

Representative,<sup>20</sup> custodian, Reporting Authority, distributor, or administrator, who has access to information regarding the Fund's portfolio composition or changes thereto or its Creation Basket, must be subject to procedures designed to prevent the use and dissemination of material nonpublic information regarding the applicable Fund portfolio or changes thereto or the Creation Basket.<sup>21</sup> Moreover, if any such person or entity is registered as a broker-dealer or affiliated with a broker-dealer, such person or entity must erect and maintain a "fire wall" between the person or entity and the broker-dealer with respect to access to information concerning the composition of and/or changes to such Fund's portfolio or Creation Basket.<sup>22</sup> Finally, the Exchange represents that trading of the Shares through the Exchange will be subject to the Exchange's surveillance procedures for derivative products, including Managed Portfolio Shares,<sup>23</sup> and that its surveillance procedures are adequate to properly monitor the trading of the Shares on the Exchange during all trading sessions and to deter and detect violations of Exchange rules and the applicable federal securities laws.

The Exchange deems the Shares to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities. Moreover, prior to the commencement of trading, the Exchange will inform its members in an Information Circular ("Circular") of the special characteristics and risks associated with trading the Shares.<sup>24</sup>

In support of this proposal, the Exchange represents that:

<sup>20</sup> See BZX Rule 14.11(k)(3)(C).

<sup>21</sup> See BZX Rule 14.11(k)(2)(E).

<sup>22</sup> See *id.* The Exchange represents that any person or entity who has access to information regarding the Fund's portfolio composition or changes thereto or the Creation Basket will be subject to procedures designed to prevent the use and dissemination of material nonpublic information regarding the portfolio composition or changes thereto or the Creation Basket.

<sup>23</sup> See BZX Rule 14.11(k)(2)(C), which requires, as part of the surveillance procedures for Managed Portfolio Shares, the Fund's investment adviser to, upon request by the Exchange or the Financial Industry Regulatory Authority ("FINRA"), on behalf of the Exchange, make available to the Exchange or FINRA the daily portfolio holdings of each series of Managed Portfolio Shares.

<sup>24</sup> The Exchange represents that the Circular will discuss the following: (1) Procedures for purchases and redemptions of Shares; (2) BZX Rule 3.7, which imposes suitability obligations on Exchange members with respect to recommending transactions in the Shares to customers; (3) how information regarding the VIIV is disseminated; (4) the requirement that members deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; (5) trading information; and (6) that the portfolio holdings will be disclosed within at least 60 days following the end of every fiscal quarter.

(1) The Shares will conform to the initial and continued listing criteria under BZX Rule 14.11(k).

(2) A minimum of 100,000 Shares of the Fund will be outstanding at the commencement of trading on the Exchange.

(3) The Exchange or FINRA, on behalf of the Exchange, or both, will communicate as needed, and may obtain trading information, regarding trading in the Shares, and the underlying exchange-traded instruments with other markets and other entities that are members of the ISG. In addition, the Exchange may obtain information regarding trading in the Shares and the underlying exchange-traded instruments from markets and other entities with which the Exchange has in place a comprehensive surveillance sharing agreement.

(4) The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions in which the Shares trade.

(5) For initial and continued listing, the Fund will be in compliance with Rule 10A-3 under the Act.<sup>25</sup>

(6) The Fund's holdings will conform to the permissible investments as set forth in the Exemptive Application and Exemptive Order, and investments made by the Fund will be consistent with all requirements set forth in the Exemptive Application and Exemptive Order. The Fund's investments will be consistent with its investment objective and will not be used to enhance leverage.

The Exchange represents that all statements and representations made in the filing regarding: (1) The description of the portfolio or reference assets; (2) limitations on portfolio holdings or reference assets; (3) dissemination and availability of the VIIV, reference assets, and intraday indicative values; and (4) the applicability of Exchange rules constitute continued listing requirements for listing the Shares on the Exchange. In addition, the Exchange represents that the issuer will advise the Exchange of any failure by the Fund to comply with the continued listing requirements and, pursuant to its obligations under Section 19(g)(1) of the Act, the Exchange will surveil for compliance with the continued listing requirements. If the Fund is not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under BZX Rule 14.12.

For the foregoing reasons, the Commission finds that the proposed rule change is consistent with Section

6(b)(5) of the Act<sup>26</sup> and Section 11A(a)(1)(C)(iii) of the Act<sup>27</sup> and the rules and regulations thereunder applicable to a national securities exchange.

#### IV. Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>28</sup> that the proposed rule change (SR-CboeBZX-2020-029), as modified by Amendment No. 1, be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>29</sup>

**J. Matthew DeLesDernier,**  
Assistant Secretary.

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#### SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270-259, OMB Control No. 3235-0269]

#### Submission for OMB Review; 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 17f-5

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520), the Securities and Exchange Commission ("Commission") has submitted to the Office of Management and Budget ("OMB") requests for extension of the previously approved collections of information discussed below.

Rule 17f-5 (17 CFR 270.17f-5) under the Investment Company Act of 1940 [15 U.S.C. 80a] (the "Act") governs the custody of the assets of registered management investment companies ("funds") with custodians outside the United States. Under rule 17f-5, a fund or its foreign custody manager (as delegated by the fund's board) may maintain the fund's foreign assets in the care of an eligible fund custodian under certain conditions. If the fund's board delegates to a foreign custody manager authority to place foreign assets, the fund's board must find that it is reasonable to rely on each delegate the board selects to act as the fund's foreign custody manager. The delegate must

<sup>26</sup> 15 U.S.C. 78f(b)(5).

<sup>27</sup> 15 U.S.C. 78k-1(a)(1)(C)(iii).

<sup>28</sup> 15 U.S.C. 78s(b)(1).

<sup>29</sup> 17 CFR 200.30-3(a)(12).

<sup>25</sup> See 17 CFR 240.10A-3.

agree to provide written reports that notify the board when the fund's assets are placed with a foreign custodian and when any material change occurs in the fund's custody arrangements. The delegate must agree to exercise reasonable care, prudence, and diligence, or to adhere to a higher standard of care. When the foreign custody manager selects an eligible foreign custodian, it must determine that the fund's assets will be subject to reasonable care if maintained with that custodian, and that the written contract that governs each custody arrangement will provide reasonable care for fund assets. The contract must contain certain specified provisions or others that provide at least equivalent care. The foreign custody manager must establish a system to monitor the performance of the contract and the appropriateness of continuing to maintain assets with the eligible foreign custodian.

The collection of information requirements in rule 17f-5 are intended to provide protection for fund assets maintained with a foreign bank custodian whose use is not authorized by statutory provisions that govern fund custody arrangements,<sup>1</sup> and that is not subject to regulation and examination by U.S. regulators. The requirement that the fund board determine that it is reasonable to rely on each delegate is intended to ensure that the board carefully considers each delegate's qualifications to perform its responsibilities. The requirement that the delegate provide written reports to the board is intended to ensure that the delegate notifies the board of important developments concerning custody arrangements so that the board may exercise effective oversight. The requirement that the delegate agree to exercise reasonable care is intended to provide assurances to the fund that the delegate will properly perform its duties.

The requirements that the foreign custody manager determine that fund assets will be subject to reasonable care with the eligible foreign custodian and under the custody contract, and that each contract contain specified provisions or equivalent provisions, are intended to ensure that the delegate has evaluated the level of care provided by the custodian, that it weighs the adequacy of contractual provisions, and that fund assets are protected by minimal contractual safeguards. The requirement that the foreign custody manager establish a monitoring system is intended to ensure that the manager

periodically reviews each custody arrangement and takes appropriate action if developing custody risks may threaten fund assets.<sup>2</sup>

Commission staff estimates that each year, approximately 90 registrants<sup>3</sup> could be required to make an average of one response per registrant under rule 17f-5, requiring approximately 2.5 hours of board of director time per response, to make the necessary findings concerning foreign custody managers. The total annual burden associated with these requirements of the rule is up to approximately 225 hours (90 registrants × 2.5 hours per registrant). The staff further estimates that during each year, approximately 15 global custodians<sup>4</sup> are required to make an average of 4 responses per custodian concerning the use of foreign custodians other than depositories. The staff estimates that each response will take approximately 270 hours, requiring approximately 1,080 total hours annually per custodian (270 hours × 4 responses per custodian). The total annual burden associated with these requirements of the rule is approximately 16,200 hours (15 global custodians × 1,080 hours per custodian). Therefore, the total annual burden of all collection of information requirements of rule 17f-5 is estimated to be up to 16,425 hours (225 + 16,200). The total annual cost of burden hours is estimated to be \$4,779,225 ((225 hours × \$4,465/hour for board of director's time + (16,200 hours × \$233/hour for a trust administrator's time)).<sup>5</sup> Compliance with the collection of information requirements of the rule is necessary to obtain the benefit of relying on the rule's permission for funds to maintain their assets in foreign custodians.

The estimate of average burden hours is made solely for the purposes of the Paperwork Reduction Act. The estimate

<sup>2</sup> The staff believes that subcustodian monitoring does not involve "collection of information" within the meaning of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520) ("Paperwork Reduction Act").

<sup>3</sup> This figure is an estimate of the number of new funds each year, based on data reported by funds for 2017, 2018, and 2019. In practice, not all funds will use foreign custody managers. The actual figure therefore may be smaller.

<sup>4</sup> This estimate is based on staff research.

<sup>5</sup> Based on fund industry representations, the staff estimated in 2014 that the average cost of board of director time, for the board as a whole, was \$4,000 per hour. Adjusting for inflation, the staff estimates that the current average cost of board of director time is approximately \$4,465 per hour. The \$233/hour figure for a trust administrator is from SIFMA's Management & Professional Earnings in the Securities Industry 2013, modified by Commission staff to account for an 1800-hour work-year and inflation, and multiplied by 5.35 to account for bonuses, firm size, employee benefits, and overhead.

is not derived from a comprehensive or even a representative survey or study of the costs of Commission rules and forms.

The public may view background documentation for this information collection at the following website: [www.reginfo.gov](http://www.reginfo.gov). Find this particular information collection by selecting "Currently under 30-day Review—Open for Public Comments" or by using the search function. Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to (i) [www.reginfo.gov/public/do/PRAMain](http://www.reginfo.gov/public/do/PRAMain) and (ii) David Bottom, Director/Chief Information Officer, Securities and Exchange Commission, c/o Cynthia Roscoe, 100 F Street NE, Washington, DC 20549, or by sending an email to: [PRA\\_Mailbox@sec.gov](mailto:PRA_Mailbox@sec.gov).

Dated: July 2, 2020.

**J. Matthew DeLesDernier,**  
Assistant Secretary.

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## **SURFACE TRANSPORTATION BOARD**

[Docket No. AB 290 (Sub-No. 408X)]

### **Norfolk Southern Railway Company— Abandonment Exemption—in Hudson and Essex Counties, NJ**

On June 19, 2020, Norfolk Southern Railway Company (NSR) filed with the Surface Transportation Board (Board) a petition under 49 U.S.C. 10502 for exemption from the prior approval requirements of 49 U.S.C. 10903 to abandon an approximately 8.6-mile rail line, extending from milepost WD 2.9 in the City of Jersey City, to milepost WD 11.5 in the Township of Montclair, in Hudson and Essex Counties, NJ (the Line). The Line traverses U.S. Postal Service Zip Codes 07306, 07094, 07032, 07104, 07109, 07003, 07028, and 07042.

NSR states that it is seeking to abandon the Line because the Line has been dormant for more than a decade.<sup>1</sup>

<sup>1</sup> NSR states that it has served no customers on the Line since it acquired the property from the Consolidated Rail Corporation in 1999. (Pet. 4, 11.) According to NSR, in 2005, it discontinued service over a 6.2-mile segment between milepost WD 2.2 in Jersey City and milepost WD 8.4 in Newark. (*Id.*) See *Norfolk S. Ry.—Discontinuance of Serv. Exemption—Between Newark & Kearney, NJ, in Essex & Hudson Cty., NJ*, AB 290 (Sub-No. 242X) (STB served Jan. 18, 2005). NSR states that New Jersey Transit operated commuter rail passenger service over the Line until 2002, (pet. 10-11), and the 6.2-mile segment served as an overhead route to serve one customer located on the Newark Industrial Track, (*id.* at 4-5). NSR states that no freight traffic has moved over the remaining segment of the Line from milepost WD 8.4 to

<sup>1</sup> See section 17(f) of the Act. 15 U.S.C. 80a-17(f).