b. FINRA's Responses to Comments

As discussed in section III.A.2.b. above, in response to the comments to the Notice, FINRA stated that it has engaged with industry participants extensively on their concerns, and has addressed them on multiple occasions since the process of soliciting comment on requirements for Covered Agency Transactions began in January 2014 with the publication of *Regulatory Notice* 14–02 and in 2015 with FINRA's original rulemaking for Covered Agency Transactions.[339] FINRA also stated that the original rulemaking is necessary because of the risks posed by unsecured credit exposures in the Covered Agency Transactions market.[340]

FINRA also stated that it has addressed, on multiple occasions, the need to include Specified Pool Transactions and CMOs within the scope of the requirements,[341] and made key revisions in finalizing the original rulemaking expressly to mitigate any potential impact on smaller firms and on activity in the Covered Agency Transaction market, including increasing the small cash counterparty exception from $2.5 million to $10 million, subject to specified conditions, and modifying the two percent maintenance margin requirement, as adopted pursuant to the original rulemaking, to create an exception for cash investors that otherwise would have been subject to the requirement.[342]

FINRA also stated that it exempted mortgage bankers from the maintenance margin requirements in the original rulemaking; exempted multifamily housing securities and project loan program securities from the new margin requirements; [343] and established a $250,000 de minimis transfer amount, for a single counterparty, subject to specified conditions, up to which members need not collect margin or take a charge to their net capital.[344] Finally, FINRA responded that it does not propose to make the suggested modification to exclude the U.S. Federal Home Loan Banks from the scope of the rule because it would undermine the rule's purpose of reducing risk.[345]

c. Commission Discussion and Findings

The Commission agrees with FINRA that some comments have been previously addressed in the original rulemaking, including whether to: (1) exclude additional products or counterparties from the scope of the rule, such as Specified Pools and CMOs; or (2) adjust the requirement to collect margin based on SIFMA's good day settlements.[346] Nevertheless, while the Commission agrees that these comments have been addressed previously, to the extent that they relate to the proposed rule changes set forth in the 2021 Amendments, and not solely to the 2016 Amendments, by suggesting alternative approaches to the 2021 Amendments that should be considered, the Commission disagrees with commenters' recommendations. Specifically, the Commission believes that excluding additional products or counterparties would undermine the purpose of the rule to address the risk of unsecured credit from Covered Agency Transaction for broker-dealers and encourage the collection of margin. In addition, excluding additional products from the scope of the rule would result in a mismatch between FINRA margin requirements and TMPG best practices of exchanging variation margin for Covered Agency Transactions which may potentially distort trading in the Covered Agency Transaction market by incentivizing counterparties to trade in non-margined products.

Moreover, the option to take a capital charge in lieu of collecting margin for the excess net mark to market loss will provide broker-dealers with the flexibility to choose not to collect margin from specific counterparties or for specific transactions, while continuing to protect broker-dealers from the risk of unsecured credit exposures arising from Covered Agency Transactions. In addition, adjusting the time to collect margin or take capital charges related to SIFMA good settlement dates or other longer time periods also would undermine the effectiveness of the rule because these suggested changes would have the effect of generally requiring no margin or minimal capital charges (that is, they would have the effect of essentially reverting back to current and inconsistent margin practices among FINRA broker-dealers).

Finally, proposals to expand clearing for Covered Agency Transactions through MBSD is outside the scope of this proposed rule change.

IV. Conclusion

For the foregoing reasons, the Commission finds that the proposed rule change, as modified by Amendment No. 1 (2021), is consistent with the Act and the rules and regulations thereunder applicable to a national securities association.

It is Therefore Ordered, pursuant to Rule 431 of the Commission's Rules of Practice, that the earlier action taken by delegated authority, Exchange Act Release No. 94013 (Jan. 20, 2022), 87 FR 4076 (Jan. 26, 2022), is set aside and, pursuant to Section 19(b)(2) of the Act,[347] the proposed rule change (SR–FINRA–2021–010), as modified by Amendment No. 1 (2021), hereby is approved.

By the Commission.

J. Matthew DeLesDernier,

Deputy Secretary.

[FR Doc. 2023–16267 Filed 7–31–23; 8:45 am]

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[339] *See* Amendment No. 1 (2021) at 4.

[340] *See* Amendment No. 1 (2021) at 4–5; 2015 Notice, 80 FR at 63615–16.

[341] *See* Amendment No. 1 (2021) at 5; 2016 Approval Order, 81 FR at 40371.

[342] *See* Amendment No. 1 (2021) at 5; 2015 Notice, 80 FR at 63608.

[343] *See* Amendment No. 1 (2021) at 6; Partial Amendment No. 1 to SR–FINRA–2015–036, available at *https://www.finra.org/rules-guidance/rule-filings/sr-finra-2015-036*.

[344] *See* Amendment No. 1 (2021) at 17; 2016 Approval Order, 81 FR at 40368.

[345] *See* Amendment No. 1 (2021) at 17.

[346] *See, e.g.*, 2016 Approval Order, 81 FR at 40375–76 (''[E]xcluding additional products from the rule or modifying the settlement dates in the definition of Covered Agency Transactions potentially may ''undermine the effectiveness of the proposal'' if counterparties are permitted to maintain unsecured credit exposures on these positions.'').

[347] 15 U.S.C. 78s(b)(2).

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–155, OMB Control No. 3235–0123]

Proposed Collection; Comment Request; Extension: Rule 17a–5

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

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'') is soliciting comments on the existing collection of information provided for in Rule 17a–5 (17 CFR 240.17a–5), 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 17a–5 is the basic financial reporting rule for brokers and dealers.[1] Rule 17a–5 applies to broker-dealers, including some broker-dealers that are

[1] Rule 17a–5(c) requires a broker or dealer to furnish certain of its financial information to customers and is subject to a separate PRA filing (OMB Control Number 3235–0199).

OTC derivatives dealers; broker-dealers, other than OTC derivatives dealers, that are also registered security-based swap dealers; and broker-dealers, including OTC derivatives dealers, that are also registered as major security-based swap participants. The rule requires the filing of Form X–17A–5, the Financial and Operational Combined Uniform Single Report (''FOCUS Report''), which was the result of years of study and comments by representatives of the securities industry through advisory committees and through the normal rule proposal methods. The FOCUS Report was designed to eliminate the overlapping regulatory reports required by various self-regulatory organizations and the Commission and to reduce reporting burdens as much as possible. The rule also requires the filing of annual reports, which include a financial report and a compliance or exemption report as well as reports of an independent public accountant covering the financial report and the compliance or exemption report. In addition, the rule requires a broker-dealer that computes certain capital charges in accordance with Appendix E to Exchange Act Rule 15c3–1 (17 CFR 240.15c3–1e) to file additional monthly or quarterly reports and a supplemental report on management controls concurrently with its annual reports.

The Commission estimates that the total hour burden under Rule 17a–5 is approximately 397,467 hours per year, and the total cost burden is approximately $31,295,048 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 shall have practical utility; (b) the accuracy of the Commission's estimates of the burden of the proposed 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 by October 2, 2023.

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 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: July 26, 2023.

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2023–16226 Filed 7–31–23; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–98002; File No. SR–NYSENAT–2023–12]

Self-Regulatory Organizations; NYSE National, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Connectivity Fee Schedule

July 26, 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 July 14, 2023, NYSE National, Inc. (''NYSE National'' 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 the Connectivity Fee Schedule (the ''Fee Schedule'') to add the services available to third party telecommunications service providers in the two Mahwah data center meet me rooms. 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 the Fee Schedule to add the services available to third party telecommunications service providers [4] in the two Mahwah, New Jersey data center (''MDC'') meet me rooms (''MMRs'').[5]

Meet me rooms are standard within the data center industry. A meet me room is a location within a data center where circuits from outside of the data center ''meet'' and connect with the circuits within the data center, such as those of colocated customers. As a general description, telecommunications service provider's circuits from outside a data center are brought into a meet me room, where those circuits connect to a telecommunications service provider's equipment in a meet me room cabinet. From there, a cross connect will complete the connection to a customer's equipment in the data center's colocation hall. The data center customer uses the circuit supplied by the telecommunications service provider to connect to locations outside of the data center, *e.g.,* the customers' back offices.

Before 2013, the MDC did not have a MMR, and all connectivity into and out of the MDC was provided by ICE's predecessor, NYSE Euronext. In response to customer demand for more connectivity options, the MMRs opened to Telecoms in January 2013. The Telecoms have an expertise that the Exchange and FIDS do not have, and can provide their customers with a range of circuit options. More importantly, the Telecoms provide a service that the Exchange and FIDS cannot, because the Exchange and FIDS

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] In this filing, telecommunications service providers that choose to purchase MMR services at the MDC are referred to as ''Telecoms.'' Telecoms are licensed by the Federal Communications Commission (''FCC'') and are not required to be, or be affiliated with, a member of the Exchange or an Affiliate SRO.

[5] Through its Fixed Income and Data Services (''FIDS'') (previously ICE Data Services) business, Intercontinental Exchange, Inc. (''ICE'') operates the MDC. The Exchange is an indirect subsidiary of ICE and is an affiliate of NYSE American LLC, NYSE Arca, Inc., NYSE Chicago, Inc., and NYSE National, Inc. (together, the ''Affiliate SROs''). Each Affiliate SRO has submitted substantially the same proposed rule change. *See* SR–NYSEAMER–2023–36, SR–NYSEARCA–2023–47, SR–NYSECHX–2023–14, and SR–NYSENAT–2023–12.