, a credit risk factor of 0 percent is applied to exposures to the U.S. government, the Federal Reserve Bank, and U.S. government agencies (12 CFR 217.32(a)(1)), and a credit risk factor of 100 percent is assigned to an exposure to foreign sovereigns that are not members of the Organization for Economic Cooperation and Development (12 CFR 217.32(a)(2)).

¹⁹⁷ 17 CFR 217.33.

¹⁹⁸ 17 CFR 217.34. See also Commission Regulation 23.100 (17 CFR 23.100) defining the term *BHC risk-weighted assets*, which provides that a nonbank SD that does not have model approval may use either CEM or SA–CCR to compute its exposures for over-the-counter derivative contracts with regard to the status of its affiliate entities with respect to the use of a calculation approach under the Federal Reserve Board's capital rules.

amount of the derivative contract multiplied by a standard credit risk conversion factor set forth in the rules of the Federal Reserve Board.¹⁹⁹ Credit risk exposure under SA–CCR is defined as the exposure at default amount of a derivatives contract, which is computed by multiplying a factor of 1.4 by the sum of: (i) the replacement costs of the contract (*i.e.*, the positive mark-to-market); and (ii) the potential future exposure of the contract.²⁰⁰

A nonbank SD also may obtain the approval of the Commission or NFA to use internal models to compute market risk and/or credit risk exposures. A nonbank SD seeking approval to use a model is required to submit an application to the Commission or NFA.²⁰¹ The application is required to include, among other things, a list of the categories of positions that the nonbank SD holds in its proprietary accounts and a brief description of the methods that the nonbank SD will use to calculate market risk and/or credit risk exposures for such positions.

A nonbank SD approved by the Commission or NFA to use models to compute risk-weighted amounts for market risk is required to comply with Subpart F of the Federal Reserve Board's Part 217 regulations (“Subpart F”).²⁰² Subpart F is based on models that are consistent with the BCBS Basel 2.5 capital framework.²⁰³ The Commission's qualitative and quantitative requirements for capital models also are comparable to the SEC's existing capital model requirements for broker-dealers in securities and SBSs,²⁰⁴ which are also broadly based on the BCBS Basel 2.5 capital framework.

A nonbank SD approved to use internal models to compute risk-weighted amounts for credit risk is required to perform such computation in accordance with Subpart E of the Federal Reserve Board's Part 217 regulations,²⁰⁵ as if the nonbank SD

¹⁹⁹ 12 CFR 217.34.

²⁰⁰ 12 CFR 217.132(c).

²⁰¹ 17 CFR 23.102(c).

²⁰² See paragraph (4) of the definition of *BHC equivalent risk-weighted assets* in 17 CFR 23.100.

²⁰³ Compare 17 CFR 23.100 (providing for a nonbank SD that is approved to use internal models to calculate market and credit risk to calculate its risk-weighted assets using Subparts E and F of 12 CFR part 217), Subpart F of 12 CFR, 17 CFR 23.101(a)(1)(ii) (providing for an SD that elects the NLA Approach to calculate its net capital in accordance with Rule 18a–1), and 17 CFR 23.102(a), with Basel Committee on Banking Supervision, Revisions to the Basel II Market Risk Framework (2011), <https://www.bis.org/publ/bcbis193.pdf> (describing the revised internal model approach under Basel 2.5).

²⁰⁴ The SEC internal model requirements for SBSs are listed in 17 CFR 240.18a–1(d).

²⁰⁵ 12 CFR 217 Subpart E.

were itself a bank holding company subject to Subpart E.²⁰⁶ The internal credit risk modeling requirements are also based on the Basel 2.5 capital framework and the Basel 3 capital framework. A nonbank SD that computes its credit risk charges using internal models must multiply the resulting capital requirement by a factor of 12.5.²⁰⁷

In adopting the final Bank-Based Approach rules, the Commission also noted that in choosing an alternative calculation, the nonbank SD must adopt the entirety of the alternative. As such, if the nonbank SD is calculating its risk-weighted assets using the regulations in Subpart E of 12 CFR 217, the nonbank SD must include charges reflecting all categories of risk-weighted assets applicable under these regulations, which include among other things, charges for operational risk, CVA of OTC derivatives contracts, and unsettled transactions involving securities, foreign exchange instruments, and commodities that have a risk of delayed settlement or delivery.²⁰⁸ The capital charge for operational risk and CVA of OTC derivatives contracts calculated in accordance with Subpart E of 12 CFR 217 must also be multiplied by a factor of 12.5.²⁰⁹

Under the Basel 2.5 capital framework, nonbank SDs have flexibility in developing their models, but must follow certain minimum standards. Internal market risk and credit risk models must follow a Value at Risk (“VaR”) structure to compute, on a daily basis, a 99th percentile, one-tailed confidence interval for the potential losses resulting from an instantaneous price shock equivalent to a 10-day movement in prices (unless a different timeframe is specifically indicated). The simulation of this price shock must be based on a historical observation period of minimum length of one year, but there is flexibility on the method used to render simulations, such as variance-covariance matrices, historical simulations, or Monte Carlo.

The Commission and the Basel standards for internal models also have requirements on the selection of appropriate risk factors as well as on

data quality and update frequency.²¹⁰ One specific concern is that models must capture the non-linear price characteristics of options positions, including but not limited to, relevant volatilities at different maturities.²¹¹ In addition, BCBS standards for market risk models include a series of additive components for risks for which the broad VaR is ill-suited or that may need targeted calculation. These include the calculation of a Stressed VaR measure (with the same specifications as the VaR, but calibrated to historical data from a continuous 12-month period of significant financial stress relevant to the firm’s portfolio); a Specific Risk measure (which includes the effect of a specific instrument); an Incremental Risk measure (which addresses changes in the credit rating of a specific obligor which may appear as a reference in an asset); and a Comprehensive Risk measure (which addresses risk of correlation trading positions).

Finally, prong (iii) of the CFTC Capital Rules’ Bank-Based Approach is a minimum capital requirement that is based on the amount of initial margin for uncleared swap transactions entered into by the nonbank SD and is computed on a counterparty-by-counterparty basis. The requirement for a nonbank SD to maintain minimum capital equal to or greater than 8 percent of the firm’s uncleared swap margin provides a capital floor based on a measure of the risk and volume of the swap positions, and the number of counterparties and the complexity of operations, of the nonbank SD. The intent of the minimum capital requirement based on a percentage of the nonbank SD’s uncleared swap margin was to establish a minimum capital requirement that would help ensure that the nonbank SD meets all of its obligations as an SD to market participants, and to cover potential operational risk, legal risk, and liquidity risk in addition to the risks associated with its trading portfolio.

2. The EU Investment Firms Capital Rules: EU IFR/IFD Nonbank Swap Dealer Minimum Capital Requirements

The EU Investment Firms Capital Rules impose risk-based capital

requirements on an EU IFR/IFD nonbank SD that, consistent with the BCBS framework, require the firm to hold sufficient amounts of qualifying equity capital and subordinated debt based on the EU IFR/IFD nonbank SD’s activities, to absorb decreases in the value of the firm’s assets, increases in the value of the firm’s liabilities, and to cover losses resulting from business activities, including possible counterparty defaults without becoming insolvent. The EU Investment Firms Capital Rules require each EU IFR/IFD nonbank SD to maintain sufficient levels of common equity tier 1 capital, additional tier 1 capital, and tier 2 capital to meet its minimum capital requirement, which is the highest of the firm’s permanent minimum requirement or PMR, fixed overheads requirement or FOR, or the sum of the firm’s K-factor requirements or KFR. The EU IFR/IFD nonbank SD is required to hold sufficient capital to satisfy the following capital ratios, expressed as a percentage of the nonbank SD’s minimum capital requirement: (i) common equity tier 1 capital ratio of 56 percent; (ii) common equity tier 1 and additional tier 1 capital ratio of 75 percent; and (iii) total capital ratio of 100 percent.²¹²

Under the EU Investment Firms Capital Rules, the minimum capital requirement of an EU IFR/IFD nonbank SD is determined as the highest of the firm’s PMR, FOR, or KFR. As represented by the Applicant, while the PMR, which is set at EUR 750,000 for EU IFR/IFD nonbank SDs subject to this Comparability Determination such as the Applicant, is relatively modest, in practice, an EU IFR/IFD nonbank SD’s minimum capital requirement is likely to be greater—either the FOR or, more likely, the KFR.²¹³ As noted above, the KFR is a mixture of activity and exposure-based capital requirement that incorporates, among other risk categories, market risk (K–NPR) and credit risk (K–TCD).

An EU IFR/IFD nonbank SD’s market risk is captured by the K-factor for net position risk, K–NPR. K–NPR applies to positions in the EU IFR/IFD nonbank SD’s trading book, as well as to positions not in the trading book that give rise to foreign exchange or commodities risk. An EU IFR/IFD nonbank SD is required to compute market risk amounts using the methodologies set forth in the IFR, which, in turn, refers to CRR for the

²⁰⁶ See 85 FR 57462 at 57496.

²⁰⁷ 12 CFR 217.131(e)(1)(iii), 217.131(e)(2)(iv), and 217.132(d)(9)(iii).

²⁰⁸ Settlement risk for OTC derivatives contracts is addressed as part of the counterparty-credit risk calculation methodology described in 12 CFR 217.132.

²⁰⁹ 12 CFR 217.162(c) (operational risk) and 217.132(e)(4) (CVA of OTC derivative contracts).

²¹⁰ See 17 CFR Appendix A to Subpart E of Part 23(i)(2)(iii), and Basel Committee on Banking Supervision, Revisions to the Basel II Market Risk Framework (2011), paragraph 718(Lxxvi)(e), available at: <https://www.bis.org/publ/bcbs193.pdf>.

²¹¹ The Commission’s requirement is set forth in paragraph (i)(2)(iv)(A) of Appendix A to Subpart E of 17 CFR part 23. See also Basel Committee on Banking Supervision, Revisions to the Basel II Market Risk Framework (2011), paragraph 718(Lxxvi)(h), available at: <https://www.bis.org/publ/bcbs193.pdf>.

²¹² IFR Article 9.

²¹³ IFR and IFD provide for different levels of PMR depending on the activities in which the firm engages. For investment firms that engage in swap dealing, the PMR is EUR 750, 000. IFR Article 14 and IFD Article 9.

calculation approaches.²¹⁴ Currently, to calculate market risk charges, an EU IFR/IFD nonbank SD can either apply a standardized approach or, if approved by the relevant regulatory authority, a market risk model.²¹⁵ As discussed in Section III.C.3.b below, following the effective date of certain amendments to CRR, planned for January 1, 2027, the current model approach would be replaced by an alternative standardized approach and an alternative market risk model.²¹⁶

EU IFR/IFD nonbank SDs calculate standardized market risk charges generally by multiplying the notional or carrying amount of net positions or of adjusted net positions by risk-weighting factors, which are based on the underlying market risk of each asset or exposure and increase as the expected risk of the positions increase. Market risk requirements for debt instruments and equity instruments are calculated separately under the standardized approach, and are each calculated as the sum of specific risk and general risk of the positions.²¹⁷ Securitizations are treated as debt instruments for market risk requirements,²¹⁸ whereas derivative positions are generally treated as exposures on their underlying assets,²¹⁹ with options being delta-adjusted.²²⁰

The EU Investment Firms Capital Rules also require EU IFR/IFD nonbank SDs to include in their risk-based capital requirements for market risk, exposures to certain foreign currency and gold positions. An EU nonbank SD with net positions in foreign exchange and gold that exceed 2 percent of the firm's total capital must calculate capital requirements for foreign

exchange risk.²²¹ The capital requirement for foreign exchange risk under the standardized approach is 8 percent of the EU IFR/IFD nonbank SD's net positions in foreign exchange and gold.²²² The EU Investment Firms Capital Rules further require EU IFR/IFD nonbank SDs to include exposures to commodity positions in calculating the firm's risk-based capital requirements for market risk. The standardized calculation of commodity risk exposures may follow one of three approaches depending on type of position or exposure. The first is the sum of a flat percentage rate for net positions, with netting allowed among tightly defined sets, plus another flat percentage rate for the gross position.²²³ The other two standardized approaches are based on maturity-ladders, where unmatched portions of each maturity band (*i.e.*, portions that do not net out to zero) are charged at a step-up rate in comparison to the base charges for matched portions.²²⁴

An EU IFR/IFD nonbank SD may also apply to the relevant regulatory authority for approval to use an internal model to calculate one or more of the following market risk categories: (i) general risk of equity instruments, (ii) specific risk of equity instruments, (iii) general risk of debt instruments, (iv) specific risk of debt instruments, (v) foreign exchange risk, or (vi) commodities risk,²²⁵ along with interest rate on derivatives.²²⁶ An EU IFR/IFD nonbank SD approved to use models must also obtain approval from the relevant authority to implement a material change to the model or make a material extension to the use of the model.²²⁷ The EU Investment Firms Capital Rules' model-based methodology is based on the BCBS Basel 2.5 standard.²²⁸ Accordingly, the EU Investment Firms Capital Rules incorporate relevant aspects of the BCBS framework²²⁹ in terms of requiring

firms with model approval to use a VaR model with a 99 percent, one-tailed confidence level with (i) price changes equivalent to a ten business-day movement in rates and prices, (ii) effective historical observation periods of at least one year and (iii) at least monthly data set updates,²³⁰ as well as a requirement to calculate a "stressed" VaR.²³¹

To obtain a permission for the use of a market risk model, an EU IFR/IFD nonbank SD must demonstrate to the satisfaction of the relevant regulatory authority that it meets certain conditions.²³² The conditions include specified model elements and controls including risk and stressed risk calculations,²³³ back-testing and multiplication factors,²³⁴ risk measurement requirements,²³⁵ governance and qualitative requirements,²³⁶ internal validation,²³⁷ and specific requirements by risk categories.²³⁸

An EU IFR/IFD nonbank SD may apply to the relevant regulatory authority for permission to use K-CMG, instead of K-NPR, to compute market risk charges for specified positions, where clearing and settlement take place under the responsibility of a clearing member of a CCP.²³⁹ To obtain permission to use K-CMG, the EU IFR/IFD nonbank SD must demonstrate that the margin requirements resulting from the clearing models are sufficient to cover losses that may result from at least 99 percent of the exposures movements over an appropriate time horizon with at least a two-business days' holding period.²⁴⁰ The K-CMG market risk charge is determined by applying the margin model of the relevant clearing member or CCP, as applicable, to the cleared positions of the EU IFR/IFD nonbank SD for each day of the previous

beyond banking entities. It has been the experience that EU and CFTC requirements are updated timely to reflect such updates to the BCBS framework, thus maintaining a common core of methodologies and control practices. The Commission expects that this convergence will continue.

²³⁰ CRR (as amended by Regulation (EU) 2019/630) Article 365(1).

²³¹ *Id.*, Article 365(2). *See also* CFTC Capital Final Rule Release, 85 FR 57462 at n.332 (citing the BCBS' Revisions to the Basel 2 Market Risk Framework for an explanation of the implementation of the stressed VaR requirement).

²³² CRR (as amended by Regulation (EU) 2019/630) Part Three, Title IV, Chapter 5.

²³³ CRR (as amended by Regulation (EU) 2019/630) Articles 364–365.

²³⁴ *Id.*, Article 366.

²³⁵ *Id.*, Article 367.

²³⁶ *Id.*, Article 368.

²³⁷ *Id.*, Article 369.

²³⁸ *Id.*, Part Three, Title IV, Chapter 5, Section 3.

²³⁹ IFR Recital 21, Article 4(32), and Article 23.

²⁴⁰ *Id.*

²¹⁴ IFR Article 22.

²¹⁵ IFR Article 57 and CRR (as amended by Regulation (EU) 2019/630), Part Three, Title IV.

²¹⁶ IFR Articles 22 and 57. The standardized approach is set out in Chapters 2, 3 and 4 of Title IV of Part Three of CRR. The alternative standardized approach and the alternative internal model approach are set out in Chapter 1a and Chapter 1b, respectively, of Title IV of Part Three of CRR. The applicability of the alternative standardized approach and the alternative internal model approach, initially planned for June 26, 2026, was postponed to January 1, 2027. *See* European Commission's announcement of June 12, 2025, available here: https://finance.ec.europa.eu/news/commission-proposes-postpone-one-additional-year-market-risk-prudential-requirements-under-basel-iii-2025-06-12_en.

²¹⁷ CRR (as amended by Regulation (EU) 2019/630) Article 326. *See also id.*, Articles 334–340 (provisions related to debt instruments) and 341–343 (provisions related to equities).

²¹⁸ CRR (as amended by Regulation (EU) 2019/630) Article 326.

²¹⁹ CRR (as amended by Regulation (EU) 2019/630) Articles 328–330.

²²⁰ CRR (as amended by Regulation (EU) 2019/630) Article 329.

²²¹ CRR (as amended by Regulation (EU) 2019/630) Article 351.

²²² *Id.*

²²³ CRR (as amended by Regulation (EU) 2019/630) Article 360.

²²⁴ CRR (as amended by Regulation (EU) 2019/630) Articles 359–361.

²²⁵ CRR (as amended by Regulation (EU) 2019/630) Articles 363(1).

²²⁶ CRR (as amended by Regulation (EU) 2019/630) Articles 331(1), using sensitivity models.

²²⁷ CRR (as amended by Regulation (EU) 2019/630) Articles 363(3).

²²⁸ Compare CRR (as amended by Regulation (EU) 2019/630) Article 362–377, with Revisions to the Basel 2 Market Risk Framework.

²²⁹ The BCBS framework for measuring risk-weighted assets, and the controls around such measurements, are updated from time to time. These standards for measurement and controls are accepted and applied to financial risk modeling

three months. The K–CMG market risk charge is then set equal to the third highest cleared margin amount over such three-month period, multiplied by a factor of 1.3.²⁴¹

As noted in Section III.C.2 above, following the effective date of certain amendments to CRR, planned for January 1, 2027, the current market risk model approach will be replaced. Following the changes, the calculation methodologies for capital requirement for market risk will include an alternative standardized approach and an alternative model approach, in addition to the existing standardized approach discussed above. The alternative standardized approach uses a sensitivities-based method that includes a residual risk add-on and a default risk charge.²⁴² The method aggregates shocked factor losses across calibrated risk weights, buckets, and three correlation scenarios, and takes the most conservative result.²⁴³ The alternative models approach incorporates an aggregate modellable risk charge, an expected-shortfall component, a stressed expected shortfall charge for non-modellable risk factors, a default risk charge, and a P&L attribution add-on, but derives these charges from validated internal models subject to P&L attribution and back-testing and therefore depends on bank-specific model estimation subject to supervisory approval.²⁴⁴

With respect to credit risk, the trading counterparty default K-factor requirement, K–TCD, is designed to capture the risk of an EU IFR/IFD nonbank SD to the default of its trading counterparty with respect to certain transactions, including OTC derivative contracts.²⁴⁵ K–TCD takes into account the exposure value of the transaction, the risk factor that applies to the counterparty type, and the CVA.²⁴⁶ The exposure value is determined using replacement cost and potential future

exposure, and taking into consideration collateral held against the exposure.²⁴⁷ The counterparty risk factor is either 1.6 percent for central governments, central banks, public sector entities, credit institutions and investment firms, or 8 percent for other counterparties.²⁴⁸ The CVA, which is either 1 or 1.5 depending on the transaction, represents an adjustment to the mid-market valuation of the portfolio of transactions with a counterparty to reflect the current market value of the credit risk of the counterparty to the EU IFR/IFD nonbank SD.²⁴⁹ An EU IFR/IFD nonbank SD may also ask permission from the relevant competent authority to apply SA–CCR to calculate the capital requirements for credit risk.²⁵⁰

The EU IFR/IFD Capital Rules’ KFR also incorporates other risk categories, such as operational risk. In particular, the K-factor requirement for daily trading flow, K–DTF, is designed to capture the operational risks relating to the value of trading activity a firm conducts throughout each business day.²⁵¹ In addition, the capital charges for client money held (K–CMH) and safeguarded assets (K–ASA) seek to capture the operational, legal and other risks associated with holding margin provided by customers (where held as client assets).

Furthermore, the EU Investment Firms Capital Rules impose separate liquidity requirements on an EU IFR/IFD nonbank SD to address liquidity risk. Specifically, an EU IFR/IFD nonbank SD must meet the IFR’s “minimum liquidity requirement,” which requires that the EU IFR/IFD nonbank SD hold a minimum amount of high quality liquid assets based on the firm’s FOR.²⁵² The EU Investment Firms Capital Rules’ liquidity requirements are intended to help ensure that EU IFR/IFD nonbank SDs can fund the primary stages of a wind-down process, if wind-down becomes necessary. The aim of the “minimum liquidity requirement” is to ensure that investment firms can function in an orderly manner over time, without the need to set aside liquidity specifically for times of stress.²⁵³

In addition, an EU IFR/IFD nonbank SD is required to have in place sound,

effective and comprehensive arrangements, strategies and processes to assess and maintain, on an ongoing basis, the amounts, types and distribution of internal capital and liquid assets that they consider adequate to cover the nature and level of risks which they may pose to others and to which the investment firms themselves are or might be exposed.²⁵⁴ An EU IFR/IFD nonbank SD has to determine, through the internal capital adequacy and risk assessment (ICARA) process, any supplementary capital and liquid assets requirements, in addition to the minimum regulatory capital requirement and the liquid assets requirement, that may be necessary to manage risks that could result in a material harm.

3. Commission Analysis

The Commission has reviewed the EU IFR/IFD Application and the relevant EU laws and regulations and has determined that the EU Investment Firms Capital Rules are comparable in purpose and effect to the CFTC Capital Rules with regard to the establishment of the nonbank SD’s minimum capital requirement and the calculation of the nonbank SD’s amount of regulatory capital to meet that requirement.

Although there are differences between the EU Investment Firms Capital Rules and the CFTC Capital Rules, as discussed below, the Commission believes that the EU Investment Firms Capital Rules and the CFTC Capital Rules are aligned in their objectives to ensure the safety and soundness of a nonbank SD and, subject to the conditions discussed below, will achieve comparable outcomes by requiring the firm to maintain a minimum level of qualifying regulatory capital, including subordinated debt, to absorb losses from the firm’s business activities, including swap dealing activities, and decreases in the value of the firm’s assets and increases in the value of the firm’s liabilities, without the nonbank SD becoming insolvent. The Commission’s finding of comparability is based on a comparative analysis of the three minimum capital requirements thresholds of the CFTC Capital Rules’ Bank-Based Approach (*i.e.*, the three prongs recited in Section III.C.1. above) and the respective elements of the EU Investment Firms Capital Rules’ requirements, as discussed below.

²⁵⁴ IFD Article 24, French MFC Article L. 533–2–2 and Order of November 3, 2014, on the prudential supervision and risk assessment process for banking service providers and investment firms other than portfolio management companies.

²⁴¹ IFR Article 23.

²⁴² IFR Article 22(b) (cross-referencing CRR, Part Three, Title IV, Chapter 1a, Article 325c *et seq.*).

²⁴³ *Id.*

²⁴⁴ IFR Article 22(b) (cross-referencing CRR, Part III, Title IV, Chapter 1b).

²⁴⁵ However, derivative contracts directly or indirectly cleared through a CCP (provided various conditions are met), exchange-traded derivative contracts, and derivative contracts held for hedging a position of the firm resulting from an activity outside the trading book are excluded K–TCD calculation. Furthermore, transactions with central government and central banks, where the underlying exposures receive a 0 percent risk weight under Article 114 of CRR, multilateral development banks listed in Article 117(2) of CRR, and international organizations listed in Article 118 of CRR are not required to be included when calculating K–TCD. IFR Article 25.

²⁴⁶ IFR Article 26.

²⁴⁷ IFR Article 27.

²⁴⁸ IFR Article 26.

²⁴⁹ IFR Article 32.

²⁵⁰ IFR Article 25(4). SA–CCR is a non-model, rule-based approach to calculating counterparty credit risk established by the BCBS framework and available under both the CFTC Capital Rules and CRR.

²⁵¹ IFR Recitals 22 and 26.

²⁵² IFR Article 43.

²⁵³ IFR Recital 28.

a. Fixed Amount Minimum Capital Requirement

CFTC Capital Rules and the EU Investment Firms Capital Rules both require nonbank SDs to hold a fixed minimum amount of regulatory capital that is not directly activity-based and risk-based. Prong (i) of the CFTC Capital Rules requires each nonbank SD electing the Bank-Based Approach to maintain a minimum of \$20 million of common equity tier 1 capital. The CFTC's \$20 million fixed-dollar minimum capital requirement is intended to ensure that each nonbank SD maintains a level of regulatory capital, without regard to the level of the firm's dealing and other activities, sufficient to meet its obligations to swap market participants given the firm's status as a CFTC-registered nonbank SD and to help ensure the safety and soundness of the nonbank SD.²⁵⁵ The EU Investment Firms Capital Rules also contain a requirement that an EU IFR/IFD nonbank SD maintain a fixed amount of minimum initial capital of EUR 750,000.²⁵⁶

The Commission recognizes that the \$20 million fixed-dollar minimum capital required under the CFTC Capital Rules is substantially higher than the EUR 750,000 minimum base capital required under the EU IFR/IFD Capital Rules and the Commission believes that the \$20 million represents a more appropriate level of minimum capital to help ensure the safety and soundness of the nonbank SD that is engaging in uncleared swap transactions. Accordingly, the Commission is requiring each EU IFR/IFD nonbank SD to maintain, at all times, a minimum level of \$20 million regulatory capital in the form of common equity tier 1 items as defined in Article 26 of CRR.²⁵⁷ The

condition requires each EU IFR/IFD nonbank SD to maintain an amount of common equity tier 1 capital denominated in euro that is equivalent to the \$20 million in U.S. dollars.²⁵⁸ An EU IFR/IFD nonbank SD may convert the euro-denominated common equity tier 1 capital amount to the U.S. dollar equivalent based on a commercially reasonable and observable exchange rate.

b. Minimum Risk-Based Capital Requirements

Prong (ii) of the CFTC Capital Rules' Bank-Based Approach requires each nonbank SD to maintain an aggregate of common equity tier 1 capital, additional tier 1 capital, and tier 2 capital in an amount equal to or greater than 8 percent of the nonbank SD's total risk-weighted assets, with common equity tier 1 capital comprising at least 6.5 percent of the 8 percent.²⁵⁹ Risk-weighted assets are a nonbank SD's on-balance sheet and off-balance sheet market risk and credit risk exposures, including exposures associated with proprietary swap, security-based swap, equity, and futures positions, weighted according to risk. The requirements and capital ratios set forth in prong (ii) are based on the Federal Reserve Board's capital requirements for bank holding companies and are consistent with the BCBS international bank capital adequacy framework. The requirement for each nonbank SD to maintain regulatory capital in an amount that equals or exceeds 8 percent of the firm's total risk-weighted assets is intended to help ensure that the nonbank SD's level of capital is sufficient to absorb decreases in the value of the firm's assets and increases in the value of the firm's liabilities, and to cover unexpected losses resulting from the firm's business activities, including losses resulting from uncollateralized defaults from swap counterparties,

without the nonbank SD becoming insolvent.

The EU Investment Firms Capital Rules contain capital requirements for EU IFR/IFD nonbank SDs that the Commission believes are comparable to the requirements contained in prong (ii) of the CFTC Capital Rules. Although the aim of the IFR/IFD Framework is to establish capital requirements that are better aligned to the investment firms' risk profile and business activities than the BCBS-based bank capital requirements, the EU Investment Firms Capital Rules retain certain key elements of the BCBS framework, including as it relates to the quality of regulatory capital, the calculation of market risk, and the treatment of counterparty credit risk.

The EU Investment Firms Capital Rules are comparable to the Bank-Based Approach as they require firms to hold sufficient regulatory capital to meet capital requirements that take into consideration the risks of the firm's activities and positions. The CFTC Capital Rules require a nonbank SD to maintain qualifying equity capital and qualifying subordinated debt in an amount that equals or exceeds 8 percent of the nonbank SD's risk-weighted assets. The EU Investment Firms Capital Rules impose a comparable approach, requiring an EU IFR/IFD nonbank SD to maintain qualifying equity capital and qualifying subordinated debt in an amount that equals or exceeds the highest of the firm's PMR, FOR, or KFR. The KFR, which establishes the controlling minimum capital requirement for Goldman Sachs Paris, and is anticipated to be the controlling requirement for potential future EU IFR/IFD nonbank SDs that engage in swap dealing activities, is a mixture of an activity-based and exposure-based capital requirement that incorporates market and credit risk, among other risk categories.

The calculation of market risk charges is comparable under the EU Investment Firms Capital Rules and the CFTC Capital Rules. Both regimes require a nonbank SD to use standardized approaches to compute market risk, unless the firms are approved to use internal models. The standardized approaches follow the same structure that is now the common global standard: allocating assets to categories according to risk and assigning each a risk weight; calculating gross exposures based on valuation of assets; calculating a net exposure allowing offsets following well defined procedures and subject to clear limitations; and adjusting the net exposure by the market risk weights. The standardized risk

²⁵⁵ 85 FR 57462 at 57492.

²⁵⁶ IFR Article 14 and IFD Article 9.

²⁵⁷ Condition 8 of the Comparability Order. The Commission notes that the requirement that EU IFR/IFD nonbank SDs maintain a minimum level of the equivalent of \$20 million of common equity tier 1 capital is consistent with the conditions set forth in the comparability orders for Japan, Mexico, the EU (for nonbank SDs domiciled in France or Germany and subject to the capital requirements established under CRR and CRD), and the UK (for PRA-designated UK nonbank SDs). See *Order Granting Conditional Substituted Compliance in Connection With Certain Capital and Financial Reporting Requirements Applicable to Nonbank Swap Dealers Subject to Regulation by the Financial Services Agency of Japan*, 89 FR 58470 (July 18, 2024); *Order Granting Conditional Substituted Compliance in Connection With Certain Capital and Financial Reporting Requirements Applicable to Nonbank Swap Dealer Subject to Regulation by the Mexican Comisión Nacional Bancaria y de Valores and Banco de México*, 89 FR 58505 (July 18, 2024); *Order Granting Conditional Substituted Compliance in Connection With Certain Capital and Financial Reporting Requirements*

Applicable to Nonbank Swap Dealers Domiciled in the French Republic and Federal Republic of Germany and Subject to Regulation in the European Union, 89 FR 58572 (July 18, 2024); and *Order Granting Conditional Substituted Compliance in Connection With Certain Capital and Financial Reporting Requirements Applicable to Nonbank Swap Dealers Subject to Regulation by the United Kingdom Prudential Regulation Authority*, 89 FR 58535 (July 18, 2024).

²⁵⁸ Goldman Sachs Paris, the only EU IFR/IFD nonbank SD currently registered with the Commission, maintains common equity tier 1 capital in euros in excess of the equivalent of \$20 million based on financial filings made with the Commission. Therefore, the Commission does not anticipate that the condition would have any material impact on an EU IFR/IFD nonbank SD registered with the Commission.

²⁵⁹ 17 CFR 23.101(a)(1)(B).

weights contained in the EU Investment Firms Capital Rules and the CFTC Capital Rules result in comparable risk charges for comparable exposures. Both sets of rules require a nonbank SD to effectively maintain qualifying capital equal to or in excess of 100 percent of its market risk-weighted assets. The CFTC Capital Rules achieve this result by requiring the nonbank SD to multiply its market risk-weighted assets by a factor of 12.5.²⁶⁰ The EU Investment Firms Capital Rules achieve the same result by adding K–NPR directly to the KFR requirement.

Market risk models under the CFTC Capital Rules and the EU Investment Firms Capital Rules are based on the BCBS framework and contain comparable quantitative and qualitative requirements, which produce comparable market charges for comparable exposures. In that regard, both the CFTC Capital Rules and the EU Investment Firms Capital Rules aim to ensure that a nonbank SD holds sufficient capital to cover potential losses due to adverse market movements, particularly under stressed market conditions. The CFTC Capital Rules and the EU Investment Firms Capital Rules' requirement for net positions risk (K–NPR), consistent with the Basel 2.5 framework, both employ a Value-at-Risk (VaR) methodology with the following features: one-tailed 99 percent confidence level, 10-business-day price change horizon, historical observation period of at least one year, and monthly data updates (at minimum), as well as a stress VaR methodology which requires using data from a historical stress period. The requirements are designed to capture the tail risks of a firm's trading book during an extreme but plausible stress event.

The Commission believes that the CFTC Capital Rules and the EU Investment Firms Capital Rules are comparable in purpose and effect because they contain the same core elements: methodologies to distinguish and measure business activities, classification and measurement of risks arising from those activities, assignment

of the appropriate corresponding capital requirement, and policies and procedures for risk management (including setting and reviewing risk tolerances and mitigation of breaches). Each framework places governance at the center of effective risk management.

As noted in Section III.C.2 above, following the effective date of certain amendments to CRR, planned for January 1, 2027, the current market risk model approach will be replaced. Following the changes, the calculation methodologies for capital requirement for market risk will include an alternative standardized approach and an alternative model approach, in addition to the existing standardized approach.²⁶¹ The general approach of basing the minimum capital requirement on risk-weighted assets, however, will be maintained.

The new approaches—the alternative standardized approach and the alternative internal models approach—share the same regulatory purpose and produce broadly comparable effects for trading-book capital. The alternative standardized approach uses a sensitivities-based method that includes a residual risk add-on and a default risk charge.²⁶² The method aggregates shocked factor losses across calibrated risk weights, buckets, and three correlation scenarios, and takes the most conservative result.²⁶³ The alternative models approach incorporates an aggregate modellable risk charge, a stressed expected-shortfall component (including a charge for non-modellable risk factors), a default risk charge, and a P&L attribution add-on, but derives these charges from validated internal P&L models subject to P&L attribution and back-testing and therefore depends on bank-specific model estimation subject to supervisory approval.²⁶⁴ Despite differences in methodology, complexity, and data requirements, both new approaches target the same core risk drivers—market sensitivities, residual/non-modellable exposures, and default risk—and seek to deliver comparable levels of protection against trading-book losses.

The EU Investment Firms Capital Rules and the CFTC Capital Rules also contain comparable requirements for the

management of model risk, which depend on a series of controls, including the independence of validation, ongoing monitoring, and audit. The ongoing monitoring includes frequent tests, such as stress testing, back-testing, and benchmarking.

Notwithstanding the expected replacement of the current internal models approach with new approaches to calculating market risk under the EU Investment Firms Capital Rules, both the CFTC Capital Rules and the EU Investment Firms Capital Rules will continue to incorporate approaches to risk-weighted assets that rely on statistical processes to measure market price risk, account for default risk and non-modellable risk factors, and empower the relevant regulatory authority to ensure any remaining material risks are captured. Although statistical techniques will evolve, both regulatory regimes will continue to require rigorous model development, validation, and ongoing monitoring, thereby reducing differences in outcomes. For these reasons, the Commission believes that the EU Investment Firms Capital Rules' approach to calculating capital requirements for market risk, as administered by the relevant regulatory authority, will remain aligned with the CFTC Capital Rules as it regards the calculation of capital requirements for market risk. The Commission does not expect that the forthcoming changes designed to implement the Basel III standards in the EU Investment Firms Capital Rules will impact the Commission's conclusion. Given the coordination mechanisms established by the BCBS, the Commission expects that the CFTC Capital Rules and the EU Investment Firms Capital Rules will continue to incorporate consistent, similarly calibrated, approaches to market risk.²⁶⁵

Separately, the EU Investment Firms Capital Rules' K-factor approach offers an alternative method for computing market risk capital requirements for certain approved positions that are subject to clearing, based on cleared margin requirements (K–CMG).²⁶⁶ To

²⁶⁰ For example, the market risk exposure amount for marketable equity securities with a current fair market value of \$250,000 is \$37,500 (market value of \$250,000 × .15 standardized market risk factor). The nonbank SD is required to maintain regulatory capital equal to or in excess of full market risk exposure amount of \$37,500 (risk exposure amount of \$37,500 × 8 percent regulatory capital requirement equals \$3,000; the regulatory capital requirement is then multiplied by a factor of 12.5, which effectively requires the nonbank SD to hold regulatory capital in an amount equal to at least 100 percent of the market risk exposure amount (\$3,000 × 12.5 factor equals \$37,500)).

²⁶¹ IFR Article 22. The addition of the alternative standardized approach and an alternative model approach is consistent with revisions to the BCBS framework and is part of the finalization of the Basel III reforms. The implementation of the Basel III standards is in progress and remains subject to changes both in the EU and the U.S.

²⁶² IFR Article 22(b) (cross-referencing CRR, Part III, Title IV, Chapter 1a).

²⁶³ *Id.*

²⁶⁴ IFR Article 22(c) (cross-referencing CRR, Part III, Title IV, Chapter 1b).

²⁶⁵ The Commission's conclusion applies also to the Commission's Comparability Determination regarding larger nonbank SDs domiciled in the EU that are subject to the capital requirements established by the CRR/CRD framework. See *Order Granting Conditional Substituted Compliance in Connection With Certain Capital and Financial Reporting Requirements Applicable to Nonbank Swap Dealers Domiciled in the French Republic and Federal Republic of Germany and Subject to Regulation in the European Union*, 89 FR 58572 (July 18, 2024).

²⁶⁶ Subject to conditions, the relevant regulatory authority may permit specific types of firms that

compute K-CMG, an EU IFR/IFD nonbank SD must select the third-highest daily amount of margin required by the clearing member of a qualified CCP over the preceding three months and apply a 1.3x multiplier. The margin requirements resulting from the clearing member model must be sufficient to cover losses that may result from at least 99 percent of the exposures movements over an appropriate time horizon with at least a two-business day holding period. The Commission notes that no EU IFR/IFD nonbank SD currently registered with the Commission has elected to use K-CMG.²⁶⁷

Both the EU Investment Firms Capital Rules and the CFTC Capital Rules also provide for the calculation of counterparty credit risk charges for derivatives positions. Counterparty credit risk captures a nonbank SD's exposure to the risk of default by trading counterparties, particularly when the value of the firm's derivative portfolio is increasing. Both the CFTC Capital Rules' approach to calculating counterparty credit risk and the EU Investment Firms Capital Rules' trading counterparty default K-factor (K-TCD) are based on the Standardized Approach to Counterparty Credit Risk (SA-CCR),²⁶⁸ as developed under the BCBS framework. Both approaches use a formula that considers the transaction's exposure value calculated as the sum of the replacement cost and the potential future exposure, a risk factor/weight based on the type of counterparty, and an adjustment for collateral. Both the CFTC Capital Rules and the EU Investment Firms Capital Rules also include a CVA component where applicable.

use the services of clearing members to calculate capital requirements for market risk using K-CMG. IFR Recital 21 and Article 23. Among other conditions, to obtain regulatory approval to use K-CMG, an EU IFR/IFD nonbank SD must demonstrate that the choice of calculating market risk requirements with K-CMG is justified by the nature of the main activities of the firm, which would generally be trading activities subject to clearing and margining under the responsibility of a clearing member of a CCP. IFR Article 23(1)(d).

²⁶⁷ If an EU IFR/IFD nonbank SD obtains approval from the relevant regulatory authority and elects to use K-CMG, the Commission would assess the impact of such change with respect to the firm's reliance on the Comparability Order, taking into consideration the nature of the firm's activities. The Commission considers that a firm's election to use K-CMG is a material change to the information submitted in connection with the EU IFR/IFD Application that would necessitate a notice to the Commission under Condition 24 of this Comparability Order.

²⁶⁸ As reflected in the calculation formula for K-TCD, the capital requirements for K-TCD are determined using a simplified application of the requirements for counterparty credit risk under CRR. IFR Article 26. See also IFR Proposal at 13.

Thus, K-TCD effectively mirrors the CFTC Capital Rules' treatment of counterparty risk, yielding comparable capital requirements for similarly situated exposures. Both the CFTC Capital Rules and EU Investment Firms Capital Rules leverage the standardized approach to counterparty credit risk (*i.e.*, SA-CCR) endorsed by BCBS, ensuring consistent and risk-sensitive outcomes. In addition, an EU IFR/IFD nonbank SD may also request permission from the relevant competent authority to actually apply SA-CCR, instead of the SA-CCR-based K-TCD, to calculate the capital requirements for credit risk.²⁶⁹

c. Minimum Capital Requirement Based on the Uncleared Swap Margin Amount

The EU Investment Firms Capital Rules differ from the CFTC Capital Rules in the approach that a nonbank SD must take to address risks other than market risk and credit risk. Specifically, as noted above, the CFTC Capital Rules require a nonbank SD to maintain regulatory capital that meets the following: (i) \$20 million of common equity tier 1 capital; (ii) 8 percent of its risk-weighted assets; (iii) 8 percent of its uncleared swap margin amount; and (iv) the amount of capital required by the NFA.

The Commission noted that the uncleared swap margin amount is intended to cover potential operational risk, legal risk, and liquidity risk of a nonbank SD in addition to the risks of its trading portfolio. The EU Investment Firms Capital Rules also require an EU IFR/IFD nonbank SDs to take into consideration operational and other risks in the calculation of capital requirements, but such charges are added as part of the EU IFR/IFD nonbank SD's risk exposure calculation under KFR and not a separate minimum requirement expressly tied to the uncleared swap margin amount as is the approach adopted by the Commission. Specifically, in addition to market risk (K-NPR) and credit risk (K-TCD), an EU IFR/IFD nonbank SD's KFR incorporates operational risk (in particular, K-DTF as well as K-CMH and K-ASA) and other risks based on the degree of activity associated with each K-factor engaged in by the firm. As such, unlike under the CFTC Capital Rules, where the uncleared swap margin amount determines a nonbank SD's minimum capital requirement only if it is the greatest of the four prongs, factoring operational risk under the EU Investment Firms Capital Rules results in an increase of an EU IFR/IFD

nonbank SD's overall capital requirement in all circumstances.

While the CFTC Capital Rules incorporate operational risk into one component of its minimum capital requirement, the EU Investment Firms Capital Rules incorporate operational risk as an additional calculation factoring into its minimum capital requirement. Each regulatory framework, however, imposes operational risk-related capital requirements.

d. Finding of Comparability

The Commission has determined, subject to the condition below, that the EU Investment Firms Capital Rules and the CFTC Capital Rules are comparable in purpose and effect. In this regard, the EU Investment Firms Capital Rules and the CFTC Capital Rules are both designed to require a nonbank SD to maintain sufficient qualifying regulatory capital and subordinated debt to absorb losses resulting from the firm's business activities, and decreases in the value of firm assets.

As noted above, both the CFTC Capital Rules and EU Investment Firms Capital Rules require nonbank SDs to maintain a minimum level of regulatory capital based on market risk, credit risk, and liquidity requirements of their respective business activities to be able to absorb decreases in the value of firm assets, increases in firm liabilities, and business losses, including losses due to counterparty defaults without the firm becoming insolvent. The composition of regulatory capital is also consistent under the CFTC Capital Rules and the EU Investment Firms Capital Rule, with a focus on common equity tier 1, additional tier 1, and defined tier 2 instruments that are unrestricted and permanent forms of capital and have no preference to other creditors in the event of the insolvency of the firm.

In setting the minimum capital requirement, the CFTC Capital Rules and EU Investment Firms Capital Rules both address risks that nonbank SDs face in their business activities. The CFTC Capital Rules include a market risk exposure requirement and a credit risk exposure requirement in the minimum capital requirement based on the nonbank SD's risk-weighted assets and separately address operational, legal, and liquidity risk by imposing a minimum capital requirement based on the firm's uncleared swap margin amount. The EU Investment Firms Capital Rules address the same risks through the K-factor requirements. The K-factor requirements also address additional risks that are specific to the business model of investment firms.

²⁶⁹ IFR Article 25(4).

More generally, the K-factor requirements were designed with the goal of providing a more effective prudential and supervisory framework, calibrated to the size and nature of investment firms, than the previously applicable CRR/CRD framework which is largely geared towards banks.²⁷⁰ As the European Commission noted, unlike banks, investment firms do not accept deposits or make loans and are, therefore, less exposed to credit risk and the risk of depositors withdrawing their money on short notice.²⁷¹ Instead, investment firm services primarily focus on financial instruments that fluctuate according to market movements.²⁷² To address this distinction, the European Commission proposed the K-factor requirements, asserting that they represent a more appropriate and risk-sensitive approach, better targeting the risk that investment firms actually pose and incur across different types of business models.²⁷³

In conducting its Comparability Determination, the Commission has focused on the market risk and counterparty credit risk components of the capital requirements calculation, which form the core of the Commission's capital requirements. The Commission considers that the CFTC Capital Rules and the EU Investment Firms Capital Rules both include methodologies for addressing these calculation components that are comparable in purpose and effect. In addition, the Commission has considered the separate K-factor requirement addressing operational risk and the separate liquidity requirement under the EU Investment Firms Capital Rules, and has concluded that subject to the conditions in the Comparability Order, the CFTC Capital Rules and EU Investment Firms Capital Rules are comparable in purpose and effect.

D. Nonbank Swap Dealer Financial Reporting Requirements

1. CFTC Financial Recordkeeping and Reporting Rules for Nonbank Swap Dealers

The CFTC Financial Reporting Rules impose financial recordkeeping and reporting requirements on nonbank SDs. The CFTC Financial Reporting Rules require each nonbank SD to prepare and

keep current ledgers or similar records summarizing each transaction affecting the nonbank SD's asset, liability, income, expense, and capital accounts.²⁷⁴ The nonbank SD's ledgers and similar records must be prepared in accordance with generally accepted accounting principles as adopted in the United States ("U.S. GAAP"), except that if the nonbank SD is not otherwise required to prepare financial statements in accordance with U.S. GAAP, the nonbank SD may prepare and maintain its accounting records in accordance with International Financial Reporting Standards ("IFRS") issued by the International Accounting Standards Board.²⁷⁵

The CFTC Financial Reporting Rules also require each nonbank SD to prepare and file with the Commission and with NFA periodic unaudited and annual audited financial statements.²⁷⁶ A nonbank SD that elects the TNW Approach is required to file unaudited financial statements within 17 business days of the close of each quarter, and its annual audited financial statements within 90 days of the end of its fiscal year.²⁷⁷ A nonbank SD that elects either the NLA Approach or the Bank-Based Approach is required to file unaudited financial statements within 17 business days of the end of each month, and to file its annual audited financial statements within 60 days of the end of its fiscal year.²⁷⁸

The CFTC Financial Reporting Rules provide that a nonbank SD's unaudited financial statements must include: (i) a statement of financial condition; (ii) a statement of income/loss; (iii) a statement of changes in liabilities subordinated to claims of general creditors; (iv) a statement of changes in ownership equity; (v) a statement demonstrating compliance with and calculation of the applicable regulatory capital requirement; and (vi) such further material information necessary to make the required statements not misleading.²⁷⁹ The annual audited financial statements must include: (i) a statement of financial condition; (ii) a statement of income/loss; (iii) a statement of cash flows; (iv) a statement of changes in liabilities subordinated to claims of general creditors; (v) a statement of changes in ownership equity; (vi) a statement demonstrating compliance with and calculation of the applicable regulatory capital

requirement; (vii) appropriate footnote disclosures; and (viii) a reconciliation of any material differences from the unaudited financial report prepared as of the nonbank SD's year-end date and the annual audited financial statements.²⁸⁰

A nonbank SD that has obtained approval from the Commission or NFA to use internal capital models also must submit certain model metrics, such as aggregate VaR and counterparty credit risk information, each month to the Commission and NFA.²⁸¹ A nonbank SD also is required to provide the Commission and NFA with a detailed list of financial positions reported at fair market value as part of its monthly unaudited financial statements.²⁸² Each nonbank SD is also required to provide information to the Commission and NFA regarding its counterparty credit concentration for the 15 largest exposures in derivatives, a summary of its derivatives exposures by internal credit ratings, and the geographical distribution of derivatives exposures for the 10 largest countries.²⁸³

The CFTC Financial Reporting Rules also require a nonbank SD to attach to each unaudited and audited financial report an oath or affirmation that to the best knowledge and belief of the individual making the affirmation that the information contained in the financial report is true and correct.²⁸⁴ The individual making the oath or affirmation must be a duly authorized officer if the nonbank SD is a corporation, or one of the persons specified in the regulation for business organizations that are not corporations.²⁸⁵

The CFTC Financial Reporting Rules further require a nonbank SD to make certain financial information publicly available by posting the information on its public website.²⁸⁶ Specifically, a nonbank SD must post on its website a statement of financial condition and a statement detailing the amount of the nonbank SD's regulatory capital and the minimum required regulatory capital requirement based on its audited financial statements and based on its unaudited financial statements that are as of a date that is six months after the nonbank SD's audited financial statement. Such public disclosure is

²⁷⁰ IFR Proposal at 1–2.

²⁷¹ *Id.*, at 2.

²⁷² *Id.*

²⁷³ IFR Proposal at 3–4 (stating, among other arguments, that of the eight investment services that investment firms are authorized to perform under MiFID 2, only two—dealing on own account and underwriting or placing instruments on a firm commitment basis—have clear corresponding requirements under CRR).

²⁷⁴ 17 CFR 23.105(b).

²⁷⁵ *Id.*

²⁷⁶ 17 CFR 23.105(d) and (e).

²⁷⁷ 17 CFR 23.105(d)(1) and (e)(1).

²⁷⁸ *Id.*

²⁷⁹ 17 CFR 23.105(d)(2).

²⁸⁰ 17 CFR 23.105(e)(4).

²⁸¹ 17 CFR 23.105(k) and (l) and appendix B to subpart E of part 23.

²⁸² 17 CFR 23.105(l) and appendix B to subpart E of part 23.

²⁸³ 17 CFR 23.105(l) in Schedules 2, 3, and 4, respectively.

²⁸⁴ 17 CFR 23.105(f).

²⁸⁵ *Id.*

²⁸⁶ 17 CFR 23.105(i).

required to be made within 10 business days of the filing of the audited financial statements with the Commission, and within 30 calendar days of the filing of the unaudited statements with the Commission.²⁸⁷ A nonbank SD also must obtain written approval from NFA to change the date of its fiscal year-end for financial reporting.²⁸⁸

The CFTC Financial Reporting Rules also require each nonbank SD to provide the Commission and NFA with information regarding the custodianship of margin for uncleared swap transactions (“Margin Report”).²⁸⁹ The Margin Report must contain: (i) the name and address of each custodian holding initial margin or variation margin that is required for uncleared swaps subject to the CFTC margin rules (“uncleared margin rules”), on behalf of the nonbank SD or its swap counterparties; (ii) the amount of initial and variation margin required by the uncleared margin rules held by each custodian on behalf of the nonbank SD and on behalf its swap counterparties; and (iii) the aggregate amount of initial margin that the nonbank SD is required to collect from, or post with, swap counterparties for uncleared swap transactions subject to the uncleared margin rules.²⁹⁰ The Commission requires this information to monitor the use of custodians by nonbank SDs and their swap counterparties. Such information assists the Commission in monitoring the safety and soundness of a nonbank SD by verifying whether the firm is current with its swap counterparties with respect to the posting and collecting of margin required by the uncleared margin rules. By requiring the nonbank SD to report the required amount of margin to be posted and collected, and the amount of margin that is actually posted and collected, the Commission could identify potential issues with the margin practices and compliance by nonbank SDs that may hinder the ability of the firm to meet its obligations to market participants. The Margin Report also allows the Commission to identify custodians used by nonbank SDs and their counterparties, which may permit the Commission to assess potential market issues, including a concentration of custodial services by a limited number of banks.

2. EU IFR/IFD Nonbank Swap Dealer Financial Reporting Requirements

The EU Investment Firms Reporting Rules impose financial reporting requirements on an EU IFR/IFD nonbank SD that are designed to provide the relevant regulatory authority with a comprehensive view of the financial information and capital position of the firm. Specifically, the EU Investment Firms Reporting Rules require an EU IFR/IFD nonbank SD to report, on a quarterly basis, information regarding the firm’s capital and financial condition, including information on the firm’s level and composition of capital, capital requirements, and capital ratios; concentration risk; and liquidity requirements.²⁹¹ An EU IFR/IFD nonbank SD must follow the templates and instructions provided in the Reporting ITS under IFR.²⁹² An EU IFR/IFD nonbank SD is also required to provide balance sheet and income statement data, including calculations related to FOR and K-factor requirements.²⁹³

The regulatory authority overseeing an EU IFR/IFD nonbank SD organized and domiciled in France, the ACPR, further requires an EU IFR/IFD nonbank SD to submit certain reporting schedules, including a balance sheet and an income statement, as part of the unified reporting for banks and assimilated entities, referred to in France as “RUBA.”²⁹⁴

In addition, the Applicant represented that the ACPR expects EU IFR/IFD nonbank SDs, such as Goldman Sachs Paris, to be able to produce additional details on how they have calculated the information they have provided upon request.²⁹⁵

Furthermore, with the exception of certain “small” entities, EU IFR/IFD nonbank SDs are required to prepare annual audited financial statements and a management report (together, “annual audited financial report”) pursuant to the Accounting Directive.²⁹⁶ The audit

of the financial statements and management report is required to be performed by one or more statutory auditors or auditors approved by EU Member States to conduct audits of EU IFR/IFD nonbank SDs.²⁹⁷ The annual audited financial report, together with the opinion and statements of the auditor, must be published.²⁹⁸ The annual audited financial statements must comprise, at a minimum, a balance sheet, a profit and loss statement, and notes to the financial statements.²⁹⁹ The auditor’s audit report must include: (i) a specification of the financial statements subject to the audit and the financial reporting framework that was applied in their preparation; (ii) a description of the scope of the audit, which must specify the auditing standards used to conduct the audit; (iii) an audit opinion stating whether the financial statements give a true and fair view in accordance with the relevant financial reporting framework; and (iv) a reference to any matters emphasized by the auditor without qualifying the audit opinion.³⁰⁰ The management report is required to include a review of the development and performance of the EU IFR/IFD nonbank SD’s business and of its position, with a description of the principal risks and uncertainties that the firm faces.³⁰¹ The auditors are required to express an opinion on whether the management report is consistent with the financial statements for the same financial year, and whether the management report has been prepared in accordance with applicable legal requirements.³⁰² The opinion also must state whether the auditor has identified material misstatements in the management report and, if so, describe the misstatement.³⁰³

Finally, EU IFR/IFD nonbank SDs are required to implement an internal capital adequacy and risk assessment process (ICARA process), which includes sound, effective, and comprehensive arrangements, strategies, and process, to assess and maintain on an ongoing basis the amounts, types,

EUR 4 million; (2) the firm’s net turnover does not exceed more than EUR 8 million; or (3) the firm did not employ more than 50 employees during the financial year. Article 3(2) and Article 34 of the Accounting Directive. Goldman Sachs Paris, the only EU IFR/IFD nonbank SD currently registered with the Commission, does not meet the criteria to be classified as a “small” entity and, therefore, is required to prepare audited annual financial reports.

²⁹⁷ Accounting Directive, Article 34(1).

²⁹⁸ *Id.*, Article 30.

²⁹⁹ *Id.*, Article 4(1).

³⁰⁰ *Id.*, Article 35.

³⁰¹ *Id.*, Article 19.

³⁰² *Id.*

³⁰³ *Id.*

²⁹¹ IFR Article 54; Reporting ITS Article 5 and Annex I.

²⁹² *Id.*

²⁹³ *Id.*

²⁹⁴ ACPR Instruction No. 2024–I–17 Related to the Implementation of Unified Reporting for Banks and Assimilated Entities, available here: <https://acpr.banque-france.fr/fr/publications-et-statistiques/publications/instruction-ndeg-2024-i-17-relative-la-mise-en-place-du-reporting-unifie-des-banques-et-assimiles>.

²⁹⁵ EU IFR/IFD Application at 19.

²⁹⁶ Accounting Directive, Articles 4, 19 and 34; French MFC, Articles L.511–35, L.511–37, and L.511–38. The Accounting Directive provides that the audit requirement is not applicable to “small” entities defined as firms meeting the following criteria: (1) the firm’s balance sheet is not more than

²⁸⁷ *Id.*

²⁸⁸ 17 CFR 23.105(g).

²⁸⁹ 17 CFR 23.105(m).

²⁹⁰ *Id.*

and distribution of internal capital and liquid assets that the firms consider adequate to cover the nature and level of risks which firms may pose to others and to which the firms themselves are or may be exposed.³⁰⁴ The ACPR reviews and assesses the adequacy of the firm's ICARA process as part of its oversight.³⁰⁵

3. Commission Analysis

The Commission has reviewed the EU IFR/IFD Application and the relevant EU laws and regulations, and has determined that, subject to the conditions described below, the financial reporting requirements of the EU Investment Firms Financial Reporting Rules are comparable to CFTC Financial Reporting Rules in purpose and effect as they are intended to provide the relevant EU regulatory authorities, the Commission, and NFA with financial information to monitor a nonbank SD's compliance with capital requirements, and to assess a nonbank SD's overall safety and soundness.

The EU Investment Firms Financial Reporting Rules require EU IFR/IFD nonbank SDs to prepare and submit to the relevant regulatory authority on a quarterly basis unaudited financial information that includes a statement of financial condition and a statement of regulatory capital.³⁰⁶ EU IFR/IFD nonbank SDs are also required to provide additional financial information, including: (i) revenue breakdown by activity and the applicable K-factor; (ii) concentration risk; and (iii) liquidity requirements.³⁰⁷ EU IFR/IFD nonbank SDs domiciled in France also submit balance sheet and income statement data to the ACPR pursuant to the RUBA requirements.³⁰⁸

The EU Investment Firms Financial Reporting Rules further require an EU IFR/IFD nonbank SD to prepare and publish an annual audited financial report. The annual audited financial report is required to include a statement of financial condition and a statement of profit and loss, and must also include relevant notes to the financial statements.³⁰⁹

The Commission finds that the EU Investment Firms Financial Reporting Rules impose reporting requirements that are comparable with respect to overall form and content to the CFTC Financial Reporting Rules. In this regard, both the CFTC Financial Reporting Rules and the EU Investment Firms Financial Reporting Rules require a nonbank SD to file statements of financial condition, statements of profit and loss, and statements of regulatory capital that, collectively, provide information for the relevant home country authority, the Commission, and NFA to assess a nonbank SD's overall ability to absorb decreases in the value of firm assets, absorb increases in the value of firm liabilities, and cover losses from business activities, including swap dealing activities. Accordingly, the Commission has determined that an EU IFR/IFD nonbank SD may comply with the financial reporting requirements contained in Commission Regulation 23.105 by complying with the corresponding EU Investment Firms Financial Reporting Rule and applicable regulatory authority requirements, subject to the conditions set forth below.³¹⁰

An EU IFR/IFD nonbank SD must provide the Commission and NFA with copies of the relevant templates of Annex I of the Reporting ITS and RUBA that correspond to the EU IFR/IFD nonbank SD's statement of financial condition, statement of income/loss, and statement of regulatory capital, total risk exposure, and capital ratios. These templates consist of Templates I1, I2.1, I2.2, I3 and I4 of Annex I of the Reporting ITS and Templates 55 and 56 of the RUBA reporting. In addition, the Commission is requiring, as a condition to the Comparability Order, that EU IFR/IFD nonbank SDs provide additional details regarding the calculation of the K-factor requirements (*i.e.*, Templates I6.1 to I6.13, as applicable to the firm, of Annex I of the Reporting ITS) and information regarding concentration risk and liquidity requirements (*i.e.*, Templates I7, I8.1 to I8.6, and I9 of Annex I of the Reporting ITS, as applicable).³¹¹

As noted in Section D.2. of this Comparability Determination, EU Investment Firms Financial Reporting Rules require EU IFR/IFD nonbank SDs to submit the unaudited financial reporting templates to the relevant regulatory authority on a quarterly basis.

The CFTC Financial Reporting Rules contain a more frequent reporting requirement by requiring nonbank SDs that elect the Bank-Based Approach to file unaudited financial information with the Commission and NFA, on a monthly basis.³¹² The financial statement reporting requirements are an integral part of the Commission's and NFA's oversight programs to effectively and timely monitor nonbank SDs' compliance with capital and other financial requirements, and for Commission and NFA staff to assess the overall financial condition and business operations of nonbank SDs. The Commission has extensive experience with monitoring the financial condition of registrants through the receipt of financial statements, including FCMs and, more recently, nonbank SDs. Both FCMs and nonbank SDs that elect the Bank-Based Approach or NLA Approach file financial statements with the Commission and NFA on a monthly basis. The Commission believes that receiving financial information from EU IFR/IFD nonbank SDs on a quarterly basis is not comparable with the CFTC Financial Reporting Rules and would impede the Commission's and NFA's ability to effectively and timely monitor the financial condition of EU IFR/IFD nonbank SDs for the purposes of assessing their safety and soundness, as well as their ability to meet obligations to creditors and counterparties without becoming insolvent. Therefore, the Commission is requiring EU IFR/IFD nonbank SDs to file the applicable templates of the Reporting ITS and the RUBA reporting with the Commission and NFA on a monthly basis.³¹³ The EU IFR/IFD nonbank SD must file the above-listed templates with the Commission and NFA within 35 calendar days of the end of each month.³¹⁴

³¹² 17 CFR 23.105(d).

³¹³ Condition 11 of the Comparability Order.

³¹⁴ Condition 11 of the Comparability Order. The condition for EU IFR/IFD nonbank SDs to file monthly unaudited financial information with the Commission and NFA is consistent with the conditions in the comparability orders for Japan, Mexico, the EU (for nonbank SDs domiciled in France or Germany and subject to the capital requirements established under CRR and CRD), and the UK (for PRA-designated UK nonbank SDs). See *Order Granting Conditional Substituted Compliance in Connection With Certain Capital and Financial Reporting Requirements Applicable to Nonbank Swap Dealers Subject to Regulation by the Financial Services Agency of Japan*, 89 FR 58470 (July 18, 2024); *Order Granting Conditional Substituted Compliance in Connection With Certain Capital and Financial Reporting Requirements Applicable to Nonbank Swap Dealer Subject to Regulation by the Mexican Comision Nacional Bancaria y de Valores and Banco de Mexico*, 89 FR 58505 (July 18, 2024); *Order Granting Conditional Substituted Compliance in Connection With Certain*

³⁰⁴ French MFC, Article L.533–2–2 and *Final Report, Joint EBA and ESMA Guidelines on common procedures and methodologies for the supervisory review and evaluation process (SREP) under Directive (EU) 2019/2034*, July 20, 2022 ("Joint EBA and ESMA Guidelines on SREP"), paragraphs 121–132.

³⁰⁵ French MFC, Article L. 533–3–3.

³⁰⁶ IFR Article 54 and Reporting ITS Article 5 and Annex I.

³⁰⁷ *Id.*

³⁰⁸ RUBA Templates 55 and 56.

³⁰⁹ Accounting Directive Articles 4, 19, and 34; French MFC Articles L. 511–35 and L.511–38.

³¹⁰ An EU IFR/IFD nonbank SD that qualifies and elects to seek substituted compliance with the EU Investment Firms Capital Rules must also seek substituted compliance with the EU Investment Firms Financial Reporting Rules.

³¹¹ Condition 11 of the Comparability Order.

The Commission is further requiring that EU IFR/IFD nonbank SDs that are registered with the SEC as SBSBs and required to file a monthly Form X-17A-5 ("FOCUS Report") with the SEC or its designee, file a copy of the FOCUS Report with the Commission and NFA, within 35 calendar days after the end of each month.³¹⁵ Currently, no EU IFR/IFD nonbank SD is registered as an SBSB. The Commission, however, is including the condition in anticipation of potential dual registrants. Under the condition, an EU IFR/IFD nonbank SD that files a copy of the FOCUS Report would not be required to file the financial templates of the Reporting ITS or the RUBA reporting. The condition is consistent with Commission Regulation 23.105(d)(3), which mandates the filing of a FOCUS Report by dual registrants.³¹⁶

In addition, an EU IFR/IFD nonbank SD must submit to the Commission and NFA copies of the EU IFR/IFD nonbank SD's annual audited financial report that is required to be prepared pursuant to provisions implementing the Accounting Directive.³¹⁷ The EU IFR/IFD nonbank SD is required to file the annual audited financial report with the Commission and NFA on the earliest of the date the report is filed with the relevant regulatory authority, the date the report is published, or the date the report is required to be filed with the relevant regulatory authority or the date the report is required to be published pursuant to the EU Investment Firms Financial Reporting Rules.

The EU IFR/IFD nonbank SD must also translate the reports and statements into the English language with balances converted to U.S. dollar.³¹⁸ The Commission, however, recognizes that the requirement to translate accounts denominated in euro to U.S. dollars on

the annual audited financial report may impact the opinion provided by the independent auditor. The Commission will therefore accept the annual audited financial report denominated in euro, provided that the report is translated into the English language.

The Commission is imposing these conditions as they are necessary to ensure that the CFTC Financial Reporting Rules and EU Investment Firms Financial Reporting Rules, supplemented by the conditions, are comparable and provide the Commission and NFA with appropriate financial information to effectively monitor the financial condition of EU IFR/IFD nonbank SDs. Frequent financial reporting is a central component of the Commission's and NFA's programs for monitoring and assessing the safety and soundness of nonbank SDs as required under Section 4s(e) of the CEA. Although, as further discussed in Section F.2. below, the Commission believes that the relevant regulatory authorities have the necessary powers to supervise and enforce compliance by EU IFR/IFD nonbank SDs with applicable capital and financial reporting requirements, the Commission is issuing the conditions to facilitate the timely access to information allowing the Commission and NFA to effectively monitor and assess the ongoing financial condition of all nonbank SDs, including EU IFR/IFD nonbank SDs, to help ensure their safety and soundness and their ability to meet their financial obligations to customers, counterparties, and creditors.

The Commission considers that its approach of requiring EU IFR/IFD nonbank SDs to provide the Commission and NFA with the selected quarterly reporting templates and the annual audited financial report that the firms currently file with the relevant regulatory authorities strikes an appropriate balance of ensuring that the Commission receives the financial reporting necessary for the effective monitoring of the financial condition of the nonbank SDs, while also recognizing the existing regulatory structure of the EU Investment Firms Financial Reporting Rules. Under the conditions, the EU IFR/IFD nonbank SD will not be required to prepare different financial reports and statements for filing with the Commission, but will be required to prepare selected reports and statements in the content and format used for submissions to the relevant regulatory authority and translate the reports and financial statements into the English language with balances converted to U.S. dollars so that Commission staff may properly understand and efficiently

analyze the financial information. Although the Commission is requiring submission of certain reports (*i.e.*, selected Reporting ITS and RUBA templates) on a more frequent basis (monthly instead of quarterly as required by the EU Investment Firms Financial Reporting Rules), the conditions provide EU IFR/IFD nonbank SDs with 35 calendar days from the end of each month to translate the documents into English and to convert balances to U.S. dollars. The Commission believes that by requiring that EU IFR/IFD nonbank SDs file unaudited financial reports on a monthly basis instead of quarterly, it would help ensure that the CFTC Financial Reporting Rules and the EU Investment Firms Financial Reporting Rules achieve a comparable outcome.

For purposes of clarity, the Commission also notes that under the Comparability Order, an EU IFR/IFD nonbank SD is allowed to present the financial information required to be provided to the Commission and NFA in accordance with generally accepted accounting principles that the EU IFR/IFD nonbank SD uses to prepare general purpose financial statements in its EU Member State. This clarification is consistent with Condition 10 of the Comparability Order, which requires an EU IFR/IFD nonbank SD to prepare and keep current ledgers and other similar records in accordance with accounting principles permitted by the relevant regulatory authority. In allowing EU IFR/IFD nonbank SDs to provide financial reporting prepared in accordance with the accounting standards applicable in their home jurisdiction, the Commission considered the nature of the financial reporting information required from nonbank SDs for purposes of monitoring their overall financial condition and compliance with capital requirements. Specifically, the Commission notes that the requirements for how nonbank SDs calculate their risk exposures and capital ratios, in both the EU and the U.S., follow a rules-based approach generally consistent with the Basel standards, and, consequently, the Commission does not anticipate that a variation in the applicable accounting standards would materially impact this calculation. In this regard, the Commission notes that the only EU IFR/IFD nonbank SD presently registered with the Commission currently submits financial reports, including a statement of financial condition and a statement of

Capital and Financial Reporting Requirements Applicable to Nonbank Swap Dealers Domiciled in the French Republic and Federal Republic of Germany and Subject to Regulation in the European Union, 89 FR 58572 (July 18, 2024); and *Order Granting Conditional Substituted Compliance in Connection With Certain Capital and Financial Reporting Requirements Applicable to Nonbank Swap Dealers Subject to Regulation by the United Kingdom Prudential Regulation Authority*, 89 FR 58535 (July 18, 2024).

³¹⁵ Condition 15 of the Comparability Order.

³¹⁶ 17 CFR 23.105(d)(3).

³¹⁷ Condition 12 of the Comparability Order. Accounting Directive Articles 4, 19, and 34; French MFC Articles L.511-35, L.511-37, and L.511-38.

³¹⁸ Condition 12 of the Comparability Order. The translation of audited financial statements into the English language and the conversion of account balances from euro to U.S. dollars is not required to be subject to the audit of the independent auditor. An EU IFR/IFD nonbank SD must report the exchange rate that it used to convert balances from euro to U.S. dollars to the Commission and NFA as part of the financial reporting.

regulatory capital, pursuant to CFTC Staff Letter 24–13.³¹⁹

EU IFR/IFD nonbank SDs must also file with the Commission and NFA, on a monthly basis, the aggregate securities, commodities, and swap positions information set forth in Schedule 1 of Appendix B to Subpart E of Part 23.³²⁰ The Commission is requiring that Schedule 1 be filed with the Commission and NFA as part of the EU nonbank SD's monthly submission of selected Reporting ITS and RUBA templates. Schedule 1 provides the Commission and NFA with detailed information regarding the financial positions that a nonbank SD holds as of the end of each month, including the firm's swap positions, which will allow the Commission and NFA to monitor the types of investments and other activities that the firm engages in and will enhance the Commission's and NFA's ability to monitor the safety and soundness of the firm.

An EU IFR/IFD nonbank SD must also submit with each set of selected Reporting ITS and RUBA templates, annual audited financial report, and the applicable Schedule 1, a statement by an authorized representative or representatives of the EU IFR/IFD nonbank SD that to the best knowledge and belief of the person(s) the information contained in the respective reports and statements is true and correct, including the translation of the reports and statements into the English language and conversion of balances in the statements to U.S. dollars, as applicable.³²¹ The condition is based on Commission Regulation 23.105(f), which provides that a nonbank SD must attach to each unaudited and annual audited financial report filed with the Commission and NFA an oath or affirmation that to the best knowledge and belief of the individual making the oath or affirmation, the information in the financial reports is true and correct. Similar to the intent of Commission Regulation 23.105(f), the purpose of the condition is to obtain a formal attestation from a representative with appropriate knowledge and authority

that the information provided in the requisite financial reports is accurate and properly translated. For clarity, the Commission notes that its choice of language in using the term “statement” is not intended to make a legal distinction between this term and the terms “oath” or “affirmation,” but rather, to select a generic term that is universally understood across jurisdictions to reflect the above-referenced purpose.

The Commission is further requiring an EU IFR/IFD nonbank SD to file a Margin Report with the Commission and NFA.³²² The Margin Report contains: (i) the name and address of each custodian holding initial margin or variation margin on behalf of the nonbank SD or its swap counterparties; (ii) the amount of initial and variation margin held by each custodian on behalf of the nonbank SD and on behalf its swap counterparties; and (iii) the aggregate amount of initial margin that the nonbank SD is required to collect from, or post with, swap counterparties for uncleared swap transactions.³²³

The Commission believes that receiving the margin information from EU IFR/IFD nonbank SDs would assist the Commission and NFA in their assessment of the safety and soundness of the EU IFR/IFD nonbank SDs providing information regarding the firm's swap book and the extent to which it has uncollateralized exposures to counterparties or has not met its financial obligations to counterparties. This information, along with the list of custodians holding both the firms' and counterparties' collateral for swap transactions, would assist with identifying potential financial impacts to the nonbank SD resulting from defaults on its swap transactions. The Commission is further requiring an EU IFR/IFD nonbank SD to file the Margin Report with the Commission and NFA within 35 calendar days of the end of each month, which corresponds with the timeframe for the EU IFR/IFD nonbank SD to file the selected Reporting ITS and RUBA templates.³²⁴ The Commission is also requiring the Margin Report to be prepared in the English language with balances reported in U.S. dollars.³²⁵

The Commission notes that the conditions in the Comparability Order are consistent with the conditions in the comparability orders for other jurisdictions and reflect the Commission's approach of determining

that non-U.S. nonbank SDs could meet their financial statement reporting obligations to the Commission by filing financial reports currently prepared for home country regulators, albeit in the case of certain financial reports under a more frequent submission schedule, provided such reports are translated into English language and, in certain circumstances, include balances expressed in U.S. dollars.³²⁶ The Commission's conditions also include certain financial information and notices that the Commission believes are necessary for effective monitoring of EU IFR/IFD nonbank SDs that are not currently part of the relevant EU authority's supervision regime.

The Commission is not requiring that an EU IFR/IFD nonbank SD file with the Commission or NFA the model metrics and counterparty credit exposure information required by Commission Regulations 23.105(k) and (l).³²⁷ The Commission is making this determination in recognition that the relevant regulatory authorities in the EU, which will be conducting the initial approval and ongoing assessment of the performance of the EU IFR/IFD nonbank SDs' internal models under a regulatory framework that the Commission finds comparable, have access to information that the home country authorities deem relevant in the conduct of such approval and assessment. In addition to having broad powers to request any information necessary for the exercise of their functions, the relevant regulatory authorities receive information regarding the EU IFR/IFD nonbank SD's risk exposure amounts, including K-factor requirements amounts accounting for credit risk, through the Reporting ITS templates, which EU IFR/IFD nonbank SDs are required to file on a

³¹⁹ CFTC Staff Letter No. 24–13, *Extension of Time-Limited No-Action Position for Certain Foreign Based Nonbank Swap Dealers Domiciled in the United Kingdom and the European Union*, September 20, 2024.

³²⁰ Condition 13 of the Comparability Order. Schedule 1 of Appendix B to Subpart E of Part 23 includes a nonbank SD's holding of U.S. Treasury securities, U.S. government agency debt securities, foreign debt and equity securities, money market instruments, corporate obligations, spot commodities, cleared and uncleared swaps, cleared and non-cleared security-based swaps, and cleared and uncleared mixed swaps in addition to other position information.

³²¹ Condition 14 of the Comparability Order.

³²² Condition 16 of the Comparability Order.

³²³ 17 CFR 23.105(m).

³²⁴ *Id.*

³²⁵ *Id.*

³²⁶ See *Order Granting Conditional Substituted Compliance in Connection With Certain Capital and Financial Reporting Requirements Applicable to Nonbank Swap Dealers Subject to Regulation by the Financial Services Agency of Japan*, 89 FR 58470 (July 18, 2024); *Order Granting Conditional Substituted Compliance in Connection With Certain Capital and Financial Reporting Requirements Applicable to Nonbank Swap Dealer Subject to Regulation by the Mexican Comision Nacional Bancaria y de Valores and Banco de Mexico*, 89 FR 58505 (July 18, 2024); *Order Granting Conditional Substituted Compliance in Connection With Certain Capital and Financial Reporting Requirements Applicable to Nonbank Swap Dealers Domiciled in the French Republic and Federal Republic of Germany and Subject to Regulation in the European Union*, 89 FR 58572 (July 18, 2024); and *Order Granting Conditional Substituted Compliance in Connection With Certain Capital and Financial Reporting Requirements Applicable to Nonbank Swap Dealers Subject to Regulation by the United Kingdom Prudential Regulation Authority*, 89 FR 58535 (July 18, 2024).

³²⁷ 17 CFR 23.105(k) and (l).

quarterly basis.³²⁸ Among other reporting elements, the Reporting ITS templates include: (i) details on the calculation of K–NPR, including a breakdown by calculation methodology and, for products excluded from the internal model approach, a breakdown by category of instruments, reflecting the corresponding standardized capital charge; (ii) details on the calculation of K–TCD, including a breakdown by counterparty of the capital requirement, exposure value, replacement cost of the position, potential future exposure, and associated collateral; (iii) details on the calculation of K–CON, including exposures for the top five counterparties by percentage of exposure with respect to the firm’s capital; and (iv) details on liquidity requirements, including the total liquidity requirement amount and total liquid assets held by the firm with a breakdown by asset type.³²⁹

Further, the relevant regulatory authorities review the firm’s risk model metrics as part of their assessment of the firm’s ICARA process.³³⁰ In assessing firms’ compliance with model requirements, the ACPR considers, in particular, changes in the firm’s business and the application of models

to new products, and ensures that firms take remedial measures for any identified material deficiencies in the coverage of risk.³³¹

Finally, the Commission is including a condition in the Comparability Order that an EU IFR/IFD nonbank SD must file a notice with the Commission and NFA within 24 hours of being informed by the ACPR or another relevant regulatory authority that the firm is not in compliance with any component of the EU Investment Firms Capital Rules³³² or if it is required to maintain additional capital or additional liquidity requirements, or to restrict its business operations, or to comply with other requirements pursuant to Article 39 of IFD as implemented in the national laws of France.³³³ The Commission believes that the conditions will provide sufficient notice to the Commission about potential issues with an EU IFR/IFD nonbank SD’s implementation of risk models and prompt it to request additional information if deemed necessary.

E. Notice Requirements

1. CFTC Nonbank Swap Dealer Notice Reporting Requirements

The CFTC Financial Reporting Rules require nonbank SDs to provide the Commission and NFA with written notice of certain defined events.³³⁴ The notice provisions are intended to provide the Commission and NFA with an opportunity to assess whether the information contained in the notices indicates the existence of actual or potential financial and/or operational issues at a nonbank SD, and, when necessary, allow the Commission and NFA to engage with the nonbank SD in an effort to minimize potential adverse impacts on swap counterparties and the larger swaps market. The notice provisions are part of the Commission’s overall program for helping to ensure the safety and soundness of nonbank SDs and the swaps markets in general.

The CFTC Financial Reporting Rules require a nonbank SD to provide written notice within specified timeframes if the firm is: (i) undercapitalized; (ii) fails to maintain capital at a level that is in excess of 120 percent of its minimum capital requirement; or (iii) fails to maintain current books and records.³³⁵ A nonbank SD is also required to provide written notice if the firm experiences a 30 percent or more

decrease in excess regulatory capital from its most recent financial report filed with the Commission.³³⁶ A nonbank SD also is required to provide notice if the firm fails to post or collect initial margin for uncleared swap and non-cleared security-based swap transactions or exchange variation margin for uncleared swap or non-cleared security-based swap transactions as required by the Commission’s uncleared swaps margin rules or the SEC’s non-cleared security-based margin rules, respectively, if the aggregate is equal to or greater than: (i) 25 percent of the nonbank SD’s required capital under Commission Regulation 23.101 calculated for a single counterparty or group of counterparties that are under common ownership or control; or (ii) 50 percent of the nonbank SD’s required capital under Commission Regulation 23.101 calculated for all of the firm’s counterparties.³³⁷

The CFTC Financial Reporting Rules further require a nonbank SD to provide notice two business days prior to a withdrawal of capital by an equity holder that would exceed 30 percent of the firm’s excess regulatory capital.³³⁸ Finally, a nonbank SD that is dually registered with the SEC as an SBSD or major security based swap participant (“MSBSP”) must file a copy of any notice that the SBSD or MSBSP is required to file with the SEC under SEC Rule 18a–8 (17 CFR 240.18a–8).³³⁹ SEC Rule 18a–8 requires SBSDs and MSBSPs to provide written notice to the SEC for comparable reporting events as in the CFTC Capital Rules in Commission Regulation 23.105(c), including if an SBSD or MSBSP is undercapitalized or fails to maintain current books and records.

2. EU IFR/IFD Nonbank Swap Dealer Notice Requirements

The EU Investment Firms Capital and Reporting Framework requires an investment firm, including an EU IFR/IFD nonbank SD, to provide notice to its relevant regulatory authority as soon as it becomes aware that it no longer satisfies or will no longer satisfy the capital requirement.³⁴⁰ EU IFR/IFD nonbank SDs are also required to monitor the value of their K-factors for trends that could leave them with materially different capital requirement for the following reporting period and must notify the relevant regulatory

³²⁸ IFD Article 19; French MFC, Articles L.612–23 to L.612–26; IFR Article 54; Reporting ITS Article 5 and Annex I.

³²⁹ Reporting ITS, Annex I, Templates I.06.09. (K–Net position risk—K–NPR additional details); I.06.11 (Trading counterparty default—K–TCD additional details); and I.07.00 (K–CON—additional detail), I.08.01 (Level of concentration risk—Client money held), I.08.02. (Level of concentration risk—Assets safeguarded and administered), I.08.03. (Level of concentration risk—Total own cash deposited), I.08.04. (Level of concentration risk—Total earnings), I.08.05 (Trading book exposures), I.08.06. (Non-trading book and off-balance sheet items), and I.09.00 (Liquidity Requirements). Among other details, template I.08.05 (Trading book exposures) includes a list of the top 5 trading book exposures by type of counterparty and percentage of capital represented by the exposure.

By comparison, the information required to be filed pursuant to Commission Regulation 23.105(k) includes: (i) for nonbank SDs approved to use market risk models, a listing of any products that the nonbank SD excludes from the approved market risk model and the amount of the standardized market risk charge taken on such products; (ii) a graph reflecting, for each business line of the nonbank SD, the daily intra-month VaR; (iii) the aggregate VaR for the nonbank SD; (iv) certain credit risk information for swaps, mixed swaps and security-based swaps, including: (a) overall current exposure, (b) current exposure listed by counterparty for the 15 largest exposures, (c) the 10 largest commitments listed by counterparty, (d) maximum potential exposure listed by counterparty for the 15 largest exposures, (e) aggregate maximum potential exposure, (f) a summary report reflecting the SD’s current and maximum potential exposures by credit rating category, and (g) a summary report reflecting current exposure for each of the top 10 countries to which the nonbank SD is exposed. 17 CFR 23.105(k)(1).

³³⁰ IFD Article 37, French MFC, Article L.533–2–3, and Joint EBA and ESMA Guidelines on SREP, paragraphs 121–132.

³³¹ IFD Article 37 and French MFC, Article L.533–2–3.

³³² Condition 17 of the Comparability Order.

³³³ Condition 19 of the Comparability Order.

³³⁴ 17 CFR 23.105(c).

³³⁵ 17 CFR 23.105(c)(1), (2), and (3).

³³⁶ 17 CFR 23.105(c)(4).

³³⁷ 17 CFR 23.105(c)(7).

³³⁸ 17 CFR 23.105(c)(5).

³³⁹ 17 CFR 23.105(c)(6).

³⁴⁰ IFR Article 11(4).

authority of that materially different capital requirement.³⁴¹

In addition, the relevant regulatory authorities, including the ACPR, possess wide-ranging investigation, enforcement, and disciplinary tools to detect and address deterioration in a firm's capital condition. These tools include the power to obtain information and to conduct or order investigations³⁴² and the power to impose sanctions on investment firms that breach their regulatory obligations, including public censure, financial penalties, and the cancellation of an investment firm's permission to carry on regulated activities in the EU Member State.³⁴³

3. Commission Analysis

The Commission has reviewed the EU IFR/IFD Application and the relevant EU laws and regulations, and has determined that the EU Investment Firms Financial Reporting Rules related to notice provisions, subject to the conditions specified below, are comparable to the notice provisions of the CFTC Financial Reporting Rules. The Commission is therefore issuing a Comparability Order providing that an EU IFR/IFD nonbank SD may comply with the notice provisions required under EU laws and regulations in lieu of certain notice provisions required of nonbank SDs under Commission Regulation 23.105(c),³⁴⁴ subject to the conditions set forth below.

The notice provisions contained in Commission Regulation 23.105(c) are intended to provide the Commission and NFA with information in a prompt manner regarding actual or potential financial or operational issues that may adversely impact the safety and soundness of a nonbank SD by impairing the firm's ability to meet its obligations to counterparties, creditors, and the general swaps market. Upon receipt of a notice from a nonbank SD under Commission Regulation 23.105(c), the Commission and NFA initiate reviews of the facts and circumstances that resulted in the notice being filed including, as appropriate, communicating with personnel of the nonbank SD. The review of the facts and the interaction with the personnel of the nonbank SD provide the Commission and NFA with information to develop an assessment of whether it is necessary for the nonbank SD to take remedial action to address potential financial or

operational issues, and whether the remedial actions instituted by the nonbank SD properly address the issues that are the root cause of the operational or financial issues. Such actions may include the infusion of additional capital into the firm, or the development and implementation of additional internal controls to address operational issues. The notice filings further allow the Commission and NFA to monitor the firm's performance after the implementation of remedial actions to assess the effectiveness of such actions.

The EU Investment Firms Financial Reporting Rules require EU IFR/IFD nonbank SDs to provide notice to the relevant regulatory authority if they no longer satisfy or will no longer satisfy the capital requirement, indicating that the firm may be experiencing a financial deterioration.³⁴⁵ The EU Investment Firms Capital and Financial Reporting Rules also require EU IFR/IFD nonbank SDs to monitor the value of their K-factors for trends that could leave them with materially different capital requirement for the following reporting period and to notify the relevant regulatory authority of that materially different capital requirement.³⁴⁶

The EU Investment Firms Financial Reporting Rules' notice provisions are comparable to the Commission's notice requirements in that both sets of rules require a nonbank SD to provide notice to the respective authorities if the firm fails to meet its minimum capital requirement.³⁴⁷ Both the EU Investment Firms Financial Reporting Rules and the CFTC Financial Reporting Rules are intended to provide notice of potential financial or operational issues that could adversely impact a nonbank SD's ability to meet its financial obligations to customers, counterparties, creditors, and general market participants.

The Commission has concluded, however, that the EU Investment Firms Financial Reporting Rules differ from the CFTC Financial Reporting Rules in that the EU Investments Firms Financial Reporting Rules do not provide for an "early warning" notice requirement that is sufficiently comparable to the CFTC notice provisions contained in Commission Regulation 23.105(c)(2) and (4), which require a nonbank SD to provide notice to the Commission and NFA if the firm's regulatory capital falls below 120 percent of its minimum capital requirement or if the firm experiences a 30 percent or more decrease in its excess regulatory capital

as compared to the firm's last reported excess regulatory capital.³⁴⁸ The EU Investment Firms Financial Reporting Rules also do not contain an explicit requirement for an EU IFR/IFD nonbank SD to notify its regulatory authority if the firm fails to maintain current books and records, experiences a defined decrease in capital over levels previously reported, or fails to collect or post initial margin with uncleared swap counterparties that exceed certain threshold levels.³⁴⁹ An EU IFR/IFD nonbank SD also is not required to provide the relevant regulatory authority with advance notice of equity withdrawals initiated by equity holders that exceed defined amounts or percentages of the firm's excess regulatory capital.³⁵⁰

To ensure that the Commission and NFA receive prompt information concerning potential operational or financial issues that may adversely impact the safety and soundness of an EU IFR/IFD nonbank SD, the Commission is requiring EU IFR/IFD nonbank SDs to file certain notices required under the CFTC Financial Reporting Rules with the Commission and NFA. The Commission, therefore, is requiring that an EU IFR/IFD nonbank SD provide notice to the Commission if it experiences a 30 percent or more decrease in its excess regulatory capital as compared to the amount of excess regulatory capital last reported.³⁵¹ The requirement for a nonbank SD to file notice with the Commission and NFA if the firm experiences a decrease of excess regulatory capital below defined levels is a central component of the Commission's and NFA's oversight program for nonbank SDs.³⁵² The Commission believes that the condition will provide a timely opportunity to the Commission and NFA to initiate conversations and fact finding with an EU IFR/IFD nonbank SD that may be experiencing operational or financial

³⁴⁸ 17 CFR 23.105(c)(2) and (4).

³⁴⁹ 17 CFR 23.105(c)(3), (4), and (7).

³⁵⁰ Commission Regulation 23.105(c)(5) requires a nonbank SD to provide written notice to the Commission and NFA two business days prior to the withdrawal of capital by action of the equity holders if the amount of the withdrawal would exceed 30 percent of the nonbank SD's excess regulatory capital. 17 CFR 23.105(c)(5).

³⁵¹ Condition 20 of the Comparability Order. For clarity, by "excess regulatory capital," the Commission refers to the amount of capital by which the firm's capital exceeds the core total minimum capital requirement (or TOFR) of the firm.

³⁵² See Commission Regulation 23.105(c)(4), which requires a nonbank SD to file notice with the Commission and NFA if it experiences decrease in excess capital of 30 percent or more from the excess capital reported in its last financial filing with the Commission. 17 CFR 23.105(c)(4).

³⁴¹ IFR Article 15(3).

³⁴² IFD Article 19 and French MFC Articles L.612-2, L.612-23 to L.612-26.

³⁴³ IFD Article 18 and seq.

³⁴⁴ 17 CFR 23.105(c).

³⁴⁵ IFR Article 11.

³⁴⁶ IFR Article 15.

³⁴⁷ Compare 17 CFR 23.105(c)(1) and IFR Article 11.

issues that may adversely impact the firm's ability to meet its obligations to market participants, including customers or swap counterparties. The Commission is also requiring an EU IFR/IFD nonbank SD to file with the Commission and NFA a notice if the firm is informed by the ACPR or another relevant regulatory authority that the firm is not in compliance with any component of the EU Investment Firms Capital Rules and if the firm fails to maintain regulatory capital in the form of common equity tier 1 capital equal to or in excess of the U.S. dollar equivalent of \$20 million.³⁵³ The conditions are consistent with conditions imposed in comparability orders that the Commission has issued with respect to other jurisdictions.³⁵⁴

An EU IFR/IFD nonbank SD must provide the Commission and NFA with notice if the firm fails to maintain current books and records with respect to its financial condition and financial reporting requirements.³⁵⁵ For avoidance of doubt, in this context the Commission believes that books and records would include current ledgers or other similar records which show or summarize, with appropriate references to supporting documents, each transaction affecting the EU IFR/IFD nonbank SD's asset, liability, income, expense and capital accounts in accordance with the accounting principles accepted by the relevant regulatory authorities.³⁵⁶ The Commission believes that the maintenance of current books and records is a fundamental and essential component of operating as a registered

nonbank SD and that the failure to comply with such a requirement may indicate an inability of the firm to promptly and accurately record transactions and to ensure compliance with regulatory requirements, including regulatory capital requirements. Therefore, the Comparability Order requires an EU IFR/IFD nonbank SD to provide the Commission and NFA with a written notice within 24 hours if the firm fails to maintain books and records on a current basis.³⁵⁷ The Comparability Order also requires that an EU IFR/IFD nonbank SD file a notice with the Commission and NFA of a change in its fiscal year-end approved or permitted to go into effect by the relevant regulatory authority.³⁵⁸

The Comparability Order also requires an EU IFR/IFD nonbank SD to file notice with the Commission and NFA if: (i) a single counterparty, or group of counterparties under common ownership or control, fails to post required initial margin or pay required variation margin on uncleared swap and security-based swap positions that, in the aggregate, exceeds 25 percent of the EU IFR/IFD nonbank SD's minimum capital requirement; (ii) counterparties fail to post required initial margin or pay required variation margin to the EU IFR/IFD nonbank SD for uncleared swap and security-based swap positions that, in the aggregate, exceeds 50 percent of the EU IFR/IFD nonbank SD's minimum capital requirement; (iii) an EU IFR/IFD nonbank SD fails to post required initial margin or pay required variation margin for uncleared swap and security-based swap positions to a single counterparty or group of counterparties under common ownership and control that, in the aggregate, exceeds 25 percent of the EU IFR/IFD nonbank SD's minimum capital requirement; and (iv) an EU IFR/IFD nonbank SD fails to post required initial margin or pay required variation margin to counterparties for uncleared swap and security-based swap positions that, in the aggregate, exceeds 50 percent of the EU IFR/IFD nonbank SD's minimum capital requirement.³⁵⁹ The Commission is requiring this notice so that it and the NFA may commence communication with the EU IFR/IFD nonbank SD and the relevant regulatory authority to obtain an understanding of the facts that have led to the failure to exchange material amounts of initial margin and variation margin in accordance with the applicable rules, and to assess whether there is a concern regarding the financial condition of the

firm that may impair its ability to meet its financial obligations to customers, counterparties, creditors, and general market participants, or otherwise adversely impact the firm's safety and soundness.³⁶⁰

The Comparability Order will not require the EU IFR/IFD nonbank SD to file notices with the Commission concerning withdrawals of capital as such information will be reflected in the financial statement reporting filed with the Commission and NFA as conditions of the Order, and because EU IFR/IFD nonbank SD's capital levels are monitored by the ACPR making separate reporting to the Commission and NFA superfluous.

The Comparability Order requires an EU IFR/IFD nonbank SD to file all notices with the Commission and NFA in English and, where applicable, to reflect any balances in U.S. dollars.³⁶¹ Each notice required by the Comparability Order must be filed in accordance with instructions issued by the Commission or NFA.³⁶²

F. Supervision and Enforcement

1. Commission and NFA Supervision and Enforcement of Nonbank SDs

The Commission and NFA conduct ongoing supervision of nonbank SDs to assess their compliance with the CEA, Commission regulations, and NFA rules by reviewing financial reports, notices, risk exposure reports, and other filings

³⁵³ Conditions 17 and 18 of the Comparability Order.

³⁵⁴ See *Order Granting Conditional Substituted Compliance in Connection With Certain Capital and Financial Reporting Requirements Applicable to Nonbank Swap Dealers Subject to Regulation by the Financial Services Agency of Japan*, 89 FR 58470 (July 18, 2024); *Order Granting Conditional Substituted Compliance in Connection With Certain Capital and Financial Reporting Requirements Applicable to Nonbank Swap Dealer Subject to Regulation by the Mexican Comision Nacional Bancaria y de Valores and Banco de Mexico*, 89 FR 58505 (July 18, 2024); *Order Granting Conditional Substituted Compliance in Connection With Certain Capital and Financial Reporting Requirements Applicable to Nonbank Swap Dealers Domiciled in the French Republic and Federal Republic of Germany and Subject to Regulation in the European Union*, 89 FR 58572 (July 18, 2024); and *Order Granting Conditional Substituted Compliance in Connection With Certain Capital and Financial Reporting Requirements Applicable to Nonbank Swap Dealers Subject to Regulation by the United Kingdom Prudential Regulation Authority*, 89 FR 58535 (July 18, 2024).

³⁵⁵ Condition 21 of the Comparability Order.

³⁵⁶ For comparison, see Commission Regulation 23.105(b), which similarly defines the term "current books and records" as used in the context of the Commission's requirements. 17 CFR 23.105(b).

³⁵⁷ Condition 21 of the Comparability Order.

³⁵⁸ Condition 23 of the Comparability Order.

³⁵⁹ Condition 22 of the Comparability Order.

³⁶⁰ The conditions for EU IFR/IFD nonbank SDs to file a notice with the Commission and NFA if the firm fails to maintain current books and records or fails to collect or post margin with uncleared swap counterparties that exceed the above-referenced threshold levels are consistent with the conditions in the comparability orders for Japan, Mexico, the EU (for nonbank SDs domiciled in France or Germany and subject to the capital requirements established under CRR and CRD), and the UK (for PRA-designated UK nonbank SDs). See *Order Granting Conditional Substituted Compliance in Connection With Certain Capital and Financial Reporting Requirements Applicable to Nonbank Swap Dealers Subject to Regulation by the Financial Services Agency of Japan*, 89 FR 58470 (July 18, 2024); *Order Granting Conditional Substituted Compliance in Connection With Certain Capital and Financial Reporting Requirements Applicable to Nonbank Swap Dealer Subject to Regulation by the Mexican Comision Nacional Bancaria y de Valores and Banco de Mexico*, 89 FR 58505 (July 18, 2024); *Order Granting Conditional Substituted Compliance in Connection With Certain Capital and Financial Reporting Requirements Applicable to Nonbank Swap Dealers Domiciled in the French Republic and Federal Republic of Germany and Subject to Regulation in the European Union*, 89 FR 58572 (July 18, 2024); and *Order Granting Conditional Substituted Compliance in Connection With Certain Capital and Financial Reporting Requirements Applicable to Nonbank Swap Dealers Subject to Regulation by the United Kingdom Prudential Regulation Authority*, 89 FR 58535 (July 18, 2024).

³⁶¹ Condition 25 of the Comparability Order.

³⁶² *Id.*

that nonbank SDs are required to file with the Commission and NFA. The Commission and NFA also conduct periodic examinations as part of the supervision of nonbank SDs, including routine onsite examinations of nonbank SDs' books, records, and operations to ensure compliance with CFTC and NFA requirements.³⁶³ In this regard, Section 17(p) of the CEA requires NFA, as a registered futures association, to establish minimum capital and financial requirements for nonbank SDs and to implement a program to audit and enforce compliance with such requirements.³⁶⁴

The financial reports filed by a nonbank SD provide the Commission and NFA with information necessary to ensure the firm's compliance with minimum capital requirements and to assess the firm's overall safety and soundness and its ability to meet its financial obligations to customers, counterparties, and creditors. A nonbank SD is also required to provide written notice to the Commission and NFA if certain defined events occur, including that the firm is undercapitalized or maintains a level of capital that is less than 120 percent of the firm's minimum capital requirements.³⁶⁵ The notice provisions, as stated in Section E.1 above, are intended to provide the Commission and NFA with information of potential issues at a nonbank SD that may impact the firm's ability to maintain compliance with the CEA and Commission regulations. The Commission and NFA also have the authority to require a nonbank SD to provide any additional financial and/or operational information on a daily basis or at such other times as the Commission or NFA may specify to monitor the safety and soundness of the firm.³⁶⁶

The Commission also has authority to take disciplinary actions against a nonbank SD for failing to comply with the CEA and Commission regulations. Section 4b–1(a) of the CEA³⁶⁷ provides the Commission with exclusive authority to enforce the capital requirements imposed on nonbank SDs

adopted under Section 4s(e) of the CEA.³⁶⁸

2. Supervision and Enforcement of EU IFR/IFD Nonbank SDs

Prudential supervision of EU IFR/IFD nonbank SDs domiciled in the EU is conducted by the regulatory authority designated as “competent authority” by the EU Member State in which the EU IFR/IFD nonbank SD is domiciled (the “relevant regulatory authority”).³⁶⁹ For an EU IFR/IFD nonbank SD domiciled in France, such as the Applicant, the relevant regulatory authority is the ACPR.³⁷⁰

Each prudential regulatory authority in the EU, including the ACPR, has a wide range of investigative, disciplinary, and enforcement powers, which include the power to require EU IFR/IFD nonbank SDs domiciled and registered in an EU Member State to provide all necessary information for the authority to carry out its supervisory tasks;³⁷¹ examine the books and records of EU IFR/IFD nonbank SDs; obtain written and oral explanations from the EU IFR/IFD nonbank SD's management, staff, and other persons;³⁷² conduct all necessary inspections at the business premises of EU IFR/IFD nonbank SDs and other group entities;³⁷³ and impose sanctions on firms that breach their regulatory obligations, including the requirements imposed under the EU Investment Firms Capital and Reporting Framework, such as public censure, financial penalties, and ultimately the cancellation of an EU IFR/IFD nonbank SD's permission to carry on regulated activities in the EU.³⁷⁴

The relevant regulatory authorities, including the ACPR, also monitor the capital adequacy of EU IFR/IFD nonbank SDs through supervisory measures on an ongoing basis. The monitoring includes assessing the notices discussed in Section E.2. above, including potential notices that the firm no longer satisfies or will no longer satisfy the capital requirement. In addition, the relevant regulatory authorities are empowered with a

variety of measures to address an EU IFR/IFD nonbank SD's financial deterioration. Specifically, if an EU IFR/IFD nonbank SD fails to meet its capital or liquidity thresholds or if the relevant regulatory authority has evidence that the EU IFR/IFD nonbank SD is likely to breach its capital or liquidity thresholds in the next 12 months, the authority may order an EU IFR/IFD nonbank SD to comply with additional requirements, including: (i) maintaining additional capital in excess of the minimum requirements, if certain conditions are met; (ii) requiring that the EU IFR/IFD nonbank SD submit a plan to restore compliance with applicable capital or liquidity requirements; (iii) imposing restrictions on the business or operations of the EU IFR/IFD nonbank SD; (iv) imposing restrictions or prohibitions on distributions or interest payments to shareholders or holders of additional tier 1 capital instruments; (v) requiring additional or more frequent reporting requirements; and (vi) imposing additional specific liquidity requirements.³⁷⁵ The ACPR may also withdraw the authorization of an EU IFR/IFD nonbank SD domiciled in France to operate if the firm no longer meets its minimum capital requirements.³⁷⁶

Although the relevant regulatory authority generally has broad discretion as to what powers it may exercise, the EU Investment Firms Capital Rules and the EU Investment Firms Financial Reporting Rules specifically address the authority's prudential powers to require EU IFR/IFD nonbank SDs to hold increased capital when: (i) the EU IFR/IFD nonbank SD is exposed to risks or elements of risks, or poses risks to others that are material and are not covered or sufficiently covered by the capital requirements imposed by the EU Investment Firms Capital Rules; (ii) the EU IFR/IFD nonbank SD lacks robust governance arrangements or effective processes to assess and maintain on an ongoing basis the amounts, types and distribution of capital and liquid assets that they consider adequate to cover the nature and level of risks to which they might be exposed and it is unlikely that other supervisory measures would sufficiently improve the arrangements or processes within an appropriate timeframe; (iii) the EU nonbank SD repeatedly fails to establish or maintain an adequate level of additional capital to cover the guidance communicated by the relevant regulatory authorities; (iv) adjustments in relation to the prudent

³⁶⁸ 7 U.S.C. 6s(e).

³⁶⁹ IFD Article 12. “Competent authority” is defined in IFD as “a public authority or body of [an EU Member State] that is officially recognised and empowered by national law to supervise investment firms in accordance with [IFD], as part of the supervisory system in operation in that Member State.” IFD Article 3(5).

³⁷⁰ French MFC, Article L.612–2.

³⁷¹ IFD Article 19; French MFC, Articles L.612–23 to L.612–26.

³⁷² *Id.*

³⁷³ IFD Article 19; French MFC, Articles L.612–23 and L.612–26.

³⁷⁴ IFD Article 18 and seq.; French MFC, Articles L.612–30 to L.612–42.

³⁷⁵ IFD Article 39; French MFC Articles L.533–4–3 and L.612–31 to L.612–33.

³⁷⁶ French MFC Articles L.532–6 and L.612–40.

³⁶³ Section 17(p)(2) of the CEA requires NFA as a registered futures association to establish minimum capital and financial requirements for nonbank SDs and to implement a program to audit and enforce compliance with such requirements. 7 U.S.C. 21(p)(2). Section 17(p)(2) further provides that NFA's capital and financial requirements may not be less stringent than the capital and financial requirements imposed by the Commission.

³⁶⁴ 7 U.S.C. 21(p).

³⁶⁵ 17 CFR 23.105(c).

³⁶⁶ 17 CFR 23.105(h).

³⁶⁷ 7 U.S.C. 6b–1(a).

valuation of the trading book are insufficient to enable the EU IFR/IFD nonbank SD to sell or hedge out its positions within a short period without incurring material losses under normal market conditions; or (v) a regulatory review shows that non-compliance with the requirements for the application of the permitted internal models will likely lead to inadequate levels of capital.³⁷⁷

3. Commission Analysis

Based on the above, the Commission finds that the ACPR, in its capacity of relevant regulatory authority, has the necessary powers to supervise, investigate, and discipline EU IFR/IFD nonbank SDs for compliance with the applicable capital and financial reporting requirements, and to detect and deter violations of, and ensure compliance with, the applicable capital and financial reporting requirements in France. The Commission also finds that IFD mandates EU Member States to provide the relevant regulatory authorities with the necessary supervision, investigative, and enforcement powers. Any future determination that a specific relevant regulatory authority has powers that are comparable to those of the Commission, however, would be subject to verification that the EU Member State in which the relevant regulatory authority is established has effectively implemented the IFD provisions.

The Commission expects to communicate and consult, to the fullest extent permissible under applicable law, with the ACPR regarding the supervision of the financial and operational condition of Goldman Sachs Paris, or any other EU IFR/IFD nonbank SD domiciled in France, if such entity is to register with the Commission. An appropriate MOU or similar arrangement with the ACPR would facilitate cooperation and information sharing in the context of supervising EU IFR/IFD nonbank SDs domiciled in France. Such an arrangement would enhance communication with respect to entities within the arrangement's scope ("Covered Firms"), as appropriate, regarding: (i) general supervisory issues, including regulatory, oversight, or other related developments; (ii) issues relevant to the operations, activities, and regulation of Covered Firms; and (iii) any other areas of mutual supervisory interest, and would anticipate periodic meetings to discuss relevant functions and regulatory oversight programs. The arrangement

would provide for the Commission and the ACPR to inform each other of certain events, including any material events that could adversely impact the financial or operational stability of a Covered Firm, and would provide a procedure for any on-site examinations of Covered Firms.³⁷⁸

In the absence of an MOU or similar information sharing arrangement, the Commission is including a condition in the Comparability Order that an EU IFR/IFD nonbank SD domiciled in France must provide notice to the Commission and NFA if the ACPR has required the EU IFR/IFD nonbank SD to: (i) maintain additional capital in excess of the minimum requirements; (ii) require that the EU IFR/IFD nonbank SD submit a plan to restore compliance with applicable capital or liquidity thresholds; (iii) impose restrictions on the business or operations of the EU IFR/IFD nonbank SD; (iv) impose restrictions or prohibitions on distributions or interest payments to shareholders or holders of additional tier 1 capital instruments; (v) require additional or more frequent reporting requirements; or (vi) impose additional specific liquidity requirements.³⁷⁹ Upon receipt of such notice, the Commission and NFA would communicate with the EU IFR/IFD nonbank SD to obtain further information regarding the underlying issues that prompted the ACPR to direct the EU IFR/IFD nonbank SD to take such actions and would obtain information regarding how the EU IFR/IFD nonbank SD would address the underlying issues.

IV. Comparability Order

A. The Commission's Comparability Determination

The Commission's view, based on the EU IFR/IFD Application and the Commission's review of applicable EU laws and regulations, is that the EU Investment Firms Capital Rules and the EU Investment Firms Financial Reporting Rules, subject to the conditions set forth in the Comparability Order below, achieve comparable outcomes and are comparable in purpose and effect to the

³⁷⁸ In an enforcement-related context, the Commission is a signatory to the International Organization of Securities Commission's Multilateral Memorandum of Understanding Concerning Consultation and Cooperation and the Exchange of Information ("MMOU," revised May 2012). The French Autorité des Marchés Financiers ("AMF") (the French market conduct regulatory authority with which the ACPR shares supervision authority over French financial firms, including EU IFR/IFD nonbank SDs domiciled in France, as it regards business conduct matters) is also a signatory to the MMOU.

³⁷⁹ Condition 19 of the Comparability Order.

CFTC Capital Rules and the CFTC Financial Reporting Rules. In reaching this conclusion, the Commission recognizes that there are certain differences between the EU Investment Firms Capital Rules and CFTC Capital Rules and certain differences between the EU Investment Firms Financial Reporting Rules and the CFTC Financial Reporting Rules. The Comparability Order is subject to conditions that the Commission deems necessary to promote consistency in regulatory outcomes, or to reflect the scope of substituted compliance that would be available notwithstanding certain differences. In the Commission's view, the differences between the two rules sets will not be inconsistent with providing a substituted compliance framework for EU IFR/IFD nonbank SDs subject to the conditions specified in the Order below.

Furthermore, the Comparability Order is limited to the comparison of the EU Capital Rules to the Bank-Based Approach contained within the CFTC Capital Rules. The Applicant has not requested, and the Commission has not performed, a comparison of the EU Investment Firms Capital Rules to the Commission's NLA Approach or TNW Approach.

B. Order Providing Conditional Comparability Determination for Certain EU IFR/IFD Nonbank Swap Dealers

It is hereby determined and ordered, pursuant to Commodity Futures Trading Commission ("CFTC" or "Commission") Regulation 23.106 (17 CFR 23.106) under the Commodity Exchange Act ("CEA") (7 U.S.C. 1 *et seq.*) that a swap dealer ("SD") organized and domiciled in the French Republic ("France") and subject to the Commission's capital and financial reporting requirements under Sections 4s(e) and (f) of the CEA (7 U.S.C. 6s(e) and (f)) may satisfy the capital requirements under Section 4s(e) of the CEA and Commission Regulation 23.101(a)(1)(i) (17 CFR 23.101(a)(1)(i)) ("CFTC Capital Rules"), and the financial reporting rules under Section 4s(f) of the CEA and Commission Regulation 23.105 (17 CFR 23.105) ("CFTC Financial Reporting Rules"), by complying with certain specified requirements of the European Union ("EU") laws and regulations cited below and otherwise complying with the following conditions, as amended or superseded from time to time:

(1) The SD is not subject to regulation by a prudential regulator defined in Section 1a(39) of the CEA (7 U.S.C. 1a(39));

³⁷⁷ IFD Article 40; French MFC, Article L.533–4–

(2) The SD is domiciled in and organized under the laws of France;

(3) The SD is licensed as an investment firm in France (“EU IFR/IFD nonbank SD”);

(4) The EU IFR/IFD nonbank SD is subject to and complies with: *Regulation (EU) 019/2033 of the European Parliament and of the Council of 27 November 2019 on the prudential requirements of investment firms and amending Regulations (EU) No 1093/2010, (EU) No 575/2013, (EU) No 600/2014 and (EU) No 806/2014* (“Investment Firms Regulation” or “IFR”) and *Directive (EU) 2019/2034 of the European Parliament and of the Council of 27 November 2019 on the prudential supervision of investment firms and amending Directives 2002/87/EC, 2009/65/EC, 2011/61/EU, 2013/36/EU, 2014/59/EU and 2014/65/EU* (“Investment Firms Directive” or “IFD”) as implemented in the national laws of France (collectively, the “EU Investment Firms Capital Rules”), and the EU IFR/IFD nonbank SD is not a “small and non-interconnected firm” as set out in Article 12 of IFR;

(5) The EU IFR/IFD nonbank SD is subject to and complies with: *Commission Implementing Regulation (EU) 2021/2284 of 10 December 2021 laying down implementing technical standards for the application of Regulation (EU) 2019/2033 of the European Parliament and of the Council with regard to supervisory reporting and disclosures of investment firms, as amended* (“Reporting ITS”); and *Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC* (“Accounting Directive”) as implemented in the national laws of France, and the unified reporting for banks and assimilated entities (“RUBA”) applicable to EU IFR/IFD nonbank SDs organized and domiciled in France, (collectively and together with IFR and IFD as implemented in the national laws of France, “EU Investment Firms Financial Reporting Rules”);

(6) The EU IFR/IFD nonbank SD satisfies at all times the applicable capital and liquidity requirements set forth in Articles 11 and 43 of IFR;

(7) The EU IFR/IFD nonbank SD is subject to prudential supervision by the Autorité de contrôle prudentiel et de résolution (“ACPR”) or a successor supervisory authority with jurisdiction

to enforce requirements set forth in the EU Investment Firms Capital Rules and the EU Investment Firms Financial Reporting Rules as implemented in the national laws of France;

(8) The EU IFR/IFD nonbank SD maintains at all times an amount of regulatory capital in the form of common equity tier 1 capital as defined in Article 26 of *Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and amending Regulation (EU) No 648/2012* (“Capital Requirements Regulation” or “CRR”), equal to or in excess of the equivalent of \$20 million in United States dollars (“U.S. dollars”). The EU IFR/IFD nonbank SD shall use a commercially reasonable and observable euro/U.S. dollar exchange rate to convert the value of the euro-denominated common equity tier 1 capital to U.S. dollars;

(9) The EU IFR/IFD nonbank SD has filed with the Commission a notice stating its intention to comply with the EU Investment Firms Capital Rules and the EU Investment Firms Financial Reporting Rules in lieu of the CFTC Capital Rules and the CFTC Financial Reporting Rules. The notice of intent must include the EU IFR/IFD nonbank SD’s representation that the firm is organized and domiciled in France, is licensed as an investment firm, and is subject to and complies with the EU Investment Firms Capital Rules and the EU Investment Firms Financial Reporting Rules. An EU IFR/IFD nonbank SD may not rely on this Comparability Order until it receives confirmation from Commission staff, acting pursuant to authority delegated by the Commission under Commission Regulation 140.91(a)(11) (17 CFR 140.91(a)(11)), that the EU IFR/IFD nonbank SD may comply with the applicable EU Investment Firms Capital Rules and EU Investment Firms Financial Reporting Rules in lieu of the CFTC Capital Rules and CFTC Financial Reporting Rules. Each notice filed pursuant to this condition must be prepared in the English language and submitted to the Commission via email to the following address:

MPDFinancialRequirements@cftc.gov;

(10) The EU IFR/IFD nonbank SD prepares and keeps current ledgers and other similar records in accordance with accounting principles permitted by the ACPR;

(11) The EU IFR/IFD nonbank SD files with the Commission and with the National Futures Association (“NFA”) as of the end of each month a copy of templates I1 (Own Funds), I2.1 (Own Funds Requirements), I2.2 (Capital

Ratios), I3 (Fixed Overheads Requirements Calculation), I4 (Total K-Factor Requirement Calculations), I6.1 to I6.13 (K-Factor Requirements—Additional Details) as applicable, I7, I8.1 to I8.6 (Concentration Risk) as applicable, and I9 (Liquidity Requirements) of Annex I to Reporting ITS, and templates 55 (Balance Sheet) and 56 (Income Statement) of RUBA. The Reporting ITS and RUBA templates must be translated into the English language and balances must be converted to U.S. dollars, using a commercially reasonable and observable euro/U.S. dollar spot rate as of the date of the report. The templates must be filed with the Commission and NFA within 35 calendar days of the end of each month;

(12) The EU IFR/IFD nonbank SD files with the Commission and with NFA a copy of its annual audited financial statements and management report (together, “annual audited financial report”) that are required to be prepared and published pursuant to Articles 4, 19, 30 and 34 of the Accounting Directive as implemented in the national laws of France. The annual audited financial report must be translated into the English language and balances may be reported in euro. The annual audited financial report must be filed with the Commission and NFA on the earliest of the date the report is filed with the relevant home country authority, the date the report is published, or the date the report is required to be filed with the relevant home country authority or the date the report is required to be published pursuant to the EU Investment Firms Financial Reporting Rules;

(13) The EU IFR/IFD nonbank SD files Schedule 1 of appendix B to subpart E of part 23 of the Commission’s regulations (17 CFR 23 subpart E—appendix B) with the Commission and NFA on a monthly basis. Schedule 1 must be prepared in the English language with balances reported in U.S. dollars, using a commercially reasonable and observable euro/U.S. dollar spot rate as of the date of the report, and must be filed with the Commission and NFA within 35 calendar days of the end of each month;

(14) The EU IFR/IFD nonbank SD submits with each set of Reporting ITS and RUBA templates, annual audited financial report, and Schedule 1 of appendix B to subpart E of part 23 of the Commission’s regulations a statement by an authorized representative or representatives of the EU IFR/IFD nonbank SD that to the best knowledge and belief of the representative or representatives the information

contained in the reports, including the translation of the reports into English and conversion of balances in the reports to U.S. dollars, is true and correct. The statement must be prepared in the English language;

(15) An EU IFR/IFD nonbank SD that is a registered securities-based swap dealer with the U.S. Securities and Exchange Commission ("SEC") and is required to file a monthly Form X-17A-5 ("FOCUS Report") with the SEC, or its designee, must file a copy of the FOCUS Report in the manner and format specified by the SEC, if applicable, with the Commission and NFA within 35 calendar days after the end of each month. An EU IFR/IFD nonbank SD that files a FOCUS Report with the Commission and NFA pursuant to this condition is not required to file the financial reports and schedules specified in Conditions 11 and 13 of this Comparability Order;

(16) The EU IFR/IFD nonbank SD files a margin report containing the information specified in Commission Regulation 23.105(m) (17 CFR 23.105(m)) ("Margin Report") with the Commission and with NFA within 35 calendar days of the end of each month. The Margin Report must be in the English language with balances reported in U.S. dollars, using a commercially reasonable and observable euro/U.S. dollar spot rate as of the date of the report;

(17) The EU IFR/IFD nonbank SD files a notice with the Commission and NFA within 24 hours of being informed by the ACPR or another relevant regulatory authority that the firm is not in compliance with any component of the EU Investment Firms Capital Rules. The notice must be prepared in the English language;

(18) The EU IFR/IFD nonbank SD files a notice within 24 hours with the Commission and NFA if it fails to maintain regulatory capital in the form of common equity tier 1 capital as defined in Article 26 of CRR, equal to or in excess of the U.S. dollar equivalent of \$20 million using a commercially reasonable and observable euro/U.S. dollar exchange rate. The notice must be prepared in the English language;

(19) The EU IFR/IFD nonbank SD provides the Commission and NFA with notice within 24 hours if it is required by the ACPR or another relevant regulatory authority to maintain additional capital or additional liquidity

requirements, or to restrict its business operations, or to comply with other requirements pursuant to Article 39 of IFD as implemented in the national laws of France. The notice filed with the Commission and NFA must be prepared in the English language;

(20) The EU IFR/IFD nonbank SD files a notice with the Commission and NFA if it experiences a 30 percent or more decrease in its excess regulatory capital as compared to that last reported in the financial information filed pursuant to Condition 11. The notice must be prepared in the English language and filed within two business days of the firm experiencing the 30 percent or more decrease in excess regulatory capital;

(21) The EU IFR/IFD nonbank SD files a notice with the Commission and NFA within 24 hours if it fails to make or keep current the financial books and records. The notice must be prepared in the English language;

(22) The EU IFD/IFD nonbank SD files a notice with the Commission and NFA within 24 hours of the occurrence of any of the following: (i) a single counterparty, or group of counterparties under common ownership or control, fails to post required initial margin or pay required variation margin to the EU IFR/IFD nonbank SD on uncleared swap and non-cleared security-based swap positions that, in the aggregate, exceeds 25 percent of the EU IFR/IFD nonbank SD's minimum capital requirement; (ii) counterparties fail to post required initial margin or pay required variation margin to the EU IFR/IFD nonbank SD for uncleared swap and non-cleared security-based swap positions that, in the aggregate, exceeds 50 percent of the EU IFR/IFD nonbank SD's minimum capital requirement; (iii) the EU IFR/IFD nonbank SD fails to post required initial margin or pay required variation margin for uncleared swap and non-cleared security-based swap positions to a single counterparty or group of counterparties under common ownership and control that, in the aggregate, exceeds 25 percent of the EU IFR/IFD nonbank SD's minimum capital requirement; or (iv) the EU nonbank SD fails to post required initial margin or pay required variation margin to counterparties for uncleared swap and non-cleared security-based swap positions that, in the aggregate, exceeds 50 percent of the EU IFR/IFD nonbank SD's minimum capital requirement. The

notice must be prepared in the English language;

(23) The EU IFR/IFD nonbank SD files a notice with the Commission and NFA of a change in its fiscal year-end approved or permitted to go into effect by the relevant home country authority. The notice required by this paragraph will satisfy the requirement for a nonbank SD to obtain the approval of NFA for a change in fiscal year-end under Commission Regulation 23.105(g) (17 CFR 23.105(g)). The notice of change in fiscal year-end must be prepared in the English language and filed with the Commission and NFA at least 15 business days prior to the effective date of the EU IFR/IFD nonbank SD's change in fiscal year-end;

(24) The EU IFR/IFD nonbank SD or an entity acting on its behalf notifies the Commission of any material changes to the information submitted in the application for Comparability Determination, including, but not limited to, proposed and final material changes to the EU Investment Firms Capital Rules or EU Investment Firms Financial Reporting Rules and proposed and final material changes to the relevant EU Member State authority's supervisory authority or supervisory regime over EU IFR/IFD nonbank SDs. The notice must be prepared in the English language; and

(25) Unless otherwise noted in the conditions above, the reports, notices, and other statements required to be filed by the EU IFR/IFD nonbank SD with the Commission and NFA pursuant to the conditions of this Comparability Order must be submitted electronically to the Commission and NFA in accordance with instructions provided by the Commission or NFA.

It is also hereby determined and ordered that this Comparability Order becomes effective upon its publication in the **Federal Register**, with the exception of Conditions 16, 20, and 22, which will become effective 180 calendar days after publication of the Comparability Order in the **Federal Register**.

Issued in Washington, DC, on May 12, 2026, by the Commission.

Robert Sidman,

Deputy Secretary of the Commission.

[FR Doc. 2026-09693 Filed 5-13-26; 8:45 am]

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FEDERAL REGISTER

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Part IX

The President

Proclamation 11029—Peace Officers Memorial Day and Police Week, 2026

Presidential Documents

Title 3—

Proclamation 11029 of May 11, 2026

The President

Peace Officers Memorial Day and Police Week, 2026

By the President of the United States of America

A Proclamation

On this Peace Officers Memorial Day, observed during our Nation's time-honored Police Week, we pay tribute to the men and women of law enforcement who have devoted their lives to safeguarding our families and communities. Our grateful country joins them in honoring the memory of the fallen officers who gave their lives protecting their fellow citizens, and we stand resolutely beside the families they left behind. We also recognize those who have been injured in the line of duty and the families who have stood faithfully by their side through hardship and recovery, and we pledge our steadfast support to those who continue to wear the badge.

Before I took office, America was gripped by a left-wing-fueled lawlessness that shook the very foundations of our society. Through soft-on-crime policies, rampant illegal immigration, and reckless cashless bail programs, crime surged to historic heights while American families suffered and our cities descended into chaos—placing our brave officers needlessly in harm's way. Through it all, the officers standing on the front lines never faltered in their duty to protect the innocent and confront the guilty, yet they were too often hindered, and even punished, for carrying out the mission they had sworn to uphold.

Since returning to office, I have worked to fulfill my promise to the American people that my Administration would restore law and order to every corner of this land. I immediately directed Federal resources into our country's most crime-ridden cities to assist local law enforcement, standing shoulder to shoulder with them in their vital mission. We have also taken decisive action to end so called "sanctuary state" laws concocted by the Biden-Harris administration, where the price was paid in blood by innocent Americans and by the brave law enforcement officers forced to watch criminal illegal aliens walk free and commit horrific crimes that could have been prevented. By stripping away these dangerous impediments to law enforcement, we are empowering police to do their jobs fully and freely, and the results speak for themselves—in our Nation's capital, crime has fallen to the lowest level ever recorded, and peace has returned to the streets of many storied American cities. Today, on-duty law enforcement officer deaths have dropped to an 80-year low—and we have seen dramatic reductions in rapes, robberies, aggravated assaults, shooting deaths, traffic fatalities, and overdose deaths.

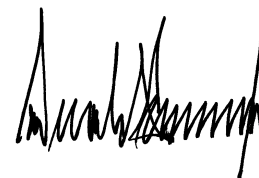
Last summer, I was proud to sign the Working Families Tax Cuts Act which includes no tax on overtime, ensuring our police officers can keep more of their hard-earned paycheck as they work tirelessly to keep our communities safe. I also signed an Executive Order on Taking Steps to End Cashless Bail to Protect Americans, ending cashless bail within the Federal justice system for every offense that poses a clear danger to public safety. Under my leadership, never again will our citizens be preyed upon by repeat offenders who belong behind bars. I remain firmly committed to seeing that violent criminals are locked away, that law enforcement has every tool at their disposal to do their jobs well, and that American families can once again live in peace and safety from sea to shining sea.

On this Peace Officers Memorial Day, we solemnly commemorate the officers who gave their lives in the line of duty across our Nation. Throughout Police Week, we honor the sacrifices of our law enforcement community and the families who stand beside them. United in gratitude, we recommit ourselves to supporting those who keep the peace in our neighborhoods, and we offer our heartfelt appreciation for the service they render to community and country. Their steady presence brings calm to our streets, their dedication preserves the order that allows our Nation to flourish, and their unwavering vigilance is the reason families across America can rest under the promise of a safer tomorrow.

By a joint resolution approved October 1, 1962, as amended (Public Law 87–726, 76 Stat. 676), and by Public Law 105–225 (36 U.S.C. 136–137), the President has been authorized and requested to designate May 15 of each year as “Peace Officers Memorial Day” and the week in which it falls as “Police Week.”

NOW, THEREFORE, I, DONALD J. TRUMP, President of the United States of America, do hereby proclaim May 15, 2026, as Peace Officers Memorial Day and May 10 through May 16, 2026, as Police Week. I call upon all Americans to observe this week with appropriate ceremonies and activities. I also call on the Governors of the States and Territories and officials of other areas subject to the jurisdiction of the United States to direct that the flag be flown at half-staff on Peace Officers Memorial Day.

IN WITNESS WHEREOF, I have hereunto set my hand this eleventh day of May, in the year of our Lord two thousand twenty-six, and of the Independence of the United States of America the two hundred and fiftieth.



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Federal Register

Vol. 91, No. 93

Thursday, May 14, 2026

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Laws **741-6000**

Presidential Documents

Executive orders and proclamations **741-6000**

The United States Government Manual **741-6000**

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FEDERAL REGISTER PAGES AND DATE, MAY

23355-23902	1
23903-24114	4
24115-24336	5
24337-24704	6
24705-25072	7
25073-25478	8
25478-25782	11
25783-26892	12
26893-27182	13
27183-27830	14

CFR PARTS AFFECTED DURING MAY

At the end of each month the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:

11023	24321
11024	24323
11025	25067
11026	25477
11027	26889
11028	26891
11029	27829

Executive Orders:

14402	24325
14403	24329
14404	25061

Administrative Orders:

Notices:

Notice of May 4, 2026 25069

Notice of May 4, 2026 25071

Notice of May 7, 2026 25781

Notice of May 11, 2026 27181

Presidential Determinations:

No. 2026-13 27177

Presidential Permits:

Permit of April 30, 2026 24333

5 CFR

2419 25073

7 CFR

210 25073

215 25073

220 25073

226 25073

271 25082

278 25082

985 24705

987 26893

Proposed Rules:

920 25521

1218 26949

8 CFR

103 25479

Proposed Rules:

103 24739

9 CFR

319 23903

10 CFR

150 23355

Proposed Rules:

1 23628

2 23628

10 23628

11 23628

19 23628

20 23628

21 23628

25 23628

26 23628

30 23628

40 23628

50 23628

51 23628

57 23628

70 23628

72 23628

73 23628

74 23628

75 23628

95 23628

140 23628

150 23628

12 CFR

1002 23530

Proposed Rules:

701 24745

711 24748

713 24745

741 24745

14 CFR

25 24337

27 24339

39 25092, 25096, 25098,

25102, 26895, 26897, 26899,

26901, 26906, 27183, 27185,

27187, 27189, 27193, 27195

71 23356, 23904, 24711,

24712, 25105, 25106, 27198

91 25108

97 26909, 26910

125 25108

135 25108

Proposed Rules:

1 24650

39 23377, 23919, 23922,

24752, 24754, 24757, 25809,

26949, 26952

71 24760, 25155, 25156,

27223

74 24650

91 24650

107 24650

15 CFR

3 23906

16 CFR

1217 27199

1219 23908

17 CFR

Ch. I 27792

2 25489

200 24115

242 24115

Proposed Rules:	478.....24348, 24357	24143, 24146, 24490, 24492	45 CFR
50.....25812	479.....24348, 24352, 24362,	165.....24147, 24149, 24151,	84.....25496
146.....24377	25112	25840, 26955	98.....25796
200.....24968	555.....24364	166.....24152	Proposed Rules:
210.....24968	646.....25118	167.....24152	146.....27140
229.....24968	Proposed Rules:	34 CFR	1302.....25842
230.....24968	447.....24387, 24392, 25159	674.....23768	
232.....24968	478.....24395, 24400, 24408,	682.....23768	46 CFR
239.....24968	24413, 24424, 24436, 24441,	685.....23768	Proposed Rules:
240.....24968	24448, 24453, 24462, 25159,	Proposed Rules:	502.....26926
249.....24968	25166, 25187, 25192, 25201,	75.....24763	
260.....24968	25210, 25216, 25229, 25237,	36 CFR	47 CFR
	25432	Proposed Rules:	1.....24731
19 CFR	479.....24453, 24462, 24466,	251.....24494	25.....26928
12.....26912	24471, 24478, 24485, 25237,	38 CFR	Proposed Rules:
	25243	17.....25256	1.....25268
21 CFR	555.....24462	21.....24497	52.....25312
866.....24341, 24343, 25783	29 CFR	39 CFR	63.....25325
878.....23357	Proposed Rules:	111.....23369	
884.....25109	2590.....27140	3055.....26922	48 CFR
886.....24346	30 CFR	40 CFR	223.....24735
1308.....23359, 23913, 26913	Proposed Rules:	52.....27205, 27207, 27209,	Proposed Rules:
Proposed Rules:	550.....25255	27211, 27214, 27217	212.....24783
10.....24380	556.....25255	62.....24728, 27219	217.....24783
56.....24380	590.....25255	180.....26924	240.....24783
106.....24380	944.....24761	751.....24133	240.....24783
201.....24380	31 CFR	Proposed Rules:	252.....24783
251.....24380	Ch. V.....24722	49.....26958	
310.....24380	337.....24366	51.....26958	49 CFR
312.....24380	345.....24366	52.....24765, 24768, 25257,	40.....25507
314.....24380	547.....24714	26958, 27224	1022.....24135
329.....24380	548.....24714	63.....23382	1241.....25141
600.....24380	587.....24715	81.....27224	1251.....25141
803.....24380	591.....24716, 24719	257.....23924	Proposed Rules:
862.....24380	594.....24722	260.....25266	191.....24154
866.....24380	599.....24722	261.....25266	195.....24154
870.....24380	33 CFR	270.....25266	367.....23383
882.....24380	100.....24116, 24117, 24118,	271.....27229	
1114.....24380	24120, 24368, 24724, 25133,	43 CFR	50 CFR
	26917, 26919	1600.....25787	300.....23369
23 CFR	165.....24117, 24118, 24120,	6100.....25787	622.....24375
633.....25492	24121, 24124, 24125, 24126	Proposed Rules:	648.....23918, 24737
26 CFR	24130, 24131, 24370, 24372,	4.....26852	660.....23374, 25511
1.....23915	24373, 24375, 24726, 25135,	1700.....26852	679.....27222
48.....23363	25137, 25139, 25493, 25495,	4100.....26852	Proposed Rules:
Proposed Rules:	25785, 25786, 26921, 27204		17.....23934
1.....25158	Proposed Rules:		622.....24500
48.....23380, 25158	100.....24138, 24140, 24142,		635.....24789
54.....27140			648.....23385, 27234
27 CFR			665.....23387
447.....24348, 24352			

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion

in today's **List of Public Laws**.

Last List May 13, 2026

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