

above, existing handling procedures in this scenario is a legacy of the limitations of the RASH protocol, which will no longer be applicable after the Exchange migrates responsibility from RASH to the System for handling Discretionary Orders.

For similar reasons, there will be no adverse competitive impact associated with the Exchange's proposal to present Discretionary IOCs associated with Discretionary Orders without Routing in price-time priority, rather than in random order, as is currently the case and as will remain the case for Discretionary IOCs associated with Discretionary Orders with Routing. Whereas RASH is unable to present Discretionary IOCs in time-price [sic] priority, the Exchange's system will be capable of doing so, and thus it will do so when it assumes responsibility for handling Discretionary Orders without routing. Insofar as RASH will continue to handle Discretionary Orders with Routing, existing randomized processes for presenting Discretionary IOCs associated with those Orders for routing will continue to apply.

### 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 from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>18</sup> and Rule 19b-4(f)(6) thereunder.<sup>19</sup>

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 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-Phlx-2021-67 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-2021-67. 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-Phlx-2021-67 and should be submitted on or before November 26, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>20</sup>

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

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## SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270-233, OMB Control No. 3235-0223]

### 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-2

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (the "Commission") has submitted to the Office of Management and Budget a request for extension of the previously approved collection of information discussed below.

Rule 17f-2 (17 CFR 270.17f-2), entitled "Custody of Investments by Registered Management Investment Company," establishes safeguards for arrangements in which a registered management investment company or business development company ("fund") is deemed to maintain custody of its own assets, such as when the fund maintains its assets in a facility that provides safekeeping but not custodial services.<sup>1</sup> The rule includes four distinct requirements that are an information collection under the Paperwork Reduction Act. First, fund's directors must prepare a resolution designating not more than five fund officers or responsible employees who may have access to the fund's assets. Secondly, the fund's board must vote to approve this resolution. Third, the designated access persons (two or more of whom must act jointly when handling fund assets) must prepare a written notation providing certain information about each deposit or withdrawal of fund assets, and must transmit the notation to another officer or director designated by the directors. Lastly, an independent public

<sup>20</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> The rule generally requires all assets to be deposited in the safekeeping of a "bank or other company whose functions and physical facilities are supervised by Federal or State authority."

<sup>18</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>19</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) 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.

accountant must verify the fund's assets three times each year, and two of those examinations must be unscheduled.<sup>2</sup>

Rule 17f-2's requirements are designed to safeguard fund assets from loss by requiring certain specific controls when those assets are not placed and maintained in the custody of a bank or other custodian as permitted under section 17(f) of the Investment Company Act of 1940 (15 U.S.C. 80a-17(f)) ("Act") and the rules thereunder. Specifically, the requirement that directors designate access persons is intended to ensure that directors evaluate the trustworthiness of insiders who handle fund assets. The requirements that access persons act jointly in handling fund assets, prepare a written notation of each transaction, and transmit the notation to another designated person are intended to reduce the risk of misappropriation of fund assets by access persons, and to ensure that adequate records are prepared, reviewed by a responsible third person, and available for examination by the Commission. The requirement that auditors verify fund assets without notice twice each year is intended to provide an additional deterrent to the misappropriation of fund assets and to detect any irregularities. Less frequent examinations by a fund's accountants could impair the ability of the Commission's examination staff to ascertain the fund's compliance with the rule.

The Commission staff estimates that each fund makes 974 responses and spends an average of 252 hours annually in complying with the rule's requirements.<sup>3</sup> Commission staff estimates that on an annual basis it takes: (i) 0.5 hours of fund accounting personnel at a total cost of \$111 and 1 hour of fund attorney personnel time at a cost of \$425, for a total of 1.5 hours and a cost of \$536 to draft director resolutions;<sup>4</sup> (ii) 0.5 hours of the fund's

<sup>2</sup> The accountant must transmit to the Commission promptly after each examination a certificate describing the examination on Form N-17f-2. The preparation and filing of Form N-17f-2, which largely serves as a cover-sheet for the accountant's certification of their audit, is covered by a separate information collection. The third (scheduled) examination may coincide with the annual verification required for every fund by section 30(g) of the Act (15 U.S.C. 80a-29(g)).

<sup>3</sup> The 974 responses are: 1 (one) response to draft and adopt the resolution and 973 notations. Estimates of the number of hours are based on conversations with individuals in the fund industry. The actual number of hours may vary significantly depending on individual fund assets.

<sup>4</sup> The estimate relating to fund accounting personnel is based on the following calculation: 0.5 (burden hours per fund) × \$221 (senior accountant's hourly rate) = approximately \$111. Unless

board of directors at a total cost of \$2,385 to adopt the resolution;<sup>5</sup> (iii) 244 hours for the fund's accounting personnel at a total cost of \$71,102 to prepare written notations of transactions;<sup>6</sup> and (iv) 3 hours for the fund's controller or administrator at a total cost of \$1,494 to assist the independent public accountants when they perform verifications of fund assets.<sup>7</sup> The total of these four requirements would then be 249 hours at a cost of \$75,517 per respondent. Commission staff estimates that approximately 183 funds file Form N-17f-2 each year.<sup>8</sup> Thus, the total annual hour burden for rule 17f-2 is estimated to be 45,384 hours.<sup>9</sup> Based on the total costs per fund listed above, the total cost of rule 17f-2's collection of information requirements is estimated to be approximately \$13,819,611.<sup>10</sup>

The estimate of average burden hours is made solely for the purposes of the Paperwork Reduction Act, and is not derived from a comprehensive or even a representative survey or study of the costs of Commission rules and forms. Complying with the collections of information required by rule 17f-2 is mandatory for those funds that maintain custody of their own assets. Responses will not be kept confidential. An agency may not conduct or sponsor, and a

otherwise indicated, the hourly wage figures used herein are from the Securities Industry and Financial Markets Association'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.

<sup>5</sup> The staff has estimated the average cost of board of director time as \$4,770 per hour for the board as a whole, based on information received from funds and their counsel.

<sup>6</sup> Respondents estimated that each fund makes 973 responses on an annual basis and spends a total of 0.25 hours per response. The fund personnel involved are Accounts Payable Manager (\$208 hourly rate), Operations Manager (\$373 hourly rate) and Accounting Manager (\$296 hourly rate). The average hourly rate of these personnel is approximately \$292. The estimated cost of preparing notations is based on the following calculation: 974 × 0.25 × \$292 = \$71,102.

<sup>7</sup> This estimate is based on the following calculation: 3 × \$498 (fund controller's hourly rate) = \$1,494.

<sup>8</sup> On average, each year approximately 183 funds file Form N-17f-2 with the Commission during calendar years 2018–2020. As every fund subject to rule 17f-2 must file Form N-17f-2, we believe this is a good estimate for the number of respondents to the rule.

<sup>9</sup> This estimate is based on the following calculation: 183 (funds) × 249 (total annual hourly burden per fund) = 45,384 hours for rule. The annual burden for rule 17f-2 does not include time spent preparing Form N-17f-2. The burden for Form N-17f-2 is included in a separate collection of information.

<sup>10</sup> This estimate is based on the following calculation: \$75,517 (total annual cost per fund) × 183 funds = \$13,819,611.

person is not required to respond to, a collection of information unless it displays a currently valid control number.

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 John R. Pezzullo, 100 F Street NE, Washington, DC 20549, or by sending an email to: [PRA\\_Mailbox@sec.gov](mailto:PRA_Mailbox@sec.gov).

Dated: November 1, 2021.

**J. Matthew DeLesDernier,**

*Assistant Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-93488; File No. SR-NYSE-2021-44]

### Self-Regulatory Organizations; New York Stock Exchange LLC, Notice of Designation of a Longer Period for Commission Action on a Proposed Rule Change To Amend Rules 7.31, 7.35, 7.35B, 7.35C, 98, and 104 Relating to the Closing Auction

November 1, 2021.

On September 3, 2021, New York Stock Exchange LLC ("NYSE" or "Exchange") 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> a proposed rule change to amend Rules 7.31 (Orders and Modifiers), 7.35 (General), 7.35B (DMM-Facilitated Closing Auctions), 7.35C (Exchange-Facilitated Auctions), 98 (Operation of a DMM Unit), and 104 (Dealings and Responsibilities of DMMs) relating to the Closing Auction. The proposed rule change was published for comment in the **Federal Register** on September 22, 2021.<sup>3</sup> The

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

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

<sup>3</sup> See Securities Exchange Act Release No. 93037 (Sep. 16, 2021), 86 FR 52719 (Sep. 22, 2021) (SR-NYSE-2021-44).