

technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

*Title of Collection:* Annual Refiling Survey.  
*OMB Number:* 1220-0032.  
*Type of Review:* Revision of a currently approved collection.

*Affected Public:* Business or other for-profit, Not-for-profit institutions, and farms.

ARS collection instrument	Total responses	Frequency	Estimated time per response	Total burden (hours)
BLS NVS ..... Non-mandatory .....	397,000	once .....	5 minutes .....	33,083
BLS NVS ..... Mandatory .....	444,000	once .....	5 minutes .....	37,000
BLS NVM ..... Non-mandatory .....	22,000	once .....	15 minutes .....	5,500
BLS NVM ..... Mandatory .....	24,000	once .....	15 minutes .....	6,000
BLS NCA ..... Non-mandatory .....	91,000	once .....	10 minutes .....	15,167
BLS NCA ..... Mandatory .....	120,000	once .....	10 minutes .....	20,000
<b>Totals .....</b>	<b>1,098,000</b>			<b>116,750</b>

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

Signed at Washington, DC, on August 18, 2020.

**Leslie Bennett,**  
*Acting Chief, Division of Management Systems.*  
 [FR Doc. 2020-18460 Filed 8-21-20; 8:45 am]  
**BILLING CODE 4510-24-P**

Plaza SW, Washington, DC 20260-1000.  
 Telephone: (202) 268-4800.

**Michael J. Elston,**  
*Secretary.*  
 [FR Doc. 2020-18595 Filed 8-20-20; 11:15 am]  
**BILLING CODE 7710-12-P**

**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-89591; File No. SR-NYSE-2020-68]

**Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Its Price List Regarding Port Fees**

August 18, 2020.

Pursuant to Section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934 (the “Act”),<sup>2</sup> and Rule 19b-4 thereunder,<sup>3</sup> notice is hereby given that on August 10, 2020, New York Stock Exchange LLC (“NYSE” or the “Exchange”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

**I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change**

The Exchange proposes to amend its Price List to (1) extend the Transition

Period for member organizations to transition to the utilization of ports that connect to the Exchange using Pillar technology; (2) extend the Decommission Period that begins once the Transition Period ends; and (3) extend the effective date that the Exchange would prorate the monthly fee for ports activated on or after July 1, 2019. The Exchange proposes to implement these changes to its Price List effective August 10, 2020.<sup>4</sup> The proposed rule change is available on the Exchange’s website at [www.nyse.com](http://www.nyse.com), at the principal office of the Exchange, and at the Commission’s Public Reference Room.

**II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

**POSTAL SERVICE**

**Board of Governors; Sunshine Act Meeting**

**TIME AND DATE:** August 17, 2020, at 7:30 p.m.

**PLACE:** Washington, DC.

**STATUS:** Closed.

**MATTERS TO BE CONSIDERED:**

1. Administrative Issues.
2. Strategic Issues.

On August 17, 2020, a majority of the members of the Board of Governors of the United States Postal Service voted unanimously to hold and to close to public observation a special meeting in Washington, DC, via teleconference. The Board determined that no earlier public notice was practicable.

*General Counsel Certification:* The General Counsel of the United States Postal Service has certified that the meeting may be closed under the Government in the Sunshine Act.

**CONTACT PERSON FOR MORE INFORMATION:** Michael J. Elston, Secretary of the Board, U.S. Postal Service, 475 L’Enfant

<sup>1</sup> 15 U.S.C. 78s(b)(1).  
<sup>2</sup> 15 U.S.C. 78a.  
<sup>3</sup> 17 CFR 240.19b-4.

<sup>4</sup> The Exchange originally filed to amend the Price List on July 31, 2020 (SR-NYSE-2020-64). SR-NYSE-2020-64 was subsequently withdrawn and replaced by this filing.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

The purpose of this filing is to provide additional time for member organizations to transition from older to newer and more efficient Pillar technology. The Exchange is not proposing to adjust the amount of the port fees or the fees charged to offset the Exchange's continuing costs of supporting legacy ports, which will remain at the current level for all market participants.

Effective July 3, 2019, the Exchange introduced transition pricing designed to provide member organizations an extended transition period to connect to the Exchange using Pillar technology with no fee increase. Specifically, the Exchange (1) adopted a cap on monthly fees for the use of certain ports connecting to the Exchange for the billing months July 2019 through March 2020 (the "Transition Period"); (2) adopted a Decommission Extension Fee applicable for the billing months April 2020 through September 2020 (the "Decommission Period") for legacy port connections; and (3) prorated the monthly fee for certain ports activated after July 1, 2019, effective April 1, 2020.<sup>5</sup>

Effective March 2, 2020, the Exchange (1) extended the end of the Transition Period from March 2020 to August 2020 for member organizations to transition to the utilization of ports that connect to the Exchange using Pillar technology; (2) shortened the Decommission Period from six months (April 2020-September 2020) to four months (September-December 2020); (3) extended the effective date that the Exchange would prorate the monthly fee for certain ports activated on or after July 1, 2019 from April 1, 2020 to September 1, 2020; and (4) revised the fees charged for legacy port connections during the Decommission Period.<sup>6</sup>

The Exchange proposes to:

- extend the end of the Transition Period from August 2020 to October 2020;
- extend the beginning of the Decommission Period from September 2020 to November 2020 and the end of the Decommission Period from December 2020 to February 2021; and
- extend the effective date that the Exchange would prorate the monthly fee

<sup>5</sup> See Securities Exchange Act Release No. 86360 (July 11, 2019), 84 FR 34210 (SR-NYSE-2019-39).

<sup>6</sup> See Securities Exchange Act Release No. 88373 (March 12, 2020), 85 FR 15533 (SR-NYSE-2020-14).

for ports activated on or after July 1, 2019 from September 1, 2020 to November 1, 2020.

The Exchange would continue to provide a cap on how much member organizations would be charged for ports during the proposed extra two months of the Transition Period so that they would not incur additional charges during the transition to Pillar communication protocols. Moreover, the Exchange would retain a four month period during which the few firms that do not transition during the proposed longer Transition Period would be charged fees to offset the Exchange's continuing costs of supporting legacy ports but proposes to extend the beginning and end dates for this period.

The Exchange proposes to implement these changes to its Price List effective August 10, 2020.<sup>7</sup>

Competitive Environment

The Exchange operates in a highly competitive market. The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system "has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies."<sup>8</sup>

As the Commission itself recognized, the market for trading services in NMS stocks has become "more fragmented and competitive."<sup>9</sup> Indeed, equity trading is currently dispersed across 13 exchanges,<sup>10</sup> 31 alternative trading systems,<sup>11</sup> and numerous broker-dealer internalizers and wholesalers. Based on publicly-available information, no single exchange has more than 20% of the market share of executed volume of

<sup>7</sup> The Exchange originally filed to amend the Price List on July 31, 2020 (SR-NYSE-2020-64). SR-NYSE-2020-64 was subsequently withdrawn and replaced by this filing.

<sup>8</sup> See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37495, 37499 (June 29, 2005) (S7-10-04) (Final Rule) ("Regulation NMS").

<sup>9</sup> See Securities Exchange Act Release No. 51808, 84 FR 5202, 5253 (February 20, 2019) (File No. S7-05-18) (Transaction Fee Pilot for NMS Stocks Final Rule) ("Transaction Fee Pilot").

<sup>10</sup> See Cboe Global Markets, U.S. Equities Market Volume Summary, available at [http://markets.cboe.com/us/equities/market\\_share/](http://markets.cboe.com/us/equities/market_share/). See generally <https://www.sec.gov/fast-answers/divisionsmarketregmrexchangesshtml.html>.

<sup>11</sup> See FINRA ATS Transparency Data, available at <https://otctransparency.finra.org/otctransparency/AtsIssueData>. A list of alternative trading systems registered with the Commission is available at <https://www.sec.gov/foia/docs/atlist.htm>.

equity trades (whether excluding or including auction volume).<sup>12</sup> The Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can shift order flow, or discontinue or reduce use of certain categories of products, including ports, in response to fee changes. Accordingly, the Exchange's fees, including port fees, are reasonably constrained by competitive alternatives and market participants can readily trade on competing venues if they deem pricing levels at those other venues to be more favorable.

The Exchange is proposing these changes in the context of a competitive environment in which market participants can and do shift order flow, or discontinue or reduce use of certain categories of products, in response to fee changes. Because ports are used by member organizations to trade electronically on the Exchange, fees associated with ports are subject to these same competitive forces. The Exchange believes that the proposal represents a reasonable attempt to provide member organizations with additional time to effect an orderly transition to upgraded technology without incurring additional costs.

Proposed Rule Change

Member organizations enter orders and order instructions, and receive information from the Exchange, by establishing a connection to a gateway that uses communication protocols that map to the order types and modifiers described in Exchange rules. These gateway connections, also known as logical port connections, are referred to as "ports" on the Exchange's Price List. Legacy ports connect with the Exchange via a Common Customer Gateway (known as "CCG") that accesses its equity trading systems ("Phase I ports"). Beginning July 1, 2019, the Exchange began making available ports using Pillar gateways to its member organizations ("Phase II ports").

Extension of the Date To Prorate Ports

The Exchange currently makes available ports that provide connectivity to the Exchange's trading systems (*i.e.*, ports for entry of orders and/or quotes ("order/quote entry ports")) and charges \$550 per port per month. Designated Market Makers ("DMMs") are not charged for the first 12 ports per month that connect to the Exchange.<sup>13</sup> The

<sup>12</sup> See Cboe Global Markets U.S. Equities Market Volume Summary, available at [http://markets.cboe.com/us/equities/market\\_share/](http://markets.cboe.com/us/equities/market_share/).

<sup>13</sup> DMMs completed the transition to Phase II ports last year.

Exchange also currently makes ports available for drop copies and charges \$550 per port per month,<sup>14</sup> except that DMMs are not charged for drop copy ports that connect to the Exchange.

During the ongoing first phase of the Exchange's transition pricing, the fees charged for both order/quote entry and drop copy ports are, with certain exceptions, capped at—and thus not charged for more than—the total number of both order/quote entry and drop copy ports that the member organization has activated as of its June 2019 invoice.

Effective September 1, 2020, the Exchange will prorate fees for order/quote entry and drop copy ports activated after July 1, 2019, to the number of trading days that a port is eligible for production trading with the Exchange, including any scheduled early closing days.

The Exchange proposes to extend the effective date for the prorating of order/quote entry and drop copy ports to November 1, 2020 to coincide with the end of the proposed extended Transition Period in October 2020, discussed below.

#### Extension of the Transition Period

Currently, during the billing months of July 2019 through August 2020 (the "Transition Period"), the total number of ports charged per member organization is capped at the total number of ports that the member organization activated as of the June 2019 invoice, which was the last full month prior to the introduction of the new gateways (the "Transition Cap"). Transition Cap pricing is available until the earlier of (1) the end of the Transition Period, *i.e.*, August 2020, or (2) the billing month during which a member organization fully transitions to using only ports that communicate using Pillar phase II protocols. If during the Transition Period, a member organization increases the number of Phase I ports above the Transition Cap, those ports would be charged at the current rates for order/quote entry ports and drop copy ports. Finally, if during the Transition Period a member organization has a total number of ports below the Transition Cap, the Exchange would charge a member organization for their actual number of ports.

The Exchange proposes to extend the Transition Period by two months to October 2020. As proposed, the charge per port (order/quote entry and drop copy) would remain at \$550 per port per

month. DMMs would continue not to be charged for drop copy ports and for their first 12 order/quote entry ports per month that connect to the Exchange, and then charged \$550 per order/quote entry port that connects to the Exchange per month thereafter.

The purpose of Transition Period pricing is to cap port fees to allow member organizations additional time to implement technology changes necessary to connect to the Exchange using the Phase II ports without incurring additional Exchange fees. As of June 2020, only 65% of Phase I ports have been cancelled. Based on the Exchange's experience to date, the Exchange believes that an additional two months will be necessary to provide sufficient time for all member organizations, regardless of size, to be able to complete the necessary changes and transition fully to the Phase II ports.

#### Extension of the Decommission Period

Currently, member organizations that have not transitioned to Phase II ports and are still utilizing Phase I ports during the billing months of September 2020 through December 2020 (*i.e.*, the Decommission Period), would, in addition to the current port fees, be charged a Decommission Extension Fee of \$1,000 per port per month, increasing by \$1,000 per port for each month for any ports that communicate using Pillar phase I protocols. As per the Price List, ports using Pillar phase I protocols would no longer be available beginning January 1, 2021.

The Exchange proposes that the Decommission Period would begin in November 2020, after the end of the proposed longer Transition Period, and end four months later. As proposed, the Decommission Period would commence in November 2020 and end in February 2021. As a result, the Price List would also be amended to provide that ports using Pillar phase I protocols would no longer be available beginning March 1, 2021.

As noted above, the Exchange believes that extending the Transition Period would provide sufficient time for member organizations to fully transition to Phase II ports and eliminate their use of Phase I ports. To the extent that member organizations do not complete the transition during the Transition Period, the Exchange will offer member organizations the ability to choose to continue using Phase I ports until March 2021.

The proposed changes are not otherwise intended to address any other issues, and the Exchange is not aware of any problems that member

organizations would have in complying with the proposed change.

#### 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,<sup>15</sup> in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,<sup>16</sup> in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

#### The Proposed Changes are Reasonable

The Exchange operates in a highly competitive market. The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Specifically, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system "has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies."<sup>17</sup>

As the Commission itself recognized, the market for trading services in NMS stocks has become "more fragmented and competitive."<sup>18</sup> Indeed, equity trading is currently dispersed across 13 exchanges,<sup>19</sup> 31 alternative trading systems,<sup>20</sup> and numerous broker-dealer internalizers and wholesalers. Based on publicly-available information, no single exchange has more than 20% of the market share of executed volume of equity trades (whether excluding or including auction volume).<sup>21</sup> The Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can shift order flow, or discontinue or reduce use of certain categories of products, including ports,

<sup>15</sup> 15 U.S.C. 78f(b).

<sup>16</sup> 15 U.S.C. 78f(b)(4) & (5).

<sup>17</sup> See Regulation NMS, 70 FR at 37499.

<sup>18</sup> See Transaction Fee Pilot, 84 FR at 5253.

<sup>19</sup> See Cboe Global Markets, U.S. Equities Market Volume, available at [http://markets.cboe.com/us/equities/market\\_share/](http://markets.cboe.com/us/equities/market_share/). See generally <https://www.sec.gov/fast-answers/divisionsmarketregmrexchangesshtml.html>.

<sup>20</sup> See FINRA ATS Transparency Data, available at <https://otctransparency.finra.org/otctransparency/AtsIssueData>. A list of alternative trading systems registered with the Commission is available at <https://www.sec.gov/foia/docs/atlist.htm>.

<sup>21</sup> See Cboe Global Markets U.S. Equities Market Volume Summary, available at [http://markets.cboe.com/us/equities/market\\_share/](http://markets.cboe.com/us/equities/market_share/).

<sup>14</sup> Only one fee per drop copy port applies, even if receiving drop copies from multiple order/quote entry ports.

in response to fee changes. Accordingly, the Exchange's fees, including port fees, are reasonably constrained by competitive alternatives and market participants can readily trade on competing venues if they deem pricing levels at those other venues to be more favorable.

If a particular exchange charges excessive fees for connectivity, impacted members and non-members may opt to terminate their connectivity arrangements with that exchange, and adopt a possible range of alternative strategies, including routing to the applicable exchange through another participant or market center or taking that exchange's data indirectly. Accordingly, if the Exchange charges excessive fees, it would stand to lose not only connectivity revenues but also revenues associated with the execution of orders routed to it, and, to the extent applicable, market data revenues. The Exchange believes that this competitive dynamic imposes powerful restraints on the ability of any exchange to charge unreasonable fees for connectivity.

Given this competitive environment, the proposal represents a fair and reasonable attempt to provide member organizations with additional time to make an orderly transition to upgraded technology without increasing their costs. As noted, as of June 2020, 35% of legacy ports have not been cancelled. If a member organization is unable to complete this transition within the additional two months of the extended Transition Period, the pricing is designed so that only those few member organizations that may not transition within that time period would pay for the Exchange to continue to support their Phase I ports.

#### The Proposal is an Equitable Allocation of Fees

The Exchange believes its proposal equitably allocates its fees among its market participants. The Exchange is not proposing to adjust the amount of the port fees or the fees charged fees to offset the Exchange's continuing costs of supporting legacy ports, which will remain at the current level for all market participants. Rather, the proposal would provide additional time for member organizations to transition from older to newer and more efficient Pillar technology and would charge the same fee for those few member organizations that choose not to transition to Phase II ports during the extended Transition Period.

The Exchange believes that the proposal to pro-rate port fees beginning November 1, 2020, is also an equitable allocation of fees since it would apply

equally to all member organizations that connect to the Exchange, who would equally receive the benefit of being charged only for the connectivity utilized during any trading month beginning in November 1, 2020. As noted above, to the extent a member organization continues to use ports activated before July 1, 2019 to connect to the Exchange during the new November 1, 2020 date and any subsequent months, the Exchange believes it is fair and equitable to continue to charge flat fees for such ports until such time that connection to the Exchange through the use of Phase I ports is no longer available beginning March 1, 2021.

The proposal constitutes an equitable allocation of fees because all similarly situated member organizations and other market participants that choose to connect to the Exchange through the use of Phase I ports during the Decommission Period would continue to be charged the same, unchanged Decommission Extension Fee. Moreover, as noted above, the Exchange proposes a longer transition period which the Exchange expects should be more than sufficient for all member organizations, regardless of size, to transition to Phase II ports before the Decommission Fee goes into effect.

#### The Proposal is Not Unfairly Discriminatory

The Exchange believes that the proposal is not unfairly discriminatory. In the prevailing competitive environment, member organizations are free to disfavor the Exchange's pricing if they believe that alternatives offer them better value, and are free to discontinue to connect to the Exchange through its ports. As noted, the Exchange is offering upgraded connections in an effort to keep pace with changes in the industry and evolving customer needs as new technologies emerge and products continue to develop and change.

The proposal neither targets nor will it have a disparate impact on any particular category of market participant. The Exchange believes that the proposal does not permit unfair discrimination because the proposal would be applied to all similarly situated member organizations and other market participants would be charged the same rates, which will remain unchanged.

The Exchange believes that the proposal does not permit unfair discrimination because the Exchange will be making available both the Phase I and Phase II ports available to all member organizations during the extended Transition Period on an equal

basis. Accordingly, no member organization already operating on the Exchange would be disadvantaged by this allocation of fees. For the same reasons, the Exchange believes that the proposal would not permit unfair discrimination between member organizations.

Similarly, the Decommission Extension Fee would apply equally to all member organizations that choose to connect to the Exchange through the use of such ports during the proposed Decommission Period. If a member organization becomes subject to the Decommission Fee, it would only be because such firm chose not to complete its transition to the Phase II ports by the end of the proposed Transition Period. While the Exchange cannot predict with certainty whether any firms would be subject to the Decommission Fee, and if so, which ones, the Exchange anticipates that it would be a limited set of member organizations that would incur such fees.

The Exchange believes that the proposal to pro-rate port fees does not permit unfair discrimination because it would apply equally to all member organizations that connect to the Exchange, who would equally receive the benefit of being charged only for the connectivity utilized during any trading month beginning November 1, 2020. As noted, to the extent a member organization continues to use ports activated before July 1, 2019 to connect to the Exchange during November 1, 2020 and any subsequent months, the Exchange believes it is fair, equitable and not unfairly discriminatory to continue to charge flat fees for such ports until such time that connection to the Exchange through the use of old ports is no longer available beginning March 1, 2021.

Finally, the Exchange believes that it is subject to significant competitive forces, as described below in the Exchange's statement regarding the burden on competition.

For the foregoing reasons, the Exchange believes that the proposal is consistent with the Act.

#### *B. Self-Regulatory Organization's Statement on Burden on Competition*

In accordance with Section 6(b)(8) of the Act,<sup>22</sup> the Exchange believes that the proposed rule change would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Instead, as discussed above, the Exchange believes that the proposed changes would provide additional time for member

<sup>22</sup> 15 U.S.C. 78f(b)(8).

organizations to transition from older to newer and more efficient Pillar technology with no fee increase and offset the Exchange's continuing costs of supporting the Phase I ports for the few firms that do not transition to the new ports during the longer transition period without any change to the fees currently charged by the Exchange for the use of ports to connect to the Exchange's trading systems.

**Intramarket Competition.** The Exchange does not believe the proposed rule change would impose any burden on intramarket competition that is not necessary or appropriate because it would apply to all member organizations equally that connect to the Exchange. All member organizations, regardless of size, will be eligible for the transition pricing through the extended Transition Period ending October 2020 and will be eligible to connect via either Phase I or Phase II ports during this period. In addition, all member organizations will be subject to the Decommission Fee on an equal basis if they do complete the transition to Phase II ports by the end of the new October 2020 date. As noted, the Exchange anticipates that a low percentage of member organizations would be subject to the proposed Decommission Fee, and the firms likely to be subject to such fee would be larger firms that could more easily absorb the cost of that fee. The Exchange further believes that by extending the Transition Period, all member organizations have an equal opportunity to timely transition to Phase II ports before the Decommission Fee would take effect.

**Intermarket Competition.** The Exchange does not believe the proposed rule change would impose any burden on intermarket competition that is not necessary or appropriate because the Exchange operates in a highly competitive market in which market participants can readily choose to send their orders to other exchange and off-exchange venues if they deem fee levels at those other venues to be more favorable. The Exchange believes that fees for connectivity are constrained by the robust competition for order flow among exchanges and non-exchange markets.

As noted, the no single exchange has more than 20% of the market share of executed volume of equity trades (whether excluding or including auction volume).<sup>23</sup> The Exchange believes that the ever-shifting market share among the exchanges from month to month

demonstrates that market participants can shift order flow, or discontinue or reduce use of certain categories of products, including ports, in response to fee changes. Accordingly, the Exchange's fees, including port fees, are reasonably constrained by competitive alternatives and market participants can readily trade on competing venues if they deem pricing levels at those other venues to be more favorable.

The Exchange is proposing these changes in the context of a competitive environment in which market participants can and do shift order flow, or discontinue or reduce use of certain categories of products, in response to fee changes. Because ports are used by member organizations to trade electronically on the Exchange, fees associated with ports are subject to these same competitive forces. The Exchange therefore believes that the proposal would not impose an undue burden on intermarket competition because the purpose of this filing is not to change the rates charged for ports or to offset the Exchange's continuing costs of supporting legacy ports but rather to provide member organizations with more time to effect an orderly transition to upgraded technology without needing to incur any additional costs.

*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 foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A)<sup>24</sup> of the Act and subparagraph (f)(2) of Rule 19b-4<sup>25</sup> thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)<sup>26</sup> of the Act to determine whether the proposed rule

change should be approved or disapproved.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-NYSE-2020-68 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-NYSE-2020-68. 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 (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NYSE-2020-68, and should be submitted on or before September 14, 2020.

<sup>23</sup> See Cboe Global Markets U.S. Equities Market Volume Summary, available at [http://markets.cboe.com/us/equities/market\\_share/](http://markets.cboe.com/us/equities/market_share/).

<sup>24</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>25</sup> 17 CFR 240.19b-4(f)(2).

<sup>26</sup> 15 U.S.C. 78s(b)(2)(B).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>27</sup>

**J. Matthew DeLesDernier,**

*Assistant Secretary.*

[FR Doc. 2020-18462 Filed 8-21-20; 8:45 am]

BILLING CODE 8011-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-89593; File No. SR-FICC-2020-006]

### Self-Regulatory Organizations; Fixed Income Clearing Corporation; Order Approving Proposed Rule Change To Provide for a Passive Acknowledgement Process and Make Other Changes

August 18, 2020.

#### I. Introduction

On June 19, 2020, Fixed Income Clearing Corporation (“FICC”) filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> proposed rule change SR-FICC-2020-006. The proposed rule change was published for comment in the **Federal Register** on July 7, 2020.<sup>3</sup> The Commission did not receive any comment letters on the proposed rule change. For the reasons discussed below, the Commission is approving the proposed rule change.

#### II. Description of the Proposed Rule Change

FICC proposes to modify its Government Securities Division (“GSD”) Rulebook (“GSD Rules”) and its Mortgage-Backed Securities Division (“MBS”) and together with GSD, each, a “Division”) Clearing Rules (“MSBD Rules,” and together with the GSD Rules, “Rules”)<sup>4</sup> in order to (i) provide for a passive acknowledgement process whereby any settling bank that does not timely acknowledge that it will settle its Funds-Only (Cash) Settlement Figures (as defined below) with FICC (*i.e.*, acknowledge its intention to pay to or collect from FICC), or notify the Settlement Agent (as defined below) of its refusal to settle for one or more

members<sup>5</sup> for which it is the designated GSD Funds-Only Settling Bank or MBSD Cash Settling Bank (collectively, “FICC Settling Banks”) and has not otherwise been in contact with the Settlement Agent, would be deemed to have acknowledged its Funds-Only (Cash) Settlement Figures, (ii) codify FICC’s discretion to exclude a FICC Settling Bank’s balance from the National Settlement Service (“NSS”) file in certain circumstances, and (iii) make certain technical and conforming changes.

#### A. Current Funds-Only (Cash) Settlement Process

Each Division provides a standardized, automated method for settling funds-only, for GSD, and cash, for MBS, settlement (collectively, “Funds-Only (Cash) Settlement”) obligations, respectively, between each Division and its respective members’ FICC Settling Banks. Each member designates a FICC Settling Bank to settle its Funds-Only (Cash) Settlement obligations with FICC. Settlement is effected via the NSS.<sup>6</sup>

On each business day, as applicable, each Division calculates either a Funds-Only Settlement Amount or Cash Balance figure, respectively, for each member and reports to each member and its respective FICC Settling Bank a Net Funds-Only Settlement Figure<sup>7</sup> (for GSD) and either a Total Debit Cash Balance Figure or a Total Credit Cash Balance Figure<sup>8</sup> (for MBS)

<sup>5</sup> The use of “members” here refers to any participant that is required to appoint a Funds-Only Settling Bank or Cash Settling Bank, which includes GSD Netting Members, GSD Centrally Cleared Institutional Triparty (“CCIT”) Members, GSD Sponsoring Members, and MBS Clearing Members. References hereinafter to the term “members” shall be used for ease of reference. See GSD Rule 13, Section 4(a) and MBSD Rule 3A, Section (a), *supra* note 4.

<sup>6</sup> GSD Rule 13, Section 5(i) and MBSD Rule 11, Section 9(i), *supra* note 4. For a general description of the NSS, see National Settlement Service, available at <https://www.fibservices.org/financial-services/national-settlement-service/index.html>.

<sup>7</sup> Net Funds-Only Settlement Figure means the net amount of the Funds-Only Settlement Amounts of the Netting Members for which a Funds-Only Settling Bank Member is acting. GSD Rule 1, *supra* note 4. For GSD, Funds-Only Settlement Amounts reflect: (i) Changes in the value of securities when they are marked to market, (ii) cash adjustments related to securities trades, (iii) the pass-through of coupon payments for term repos or trade obligations that cross a coupon date, and (iv) other items, such as billing invoices. GSD Rule 13, Section 1, *supra* note 4.

<sup>8</sup> Total Debit Cash Balance Figure means the sum of the Cash Balances which are debits of the Members for which a Cash Settling Bank Member is acting. MSBD Rule 1, *supra* note 4. Total Credit Cash Balance Figures means the sum of the Cash Balances which are credits of the Members for which a Cash Settling Bank Member is acting. MSBD Rule 1, *supra* note 4. For MBS, Cash

(collectively, “Funds-Only (Cash) Settlement Figures”). The Depository Trust Company (“DTC”) acts as Settlement Agent<sup>9</sup> for both GSD’s funds-only and MBS’s cash settlement process.

Once the FICC Settling Banks receive their Funds-Only (Cash) Settlement Figures from the Settlement Agent, the FICC Settling Banks submit either (1) acknowledgement that they will settle their Funds-Only (Cash) Settlement Figures with FICC or (2) refusal to settle such amounts on behalf of one or more of their respective members.<sup>10</sup> The acknowledgement or refusal submission occurs through a designated terminal system.<sup>11</sup> If all of the FICC Settling Banks submit acknowledgements of their intent to settle, then DTC, as Settlement Agent, would submit the requisite file to the relevant Federal Reserve Bank (“FRB”) for processing through the NSS.<sup>12</sup>

If a FICC Settling Bank notifies the Settlement Agent that the FICC Settling Bank refuses to pay the Funds-Only (Cash) Settlement Figure for a member, then FICC would exclude that member’s amount and the Settlement Agent would provide the FICC Settling Bank with a new Funds-Only (Cash) Settlement Figure that no longer includes the excluded member’s amount. The FICC Settling Bank must then immediately send a message to the Settlement Agent acknowledging the new amount.<sup>13</sup> The Settlement Agent would then submit the requisite file to the FRB for processing through the NSS.

Settlement amounts reflect: (i) The To Be Announced (“TBA”) Transaction Adjustment Payment, (ii) Net Pool Transaction Adjustment Payment, (iii) principal and interest payments for failing net pool settlement obligations (to the extent that they are not handled by the FedWire Securities Service Automated Claims Adjustment Process), and (iv) other items, such as Factor Update Adjustments and billing invoices. MBSD Rule 11, Section 7, *supra* note 4.

<sup>9</sup> DTC Settlement Operations acts as the Settlement Agent for GSD and MBS. “Settlement Agent” means the bank or trust company that FICC may, from time to time, designate to act as its agent for purposes of interfacing with NSS for funds-only settlement pursuant to GSD Rule 13 (for GSD) and for Cash Settlement pursuant to MBSD Rule 11. GSD Rule 1 and MBSD Rule 1, *supra* note 4.

<sup>10</sup> A FICC Settling Bank that settles only for itself may not refuse to settle for itself and, therefore, may opt out of the requirement to acknowledge its Funds-Only (Cash) Settlement Figures. GSD Rule 13, Section 5(b) and MBSD Rule 11, Section 9, *supra* note 4. The passive acknowledgement process would not apply to such FICC Settling Banks that have chosen to opt out. See Notice, *supra* note 3, at 40723-24.

<sup>11</sup> GSD Rule 13, Section 5(b) and MBSD Rule 11, Section 9(b), *supra* note 4.

<sup>12</sup> GSD Rule 13, Section 5(i) and MBSD Rule 11, Section 9(i), *supra* note 4.

<sup>13</sup> GSD Rule 13, Section 5(c) and MBSD Rule 11, Section 9(c), *supra* note 4.

<sup>27</sup> 17 CFR 200.30-3(a)(12), (59).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> Securities Exchange Act Release No. 89193 (June 30, 2020), 85 FR 40723 (July 7, 2020) (SR-FICC-2020-006) (“Notice”).

<sup>4</sup> Capitalized terms not defined herein are defined in the Rules, available at <http://www.dtcc.com/legal/rules-and-procedures>.