

with the economics of a maker-taker model, as well as the expectations of Members that remove liquidity from EDGA (*i.e.*, Members would expect to pay a fee to remove liquidity).

Moreover, moving EDGA to the list of high-cost destinations for the RMPL routing strategy that are assigned the PL fee code simply reflects the fact that orders routed to EDGA that remove liquidity will now—just as they do on other exchanges accessed with the PL fee code—pay a remove fee instead of receiving a rebate. In addition, the BJ fee code was typically appended to orders utilizing the TRIM or SLIM strategies, which are designed to seek low-cost executions. Given EDGA's transition to a maker-taker fee model, though, removers of liquidity will now pay a remove fee. As such, it is appropriate to remove the BJ fee code as Member's utilizing this fee code would expect to receive a rebate and not expect to pay a fee. Accordingly, these proposed changes are necessary and appropriate in order to align Members' expectations with the economics of EDGA's new maker-taker fee model and will not have any impact on competition.

Additionally, moving EDGA from fee code, PX, to fee code is PL, will not have any impact on competition. Rather, it is necessary and appropriate given EDGA's transition to a maker-taker fee model. Users of the PL fee code already expect to pay fees for removing liquidity from exchanges, whereas users of the PX fee code would expect lower-cost executions for removing liquidity from exchanges, including EDGA.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act¹⁸ and paragraph (f) of Rule 19b-4¹⁹ thereunder. 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 will 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 (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-CboeBYX-2024-042 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-CboeBYX-2024-042. 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 (<https://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 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR-CboeBYX-2024-042 and should be submitted on or before December 18, 2024.

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

Sherry R. Haywood,

Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-101686; File No. SR-MRX-2024-43]

Self-Regulatory Organizations; Nasdaq MRX, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend its Fees for Connectivity and Co-location Services

November 21, 2024.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on November 8, 2024, Nasdaq MRX, LLC ("MRX" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. 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 Exchange's fees for connectivity and co-location services, as described further below.

The text of the proposed rule change is available on the Exchange's website at <https://listingcenter.nasdaq.com/rulebook/mrx/rules>, 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 Exchange 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 these 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

²⁰ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

¹⁸ 15 U.S.C. 78s(b)(3)(A).

¹⁹ 17 CFR 240.19b-4(f).

the most significant aspects of such statements.

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

1. Purpose

The purpose of the proposed rule change is to amend the Exchange's fees relating to connectivity and co-location services.³ Specifically, the Exchange proposes to raise its fees for connectivity and co-location services in General 8 as well as certain fees related to its Testing Facilities in Options 7, Section 7 by 10%, with certain exceptions.

General 8, Section 1 includes the Exchange's fees that relate to connectivity, including fees for cabinets, external telco/inter-cabinet connectivity fees, fees for connectivity to the Exchange, fees for connectivity to third party services, fees for market data connectivity, fees for cabinet power install, and fees for additional charges and services. General 8, Section 2 includes the Exchange's fees for direct connectivity services, including fees for direct circuit connection to the Exchange, fees for direct circuit connection to third party services, and fees for point of presence connectivity. With the exception of the Exchange's GPS Antenna fees and the Cabinet Proximity Option Fee for cabinets with power density >10kW,⁴ the Exchange proposes to increase its fees throughout General 8 by 10%.

In addition to increasing fees in General 8, the Exchange also proposes

³ The Exchange initially filed the proposed pricing change on March 1, 2024 (SR-MRX-2024-04). On April 29, 2024, the Exchange withdrew that filing and submitted SR-MRX-2024-10. On June 27, 2024, the Exchange withdrew SR-MRX-2024-10 and submitted SR-MRX-2024-18. The Exchange withdrew SR-MRX-2024-18 and replaced it with SR-MRX-2024-34 on September 10, 2024. On October 11, 2024, the Exchange replaced SR-MRX-2024-34 with SR-MRX-2024-41. This instant filing replaces SR-MRX-2024-41.

⁴ The Exchange proposes to exclude the GPS Antenna fees from the proposed fee increase because, unlike the other fees in General 8, the Exchange recently increased its GPS Antenna fees. See Securities Exchange Act Release No. 34-99130 (December 11, 2023), 88 FR 87009 (December 15, 2023) (SR-MRX-2023-24). The Exchange also proposes to exclude the Cabinet Proximity Option Fee for cabinets with power density >10kW from the proposed fee increase because the Exchange recently established such fee. See Securities Exchange Act Release No. 34-100200 (May 21, 2024), 89 FR 46183 (May 28, 2024) (SR-MRX-2024-12). Similarly, the Exchange proposes to exclude from the proposed fee increase those fees that the Exchange recently established for services in its new NY11-4 expansion facility. See Securities Exchange Act Release No. 34-101269 (October 7, 2024), 89 FR 82657 (October 11, 2024) (SR-MRX-2024-37).

to increase certain fees in Options 7, Section 7, which relate to the Testing Facility. Options 7, Section 7 provides that subscribers to the Testing Facility located in Carteret, New Jersey shall pay a fee of \$1,000 per hand-off, per month for connection to the Testing Facility. The hand-off fee includes either a 1Gb or 10Gb switch port and a cross connect to the Testing Facility. In addition, Options 7, Section 7 provides that subscribers shall also pay a one-time installation fee of \$1,000 per hand-off. The Exchange proposes to increase these aforementioned fees by 10% to require that subscribers to the Testing Facility shall pay a fee of \$1,100 per hand-off, per month for connection to the Testing Facility and a one-time installation fee of \$1,100 per hand-off.

The proposed increases in fees would enable the Exchange to maintain and improve its market technology and services to remain competitive with its peers. Over the years, customer demand for more sophisticated, higher-throughput, lower-latency, and higher-power connectivity solutions has increased. The Exchange continues to invest in maintaining, improving, and enhancing its connectivity and co-location products, services, and facilities—for the benefit and often at the behest of its customers. Such enhancements include refreshing hardware and expanding Nasdaq's existing co-location facility to offer customers additional space and power. Nevertheless, and with the exception of fees that were established as part of a new service in 2017 (and have remained unchanged since their adoption), the Exchange has not increased any of the fees included in the proposal since prior to 2017, and many of the fees date back to between 2010 and 2014. For each of the connectivity products and services that pre-date 2017, inflation (as measured using the "Data PPI" metric described below) has been between roughly 15–17%, and in no instance has such inflation been less than 10%. Nevertheless, the Exchange proposes to increase its fees only with respect to the 10% inflation that has occurred since 2017.

As discussed below, the Exchange proposes to adjust its fees by an industry- and product-specific inflationary measure. It is reasonable and consistent with the Act for the Exchange to recoup its investments, at least in part, by adjusting its fees. Continuing to operate at fees frozen at 2010–2017 levels impacts the Exchange's ability to enhance its offerings and the interests of market participants and investors.

The fee increases the Exchange proposes are based on an industry-specific Producer Price Index ("PPI"), which is a tailored measure of inflation.⁵ As a general matter, the Producer Price Index is a family of indexes that measures the average change over time in selling prices received by domestic producers of goods and services. PPI measures price change from the perspective of the seller. This contrasts with other metrics, such as the Consumer Price Index ("CPI"), that measure price change from the purchaser's perspective.⁶ About 10,000 PPIs for individual products and groups of products are tracked and released each month.⁷ PPIs are available for the output of nearly all industries in the goods-producing sectors of the U.S. economy—mining, manufacturing, agriculture, fishing, and forestry—as well as natural gas, electricity, and construction, among others. The PPI program covers approximately 69 percent of the service sector's output, as measured by revenue reported in the 2017 Economic Census.

For purposes of this proposal, the relevant industry-specific PPI is the Data Processing and Related Services PPI ("Data PPI"), which is an industry net-output PPI that measures the average change in selling prices received by companies that provide data processing services.

The Data PPI was introduced in January 2002 by the Bureau of Labor Statistics ("BLS") as part of an ongoing effort to expand Producer Price Index coverage of the services sector of the U.S. economy and is identified as NAICS—518210 in the North American Industry Classification System.⁸ According to the BLS "[t]he primary output of NAICS 518210 is the provision of electronic data processing services. In the broadest sense, computer services companies help their customers efficiently use technology. The processing services market consists of vendors who use their own computer systems—often utilizing proprietary software—to process customers' transactions and data. Companies that offer processing services collect, organize, and store a customer's transactions and other data for record-keeping purposes. Price movements for the NAICS 518210 index are based on changes in the revenue received by companies that provide data processing

⁵ See <https://fred.stlouisfed.org/series/PCU51825182#0>.

⁶ See <https://www.bls.gov/ppi/overview.htm>.

⁷ See *Id.*

⁸ NAICS appears in table 5 of the PPI Detailed Report and is available at <https://data.bls.gov/timeseries/PCU518210518210>.

services. Each month, companies provide net transaction prices for a specified service. The transaction is an actual contract selected by probability, where the price-determining characteristics are held constant while the service is repriced. The prices used in index calculation are the actual prices billed for the selected service contract.”⁹

The Exchange believes the Data PPI is an appropriate measure to be considered in the context of the proposed rule change to modify the fee for its connectivity products because the Exchange uses its “own computer systems” and “proprietary software,” *i.e.*, its own data center and proprietary matching engine software, respectively, to collect, organize, store and report customers’ transactions in U.S. equity securities on the Exchange’s proprietary trading platform. In other words, the Exchange is in the business of data processing and related services.

For purposes of this proposed rule change, the Exchange examined the Data PPI value for the period from January 2017 to August 2024. The Data PPI had a starting value of 105.6 in January 2017 and an ending value of 116.022 in August 2024, a 10.422% increase. This indicates that companies who are also in the data storage and processing business have generally increased prices for a specified service covered under NAICS 518210 by an average of 10.422% during this period. Based on that percentage change, the Exchange proposes to make a one-time fee increase of only 10%, which reflects an increase covering roughly the entire period since the last price adjustments to these fees were made.

The Exchange further believes the Data PPI is an appropriate measure for purposes of the proposed rule change on the basis that it is a stable metric with limited volatility, unlike other consumer-side inflation metrics. In fact, the Data PPI has not experienced a greater than 2.16% increase for any one calendar year period since Data PPI was introduced into the PPI in January 2002. The average calendar year change from January 2002 to December 2023 was .62%, with a cumulative increase of 15.67% over this 21-year period. The Exchange believes the Data PPI is considerably less volatile than other inflation metrics such as CPI, which has had individual calendar-year increases of more than 6.5%, and a cumulative

⁹ See <https://www.bls.gov/ppi/factsheets/producer-price-index-for-the-data-processing-and-related-servicesindustry-naics-518210.htm>.

increase of over 73% over the same period.¹⁰

The Exchange believes the Data PPI, and significant investments into, and enhanced performance of, the Exchange support the reasonableness of the proposed fee increases.¹¹

These proposed fee increases will be immediately effective upon filing. However, going forward and until December 1, 2024, the Exchange will waive all fees set forth herein to the extent that such fees exceed the levels that would have been charged for the same products and services purchased during that time period, had such fees been calculated at the rates set forth in SR-MRX-2024-34 (*i.e.*, pricing reflective of a 5.5% increase from prior fee levels). This waiver is reasonable, equitable, and not unfairly discriminatory because it will afford all customers in excess of the 30-day prior notice period for fee changes set forth in the Exchange’s service terms.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,¹² in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,¹³ in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

This belief is based on two factors. First, the current fees do not properly reflect the quality of the services and products, as fees for the services and products in question have been static in nominal terms, and therefore falling in real terms due to inflation. Second, the Exchange believes that investments made in enhancing the capacity and speed of Exchange systems increase the performance of the services and products.

¹⁰ See <https://www.usinflationcalculator.com/inflation/consumer-price-index-and-annual-percent-changesfrom-1913-to-2008/>.

¹¹ See *supra* discussion of connectivity product and facility improvements. Additionally, other exchanges have filed for increases in certain fees, based in part on comparisons to inflation. See, *e.g.*, Securities Exchange Act Release Nos. 34-100004 (April 22, 2024), 89 FR 32465 (April 26, 2024) (SR-ChoeBYX-2024-012); and 34-100398 (June 21, 2024), 89 FR 53676 (June 27, 2024) (SR-BOX-2024-16); Securities Exchange Act Release No. 34-100994 (September 10, 2024), 89 FR 75612 (September 16, 2024) (SR-NYSEARCA-2024-79).

¹² 15 U.S.C. 78f(b).

¹³ 15 U.S.C. 78f(b)(4) and (5).

The Proposed Rule Change Is Reasonable

As noted above, the Exchange has not increased any of the fees included in the proposal since 2017 or earlier. However, in the years following the last fee increases, the Exchange has made significant investments in upgrades to its connectivity products, services, and facilities, enhancing the quality of its services. In other words, Exchange customers have greatly benefitted, while the Exchange’s ability to recoup its investments has been hampered. Between 2017 and 2024, the inflation rate is 3.64% per year, on average, producing a cumulative inflation rate of 28.43%.¹⁴ Using the more targeted inflation number of Data PPI, the cumulative inflation rate was 10.422%. The exchange believes the Data PPI is a reasonable metric to base this fee increase on because it is targeted to producer-side increases in the data processing industry.

Notwithstanding inflation, as noted above, the Exchange has not increased its fees at all for over seven years for the subject services. The proposed fee changes represent a modest increase from the current fees. The Exchange believes the proposed fee increase is reasonable in light of the Exchange’s continued expenditure in maintaining a robust technology ecosystem. Furthermore, the Exchange continues to invest in maintaining and enhancing its connectivity products—for the benefit and often at the behest of its customers and global investors. Such enhancements include refreshing all aspects of the technology ecosystem including software, hardware, and network while introducing new and innovative products and expanded and modernized facilities.¹⁵ The goal of the enhancements discussed above, among other things, is to provide faster, higher-capacity, and more modern connectivity products and services. Accordingly, the Exchange continues to expend resources to innovate and modernize technology so that it may benefit its members in offering its connectivity products and services.

The Proposed Fees Are Equitably Allocated and Not Unfairly Discriminatory

The Exchange believes that the proposed fee increases are equitably

¹⁴ See <https://www.officialdata.org/us/inflation/2017?amount=1>.

¹⁵ See, *e.g.*, Securities Exchange Act Release No. 34-101077 (September 18, 2024), 89 FR 77904 (September 24, 2024) (SR-MRX-2024-36 (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Expand [the Exchange’s] Co-Location Services)).

allocated and not unfairly discriminatory because they would apply to all market participants that choose to purchase connectivity products and services from the Exchange. Any participant that chooses to purchase the Exchange's connectivity products and services would be subject to the same Fee Schedule, regardless of what type of business they operate or the use they plan to make use of the products and services. Additionally, the fee increase would be applied uniformly to market participants without regard to Exchange membership status or the extent of any other business with the Exchange or affiliated entities. The Exchange also believes that the proposal represents an equitable allocation of reasonable dues, fees and other charges because Exchange fees have fallen in real terms during the relevant period. Finally, the Exchange believes that the proposed fee changes are not unfairly discriminatory because the fees would be assessed uniformly across all market participants, in the same manner they are today, that voluntarily purchase the Exchange's connectivity products and services, which would remain available for purchase by all market participants.

These proposed fee increases will be immediately effective upon filing. However, going forward and until December 1, 2024, the Exchange will waive all fees set forth herein to the extent that such fees exceed the levels that would have been charged for the same products and services purchased during that time period, had such fees been calculated at the rates set forth in SR-MRX-2024-34 (*i.e.*, pricing reflective of a 5.5% increase from prior fee levels). This waiver is reasonable, equitable, and not unfairly discriminatory because it will afford all customers in excess of the 30-day prior notice period for fee changes set forth in the Exchange's service terms.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed fees will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

Intramarket Competition

The Exchange believes that the proposed fees do not put any market participants at a relative disadvantage compared to other market participants. As noted above, the fee schedule would continue to apply to all purchasers of the Exchange's connectivity products and services in the same manner as it does today albeit at inflation-adjusted rates for certain fees, and customers may

choose whether to purchase these products and services at all. The Exchange also believes that the level of the proposed fees neither favor nor penalize one or more categories of market participants in a manner that would impose an undue burden on competition. Likewise, the proposed fee waiver described above will apply to all purchasers of the Exchange's connectivity products and services in the same manner and therefore will not burden competition among them.

Intermarket Competition

The Exchange believes that the proposed fees do not impose a burden on competition or on other SROs that is not necessary or appropriate. In determining the proposed fees, the Exchange utilized an objective and stable metric with limited volatility. Utilizing Data PPI over a specified period of time is a reasonable means of recouping the Exchange's investment in maintaining and enhancing its connectivity products, services, and facilities. The Exchange believes utilizing Data PPI, a tailored measure of inflation, to increase certain fees for connectivity products and services to recoup the Exchange's investment in maintaining and enhancing such products, services, and its facilities would not impose a burden on competition.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.¹⁶ 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: (i) necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) 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 (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-MRX-2024-43 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-MRX-2024-43. 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 (<https://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 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR-MRX-2024-43 and should be submitted on or before December 18, 2024.

¹⁶ 15 U.S.C. 78s(b)(3)(A)(ii).

¹⁷ 17 CFR 200.30-3(a)(12).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁷

Sherry R. Haywood,
Assistant Secretary.

[FR Doc. 2024-27755 Filed 11-26-24; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-101685; File Nos. SR-DTC-2024-003; SR-FICC-2024-006; SR-NSCC-2024-003]

Self-Regulatory Organizations; The Depository Trust Company; Fixed Income Clearing Corporation; National Securities Clearing Corporation; Order Approving Proposed Rule Change To Amend the Clearing Agency Risk Management Framework

November 21, 2024.

I. Introduction

On March 11, 2024, The Depository Trust Company (“DTC”), Fixed Income Clearing Corporation (“FICC”), and National Securities Clearing Corporation (“NSCC,” each a “Clearing Agency,” and collectively, the “Clearing Agencies”), filed with the Securities and Exchange Commission (“Commission”) proposed rule changes SR-DTC-2024-003, SR-FICC-2024-006, and SR-NSCC-2024-003, respectively, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder (the “Proposed Rule Changes”).² The Proposed Rule Changes were published for comment in the **Federal Register** on March 26, 2024.³ The Commission has received comments on the changes proposed.⁴ For the reasons discussed below, the Commission is approving the Proposed Rule Changes.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 99802 (Mar. 20, 2024), 89 FR 21118 (Mar. 26, 2024) (File No. SR-DTC-2024-003) (“DTC Notice of Filing”); Securities Exchange Act Release No. 99805 (Mar. 20, 2024), 89 FR 21068 (Mar. 26, 2024) (File No. SR-FICC-2024-006) (“FICC Notice of Filing”); Securities Exchange Act Release No. 99803 (Mar. 20, 2024), 89 FR 21091 (Mar. 26, 2024) (File No. SR-NSCC-2024-003) (“NSCC Notice of Filing”).

⁴ Specifically, the Commission received comments on the FICC Notice of Filing, and the comments are available at <https://www.sec.gov/comments/sr-ficc-2024-006/srficc2024006.htm>. The comments generally relate to issues raised in other FICC proposed rule changes that are not relevant to the Notices of Filing. See, Securities Exchange Act Release Nos. 99817 (SR-FICC-2024-005) and 99844 (SR-FICC-2024-007). The Commission considers the relevant comments related to the FICC Notice of Filing in its analysis at Section IV *infra*.

II. Background

On December 13, 2023, the Commission adopted rules under the Act to amend the standards applicable to covered clearing agencies providing central counterparty services for transactions in U.S. Treasury securities to require policies and procedures be reasonably designed to ensure that the covered clearing agency has appropriate means to facilitate access to clearance and settlement services of all eligible secondary market transactions in U.S. Treasury securities, including those of indirect participants.⁵ The adopted rules also require that these policies and procedures be reviewed annually by the board of directors of such covered clearing agencies for U.S. Treasury securities.⁶ Currently, FICC is the only Clearing Agency providing clearance and settlement services to the U.S. Treasury securities market.

To address the new requirements, the Clearing Agencies propose to amend their Clearing Agency Risk Management Framework (“Framework”).⁷ Specifically, the Proposed Rule Changes would add a new section to the Framework regarding “Solicitation of Participant and Stakeholder Views”. This subsection would: (i) describe generally Clearing Agency participant and industry stakeholder outreach in the development and evaluation of new programs or risk management practices, and (ii) provide for the annual review of FICC’s Government Securities Division (“GSD”) access models by FICC’s Board of Directors. The proposal would also make other conforming and clean up changes to the text of the Framework, as described below.

III. Description of the Proposed Rule Changes

A. Subsection 3.4.1 General Solicitation of Views

The Clearing Agencies state that they routinely solicit their participants’ and other industry stakeholders’ views when developing and evaluating products, services, or risk management practices so they may best meet the industry’s

⁵ See Standards for Covered Clearing Agencies for U.S. Treasury Securities and Application of the Broker-Dealer Customer Protection Rule with Respect to U.S. Treasury Securities, Exchange Act Release No. 99149 (Feb. 15, 2023), 88 FR 13872 (Jan. 16, 2024) (S7-23-22) (“Treasury Clearing Adopting Release”).

⁶ 17 CFR 240.17ad-22(e)(18)(iv)(C).

⁷ The Framework provides an outline for, among other things, how each of the Clearing Agencies comprehensively manages the risks, including the legal, credit, liquidity, operational, general business, investment, custody, and other risks, that arise in or are borne by it.

needs.⁸ To codify this practice, the proposal would add a new subsection to the Framework (entitled “General Solicitation of Views”), which identifies several ways that the Clearing Agencies may seek the views of participants and stakeholders. Such methods would include targeted outreach to firms expected to be impacted by a proposal, widely distributed surveys, ad hoc forums, and standing advisory councils assembled to consider issues relevant to a proposal. This list of outreach methods is illustrative, not exhaustive.

The subsection would also identify the industry stakeholders that may participate in such advisory councils, including for example, representatives from transfer agents, liquidity providers, market infrastructures, institutional and retail investors, customers of the Clearing Agencies’ participants, securities issuers, and securities holders. The Clearing Agencies state that the proposed changes in subsection 3.4.1 do not create any obligation for the Clearing Agencies to conduct such outreach in any particular circumstances.⁹

B. Subsection 3.4.2 Required Solicitation of Views—Annual Review of GSD Access Models

The Clearing Agencies propose adding a new subsection to the Framework (entitled “Required Solicitation of Views—Annual Review of GSD Access Models”) in connection with the recently adopted requirement in Rule 17ad-22(e)(18)(iv)(C) that the board of directors of a covered clearing agency annually review the policies and procedures that the covered clearing agency uses to ensure that they have appropriate means to facilitate access to clearance and settlement services of all eligible secondary market transactions in U.S. Treasury securities, including those of indirect participants.¹⁰ To assist the board in their review of GSD access models, the Proposed Rule Changes would establish an advisory council comprised of participants, their customers, and other industry stakeholders. This advisory council review of GSD’s access models would be escalated to the FICC Board of Directors, or a committee thereof, with its annual review of GSD’s access models, which

⁸ See DTC Notice of Filing, *supra* note 3, 89 FR at 21119; FICC Notice of Filing, *supra* note 3, 89 FR at 21069; and NSCC Notice of Filing, *supra* note 3, 89 FR at 21091.

⁹ See DTC Notice of Filing, *supra* note 3, 89 FR at 21119; FICC Notice of Filing, *supra* note 3, 89 FR at 21069; and NSCC Notice of Filing, *supra* note 3, 89 FR at 21092.

¹⁰ 17 CFR 240.17ad-22(e)(18)(iv)(C).