

utilize the Exchange as a primary trading venue for all transactions, all of the Exchange's market participants should benefit from the improved market quality and increased opportunities for price improvement. The Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues. In such an environment, the Exchange must continually review, and consider adjusting, its fees and credits to remain competitive with other exchanges. For the reasons described above, the Exchange believes that the proposed rule change reflects this competitive environment.

The Exchange further believes that the proposed change could promote competition between the Exchange and other execution venues, including those that currently offer rebates on QCC transactions and Floor Broker rebates on manual billable volume,²⁸ by encouraging additional orders to be sent to the Exchange for execution.

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)²⁹ of the Act and subparagraph (f)(2) of Rule 19b-4³⁰ 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)³¹ 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. Please include File Number SR-NYSEAMER-2023-08 on the subject line.

Paper Comments

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

All submissions should refer to File Number SR-NYSEAMER-2023-08. 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-NYSEAMER-2023-08, and should be submitted on or before February 21, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.³²

Sherry R. Haywood,

Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 34814; File No. 812-15375]

Fidelity Private Credit Fund and Fidelity Diversifying Solutions LLC

January 24, 2023.

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) and section 61(a) of the Act.

Summary of Application: Applicants request an order to permit certain closed-end management investment companies that have elected to be regulated as business development companies ("BDCs") to issue multiple classes of shares with varying sales loads and asset-based service and/or distribution fees.

Applicants: Fidelity Private Credit Fund and Fidelity Diversifying Solutions LLC.

Filing Dates: The application was filed on July 28, 2022 and amended on August 19, 2022, and January 9, 2023.

Hearing or Notification of Hearing: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing on any application by emailing the Commission's Secretary at 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.

Hearing requests should be received by the Commission by 5:30 p.m. on February 17, 2023, 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

²⁸ See notes 21 & 22, *supra*.

²⁹ 15 U.S.C. 78s(b)(3)(A).

³⁰ 17 CFR 240.19b-4(f)(2).

³¹ 15 U.S.C. 78s(b)(2)(B).

³² 17 CFR 200.30-3(a)(12).

to be notified of a hearing may request notification by emailing the Commission's Secretary.

ADDRESSES: The Commission: *Secretaries-Office@sec.gov*. Applicants: *Cynthia.Lo.Bessette@fmr.com*.

FOR FURTHER INFORMATION CONTACT: Seth Davis, Senior Counsel or Terri G. Jordan, Branch Chief, 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' second amended and restated application, dated January 9, 2023, which may be obtained via the Commission's website by searching for the file number at the top of this document, or for an Applicant using the Company name search field, on the SEC's EDGAR system. The SEC's EDGAR system may be searched at <https://www.sec.gov/edgar/searchedgar/legacy/companysearch.html>. You may also call the SEC's Public Reference Room at (202) 551-8090.

For the Commission, by the Division of Investment Management, under delegated authority.

Sherry R. Haywood,
Assistant Secretary.

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BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-96741; File No. SR-NYSEARCA-2023-06]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Proposed Rule Change To Amend Rule 7.44-E Relating to the Retail Liquidity Program

January 24, 2023.

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 January 10, 2023, NYSE Arca, Inc. ("NYSE Arca" or the "Exchange") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the 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 7.44-E relating to the Retail Liquidity Program. The proposed rule change is available on the Exchange's website at www.nyse.com, at the principal office of the Exchange, and at the Commission's Public Reference Room.

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

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

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

1. Purpose

The Exchange proposes to amend Rule 7.44-E, which sets forth the Exchange's Retail Liquidity Program (the "Program").⁴ The purpose of the Program is to attract retail order flow to the Exchange and allow such order flow to receive potential price improvement. Rule 7.44-E currently provides for a class of market participant called Retail Liquidity Providers ("RLPs") who, along with non-RLP ETP Holders, are able to provide potential price improvement to retail investor orders in the form of a non-displayed order that is priced better than the best protected bid or offer, called a Retail Price Improvement Order ("RPI Order").⁵ When there is an RPI Order in a particular security, the

⁴ The Program was established on a pilot basis in 2013 and was approved by the Commission to operate on a permanent basis in 2019. See Securities Exchange Act Release No. 87350 (October 18, 2019), 84 FR 57106 (October 24, 2019) (SR-NYSEArca-2019-63). In connection with the Commission's approval of the Program on a pilot basis, the Commission granted the Exchange's request for exemptive relief from Rule 612 of Regulation NMS, 17 CFR 242.612 (the "Sub-Penny Rule"), which, among other things, prohibits a national securities exchange from accepting or ranking orders priced greater than \$1.00 per share in an increment smaller than \$0.01. See Securities Exchange Act Release No. 71176 (December 23, 2013), 78 FR 79524 (December 30, 2013) (SR-NYSEArca-2013-107).

⁵ See Rules 7.44-E(a)(1) (defining an RLP) and 7.44-E(a)(4) (defining RPI Order).

Exchange disseminates an indicator, known as the Retail Liquidity Identifier, that such interest exists.⁶ Retail Member Organizations ("RMOs") can submit a Retail Order to the Exchange, which interacts, to the extent possible, with available contra-side RPI Orders and then may interact with other liquidity on the Exchange or elsewhere, depending on the Retail Order's instructions.⁷ The segmentation in the Program allows retail order flow to receive potential price improvement as a result of their order flow being deemed more desirable by liquidity providers. The Exchange recently modified the Program to be available for all securities traded on the Exchange.⁸

As described in further detail below, the Exchange now proposes to substantively amend the Program to (1) modify the Program to provide Retail Orders with price improvement at the midpoint or better by proposing that both RPI Orders and Retail Orders would function as Mid-Point Liquidity Orders ("MPL Orders") and (2) eliminate the role of RLPs.⁹

Proposed Midpoint Program

The Exchange proposes to modify the Program to provide Retail Orders with price improvement at the midpoint or better, which change the Exchange believes would further the purpose of the Program to offer price improvement opportunities to retail order flow. The Exchange believes that the proposed change would provide more deterministic price improvement opportunities for Retail Orders and could attract additional retail order flow to the Exchange.

RPI Orders

Rule 7.44-E(a)(4) currently provides that an RPI Order consists of non-displayed interest that would trade at prices better than the PBB or PBO by at least \$0.001 and that is identified as

⁶ See Rule 7.44-E(j).

⁷ See Rule 7.44-E(a)(2) (defining RMO); Rules 7.44-E(a)(3) and 7.44-E(k) (describing Retail Orders).

⁸ See Securities Exchange Act Release No. 96111 (October 20, 2022), 87 FR 64830 (October 26, 2022) (SR-NYSEARCA-2022-70) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Modify Rule 7.44-E).

⁹ The Exchange notes that, with the proposed modification of the Program to provide Retail Orders with price improvement at the midpoint or better, the Exchange would no longer accept and rank RPI Orders in increments smaller than \$0.01, as ordinarily prohibited by the Sub-Penny Rule. Accordingly, the operation of the Program, as proposed, would no longer be dependent on the exemptive relief from the Sub-Penny Rule previously granted by the Commission in connection with its original approval of the Program.

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.