

### 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)(iii) of the Act<sup>13</sup> and subparagraph (f)(6) of Rule 19b-4 thereunder.<sup>14</sup>

A proposed rule change filed under Rule 19b-4(f)(6)<sup>15</sup> normally does not become operative prior to 30 days after the date of the filing. However, Rule 19b-4(f)(6)(iii)<sup>16</sup> permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposed rule change may become operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest, as it will allow the current clearly erroneous execution pilot program to continue uninterrupted, without any changes, while the Exchange and the other national securities exchanges consider a permanent proposal for clearly erroneous execution reviews. For this reason, the Commission hereby waives the 30-day operative delay and designates the proposed rule change as operative upon filing.<sup>17</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 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-NASDAQ-2021-080 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-NASDAQ-2021-080. 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-NASDAQ-2021-080 and should be submitted on or before November 12, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>18</sup>

**J. Matthew DeLesDernier,**

*Assistant Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270-392, OMB Control No. 3235-0447]

### 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 17f-6

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520), the Securities and Exchange Commission (the "Commission") is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Rule 17f-6 (17 CFR 270.17f-6) under the Investment Company Act of 1940 (15 U.S.C. 80a) permits registered investment companies ("funds") to maintain assets (*i.e.*, margin) with futures commission merchants ("FCMs") in connection with commodity transactions effected on both domestic and foreign exchanges. Before the rule's adoption, funds generally were required to maintain these assets in special accounts with a custodian bank.

The rule requires a written contract that contains certain provisions designed to ensure important safeguards and other benefits relating to the custody of fund assets by FCMs. To protect fund assets, the contract must require that FCMs comply with the segregation or secured amount requirements of the Commodity Exchange Act ("CEA") and the rules under that statute. The contract also must contain a requirement that FCMs obtain an acknowledgment from any clearing organization that the fund's assets are held on behalf of the FCM's customers according to CEA provisions.

Because rule 17f-6 does not impose any ongoing obligations on funds or

<sup>13</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>14</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file 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.

<sup>15</sup> 17 CFR 240.19b-4(f)(6).

<sup>16</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>17</sup> For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

<sup>18</sup> 17 CFR 200.30-3(a)(12).

FCMs, Commission staff estimates there are no costs related to *existing* contracts between funds and FCMs. This estimate does not include the time required by an FCM to comply with the rule's contract requirements because, to the extent that complying with the contract provisions

could be considered "collections of information," the burden hours for compliance are already included in other PRA submissions.<sup>1</sup> Commission staff estimates that approximately 1,302 series of 155 funds report that futures commission merchants and commodity

clearing organizations provide custodial services to the fund.<sup>2</sup>

Commission staff, however, estimates that any burden of the rule would be borne by funds and FCMs entering into *new* contracts pursuant to the rule as set forth in Table 1 below:

TABLE 1—BURDEN OF INFORMATION COLLECTION FOR COMPLYING WITH RULE 17f-6

	Estimated responses	Estimated hours burden	Estimated cost burdens
New contracts with FCMs annually	130 series ..... 15 funds <sup>1</sup> .....	130 series × 0.1 hours = 13 hours 15 funds × 1 hour = 15 hours .....  13 hours + 15 hours = 28 hours <sup>3</sup>	13 hours × \$425 (attorney) <sup>4</sup> = \$5,525 15 hours × \$425 (attorney) <sup>4</sup> = \$6,375 \$5,525 + \$6,375 = \$11,900
Totals .....	130 series and 15 funds annually <sup>2</sup> .	28 hours annually .....	\$11,900 annually

<sup>1</sup> These estimates are based on the assumption that 10% of series and funds that currently effect commodities transactions enter into new FCM contracts each year. This assumption encompasses series and fund that enter into FCM contracts for the first time, as well as fund complexes and fund that change the FCM with whom they maintain margin accounts for commodities transactions.

<sup>2</sup> Commission staff estimates that approximately 155 funds, representing 1,302 separate fund series, currently effect commodities transactions and could deposit margin with FCMs in connection with those transactions pursuant to rule 17f-6. Staff further estimates that of this number, 15 funds and 130 series enter into new contracts with FCMs each year.

<sup>3</sup> Based on conversations with fund representatives, Commission staff understands that funds typically enter into contracts with FCMs on behalf of series that engage in commodities transactions. Series covered by the contract are typically listed in an attachment, which may be amended to encompass new series. Commission staff estimates that the burden for a fund to enter into a contract with an FCM that contains the contract requirements of rule 17f-6 is one hour, and further estimates that the burden to add a series to an existing contract between a fund and an FCM is 6 minutes.

<sup>4</sup> The \$425 per hour figure for an attorney is from SIFMA's *Management & Professional Earnings in the Securities Industry 2013*, updated for 2021 modified by Commission staff to account for an 1,800-hour work-year and multiplied by 5.35 to account for bonuses, firm size, employee benefits and overhead.

These estimates are made solely for the purposes of the Paperwork Reduction Act, and are not derived from a comprehensive or even a representative survey or study of the costs of Commission rules and forms.

Compliance with the collection of information requirements of the rule is necessary to obtain the benefit of relying on the rule. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

Written comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information has 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.

<sup>1</sup> The rule requires a contract with the FCM to contain two provisions requiring the FCM to comply with existing requirements under the CEA and rules adopted thereunder. Thus, to the extent these provisions could be considered collections of

Consideration will be given to comments and suggestions submitted in writing within 60 days after this publication.

Please direct your written comments to David Bottom, Director/Chief Information Officer, Securities and Exchange Commission, C/O Cynthia Roscoe, 100 F Street NE, Washington, DC 20549; or send an email to: [PRA\\_Mailbox@sec.gov](mailto:PRA_Mailbox@sec.gov).

Dated: October 15, 2021.  
**J. Matthew DeLesDernier**,  
Assistant Secretary.  
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**BILLING CODE 8011-01-P**

**SECURITIES AND EXCHANGE COMMISSION**

[SEC File No. 270-348, OMB Control No. 3235-0394]

**Submission for OMB Review; Comment Request**

*Upon Written Request, Copies Available From:* Securities and Exchange Commission, Office of FOIA Services,

information, the hours required for compliance would be included in the collection of information burden hours submitted by the CFTC for its rules.

<sup>2</sup> This estimate is based on the number of funds that reported on Form N-CEN from July 31, 2020-

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Extension:  
Rule 15g-5

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 ("PRA") (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission ("Commission") has submitted to the Office of Management and Budget ("OMB") a request for approval of extension of the previously approved collection of information provided for in Rule 15g-5—Disclosure of Compensation of Associated Persons in Connection with Penny Stock Transactions—(17 CFR 240.15g-5) under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*).

Rule 15g-5 requires brokers and dealers to disclose to customers the amount of compensation to be received by their sales agents in connection with penny stock transactions. The purpose of the rule is to increase the level of disclosure to investors concerning penny stocks generally and specific penny stock transactions.

July 31, 2021, in response to sub-items C.12.6. and D.14.6. Money market funds are excluded from this estimate because they are not eligible securities.