

Rule 206(4)-3 (17 CFR 275.206(4)-3) under the Investment Advisers Act of 1940, which is entitled “Cash Payments for Client Solicitations,” provides restrictions on cash payments for client solicitations. The rule requires that an adviser pay all solicitors’ fees pursuant to a written agreement. When an adviser will provide only impersonal advisory services to the prospective client, the rule imposes no disclosure requirements. When the solicitor is affiliated with the adviser and the adviser will provide individualized advisory services to the prospective client, the solicitor must, at the time of the solicitation or referral, indicate to the prospective client that he is affiliated with the adviser. When the solicitor is not affiliated with the adviser and the adviser will provide individualized advisory services to the prospective client, the solicitor must, at the time of the solicitation or referral, provide the prospective client with a copy of the adviser’s brochure and a disclosure document containing information specified in rule 206(4)-3.

Amendments to rule 206(4)-3, adopted in 2010 in connection with rule 206(4)-5, specify that solicitation activities involving a government entity, as defined in rule 206(4)-5, are subject to the additional limitations of rule 206(4)-5. In December 2020, the Commission adopted a single marketing rule which merged certain existing provisions of rule 206(4)-3 into amendments to rule 206(4)-1. In light of these 2020 amendments, the Commission has rescinded rule 206(4)-3, effective November 2, 2022. Notwithstanding the rescission of rule 206(4)-3, the Office of Management and Budget (the “OMB”) has requested that the Commission submit documents in connection with the extension of rule 206(4)-3 for the period covering February 28, 2022 to November 2, 2022, the effective date of the discontinuance of rule 206(4)-3.

To the extent that the OMB has requested this collection of information, the information rule 206(4)-3 requires is necessary to inform advisory clients about the nature of the solicitor’s financial interest in the recommendation so the prospective clients may consider the solicitor’s potential bias, and to protect clients against solicitation activities being carried out in a manner inconsistent with the adviser’s fiduciary duty to clients. Rule 206(4)-3 is applicable to all Commission-registered investment advisers. The Commission believes that approximately 3,829 of these advisers have cash referral fee arrangements. The rule requires approximately 7.04 burden

hours per year per adviser and results in a total of approximately 26,956 total burden hours ($7.04 \times 3,829$) for all advisers.

Please direct your written comments within 60 days to David Bottom, Director/Chief Information Officer, Securities and Exchange Commission, C/O John R. Pezzullo, 100 F Street NE, Washington, DC 20549; or send an email to: PRA_Mailbox@sec.gov.

Dated: December 1, 2021.

J. Matthew DeLesDernier,
Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270-489, OMB Control No. 3235-0541]

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549-2736

Extension:

Rule 606 of Regulation NMS

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (“PRA”), the Securities and Exchange Commission (“Commission”) is soliciting comments on the existing collection of information provided for in Rule 606 of Regulation NMS (“Rule 606”) (17 CFR 242.606), under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*). The Commission plans to submit this existing collection of information to the Office of Management and Budget (“OMB”) for extension and approval.

Rule 606 (formerly known as Rule 11Ac1-6) requires disclosure by broker-dealers of (1) pursuant to Rule 606(a)(1), a quarterly aggregated public report on the handling of orders in NMS stocks that are submitted on a held basis and orders in NMS securities that are option contracts with a market value less than \$50,000; (2) pursuant to Rule 606(b)(1), a report, upon request of a customer, on the routing of that customer’s orders in NMS stocks that are submitted on a held basis, orders in NMS stocks that are submitted on a not held basis and do not qualify for two de minimis exceptions, and orders in NMS securities that are option contracts, containing certain information on the broker-dealer’s routing of such orders for that customer for the prior six months; and (3) pursuant to Rule

606(b)(3), a report, upon request of a customer that places with the broker-dealer, directly or indirectly, NMS stock orders of any size that are submitted on a not held basis (subject to two de minimis exceptions), containing certain information on the broker-dealer’s handling of such orders for that customer for the prior six months.

The total annual time burden associated with Rule 606 is approximately 190,240 hours per year and the total annual cost burden associated with Rule 606 is approximately \$1,300,000 per year, calculated as described below.

The Commission estimates that out of the currently 3,585 broker-dealers that are subject to the collection of information obligations of Rule 606(a)(1), clearing brokers bear a substantial portion of the burden of complying with the reporting and recordkeeping requirements of Rule 606 on behalf of small to mid-sized introducing firms. There currently are approximately 186 clearing brokers. In addition, there are approximately 78 introducing brokers that receive funds or securities from their customers. Because at least some of these firms also may have greater involvement in determining where customer orders are routed for execution, they have been included, along with clearing brokers, in estimating the total burden of Rule 606(a)(1).

The Commission staff estimates that each firm significantly involved in order routing practices incurs an average burden of 40 hours to prepare and disseminate the quarterly report required by Rule 606(a)(1), or a burden of 160 hours per year. With an estimated 264¹ broker-dealers significantly involved in order routing practices, the total industry-wide time burden per year to comply with the quarterly reporting requirement in Rule 606 is estimated to be 42,240 hours (160×264). Additionally, for each of the 264 broker-dealers subject to disclosure requirements of Rule 606(a)(1), the Commission estimates the annual burden under Rule 606(a)(1)(iv) to monitor payment for order flow and profit-sharing relationships and potential self-regulatory organization rule changes that could impact their order routing decisions and incorporate any new information into their reports to be 10 hours and the annual burden for each broker-dealer to describe and update any terms of payment for order flow arrangements and profit-sharing relationships with a Specified Venue

¹ 186 clearing brokers + 78 introducing brokers = 264.

that may influence their order routing decisions to be 15 hours, for a total annual time burden of approximately 6,600 hours (25 × 264). Therefore, the estimated total annual time burden to comply with Rule 606(a)(1) is 48,840 hours (42,240 + 6,600).

Clearing brokers generally bear the burden of responding to individual customer requests under Rule 606(b)(1) for order handling information. The Commission staff estimates that an average clearing broker incurs an annual burden of 400 hours (2000 responses × 0.2 hours/response) to prepare, disseminate, and retain responses to customers required by Rule 606(b)(1). With an estimated 186 clearing brokers subject to Rule 606(b)(1), the total industry-wide time burden per year to comply with the customer response requirement in Rule 606(b)(1) is estimated to be 74,400 hours (186 × 400).

The Commission estimates that approximately 200 broker-dealers are involved in routing orders subject to the disclosure requirements of Rule 606(b)(3). The Commission believes that some such broker-dealers will respond to requests for customer-specific reports in house, while others will engage a third-party service provider to do so. The Commission estimates that approximately 135 broker-dealers will respond in-house to individual customer requests for information on order handling under Rule 606(b)(3), and that for each, the individual annual time burden will be 400 hours (200 responses × 2 hours/response), with a total annual time burden of 54,000 hours (400 × 135).

The Commission estimates that approximately 65 broker-dealers will engage a third party to respond to individual customer requests, and that for each, the individual annual time burden will be 200 hours (200 responses × 1 hour/response), with a total annual time burden of 13,000 hours (200 × 65). The total annual cost burden associated with engaging such third parties is approximately \$1,300,000 (65 × 200 annual requests × \$100 per request to engage a third-party service provider). Therefore, the estimated total annual burden to comply with Rule 606(b)(3) is 67,000 hours (54,000 + 13,000) and \$1,300,000.

The total annual time burden associated with Rule 606 is thus approximately 190,240 hours per year (48,840 + 74,400 + 67,000) and the total annual cost burden associated with Rule 606 is approximately \$1,300,000 per year.

Written comments are invited on: (a) Whether the proposed collection of

information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (b) the accuracy of the Commission's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number

Please direct your written comments to David Bottom, Director/Chief Information Officer, Securities and Exchange Commission, c/o John Pezzullo, 100 F Street NE, Washington, DC 20549; or send an email to: PRA_Mailbox@sec.gov.

Dated: December 15, 2021.

J. Matthew DeLesDernier,

Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-93769; File No. SR-FINRA-2021-032]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend FINRA Rule 2251 (Processing and Forwarding of Proxy and Other Issuer-Related Materials)

December 14, 2021.

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 December 7, 2021, the Financial Industry Regulatory Authority, Inc. (“FINRA”) filed with the Securities and Exchange Commission (“SEC” or “Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by FINRA. FINRA has designated the proposed rule change as constituting a “non-controversial” rule change under paragraph (f)(6) of

Rule 19b-4 under the Act,³ which renders the proposal effective upon receipt of this filing by the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

FINRA is proposing to amend the provisions of FINRA Rule 2251 (Processing and Forwarding of Proxy and Other Issuer-Related Materials) relating to seeking reimbursement from issuers for forwarding proxy and other materials and to make minor conforming revisions.

The text of the proposed rule change is available on FINRA's website at <http://www.finra.org>, at the principal office of FINRA and at the Commission's Public Reference Room.

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

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

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

1. Purpose

FINRA Rule 2251 requires FINRA members to transmit proxy materials and other communications to beneficial owners of securities and limits the circumstances in which FINRA members may vote proxies without instructions from those beneficial owners.⁴ The Supplementary Material under FINRA Rule 2251 (FINRA Rule 2251.01) sets forth the rate reimbursement provisions pursuant to which FINRA members are entitled to

³ 17 CFR 240.19b-4(f)(6).

⁴ FINRA Rule 2251 was adopted as a consolidation of former NASD Rule 2260 and IM-2260 as part of FINRA's rulebook consolidation process. See Securities Exchange Act Release No. 61052 (November 23, 2009), 74 FR 62857 (December 1, 2009) (Order Granting Approval of Proposed Rule Change to Adopt FINRA Rule 2251 (Forwarding of Proxy and Other Issuer-Related Materials) in the Consolidated FINRA Rulebook; File No. SR-FINRA-2009-066).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.