

Applicants and potential applicants are not, with certain exceptions, protected by either the Backfit Rule or any issue finality provisions under 10 CFR part 52. This is because neither the Backfit Rule nor the issue finality provisions under 10 CFR part 52—with certain exclusions discussed below—was intended to apply to every NRC's action which substantially changes the expectations of current and future applicants. The exceptions to the general principle are applicable whenever an applicant references a 10 CFR part 52 license (e.g., an early site permit) and/or NRC regulatory approval (e.g., a design certification rule) with specified issue finality provisions. The staff does not, at this time, intend to impose the positions represented in the draft SRP sections (if finalized) in a manner that is inconsistent with any issue finality provisions. If, in the future, the staff seeks to impose a position in the draft SRP sections (if finalized) in a manner which does not provide issue finality as described in the applicable issue finality provision, then the staff must address the criteria for avoiding issue finality as described in the applicable issue finality provision.

3. The staff has no intention to impose the draft SRP positions on existing nuclear power plant licenses or regulatory approvals either now or in the future (absent a voluntary request for change from the licensee, holder of a regulatory approval, or a design certification applicant).

The staff does not intend to impose or apply the positions described in the draft SRP sections to existing (already issued) licenses (e.g., operating licenses and combined licenses) and regulatory approvals. Hence, the draft SRPs—even if considered guidance which is within the purview of the issue finality provisions in 10 CFR part 52—need not be evaluated as if it were a backfit or as being inconsistent with issue finality provisions. If, in the future, the staff seeks to impose a position in the draft SRPs (if finalized) on holders of already issued licenses in a manner which does not provide issue finality as described in the applicable issue finality provision, then the staff must make the showing as set forth in the Backfit Rule, or address the criteria for avoiding issue finality as described applicable issue finality provision, as applicable.

Dated at Rockville, Maryland, this 12th day of September, 2014.

For the Nuclear Regulatory Commission.
Joseph Colaccino,
Chief, New Reactor Rulemaking and Guidance Branch, Division of Advanced Reactors and Rulemaking, Office of New Reactors.
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NUCLEAR REGULATORY COMMISSION

[NRC-2014-0204]

Quality Assurance Program Description—Design Certification, Early Site Permit and New License Applicants

AGENCY: Nuclear Regulatory Commission.

ACTION: Standard review plan—draft section revision; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is soliciting public comment on draft NUREG-0800, “Standard Review Plan for the Review of Safety Analysis Reports for Nuclear Power Plants: LWR Edition,” Section 17.5, “Quality Assurance Program Description—Design Certification, Early Site Permit and New License Applicants.”

DATES: Comments must be filed no later than November 24, 2014. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

ADDRESSES: You may submit comments by any of the following methods (unless this document describes a different method for submitting comments on a specific subject):

- Federal Rulemaking Web site: Go to <http://www.regulations.gov> and search for Docket ID NRC-2014-0204. Address questions about NRC dockets to Carol Gallagher; telephone: 301-287-3422; email: Carol.Gallagher@nrc.gov. For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

- Mail comments to: Cindy Bladey, Office of Administration, Mail Stop: 3WFN-06-44M, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

For additional direction on accessing information and submitting comments, see “Obtaining Information and Submitting Comments” in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT:
Jonathan DeGange, Office of New

Reactors, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone: 301-415-6992 or email to: Jonathan.DeGange@nrc.gov.

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC-2014-0204 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document by any of the following methods:

- Federal Rulemaking Web site: Go to <http://www.regulations.gov> and search for Docket ID NRC-2014-0204.
- NRC's Agencywide Documents Access and Management System (ADAMS): You may access publicly available documents online in the NRC Library at <http://www.nrc.gov/reading-rm/adams.html>. To begin the search, select “ADAMS Public Documents” and then select “Begin Web-based ADAMS Search.” For problems with ADAMS, please contact the NRC’s Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by email to pdr.resource@nrc.gov. The ADAMS accession number for each document referenced in this document (if that document is available in ADAMS) is provided the first time that a document is referenced. The proposed SRP Section 17.5, Revision 1, “Quality Assurance Program Description—Design Certification, Early Site Permit and New License Applicants,” is available in ADAMS under Accession No. ML14035A202. A redline strikeout comparing the proposed Revision 1 and current Revision 0 can be found in ADAMS under Accession No. ML14035A201.

- NRC's PDR: You may examine and purchase copies of public documents at the NRC's PDR, Room O1-F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID NRC-2014-0204 in the subject line of your comment submission, in order to ensure that the NRC is able to make your comment submission available to the public in this docket.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at <http://www.regulations.gov> as well as enter the comment submissions into ADAMS.

The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment submissions into ADAMS.

II. Further Information

The NRC is seeking public comment on the proposed revision to SRP Section 17.5. This section has been developed to assist the NRC's staff review Quality Assurance (QA) program descriptions under part 50 of Title 10 of the *Code of Federal Regulations* (10 CFR). The revisions to this SRP section reflect no changes in staff position, nor are new SRP acceptance criteria introduced. The changes simplify and reflect plain language throughout in accordance with the NRC's Plain Writing Action Plan. Additionally, the staff has aligned SRP Section 17.5 with Regulatory Guide (RG) 1.28, "Quality Assurance Program Criteria (Design and Construction)," Revision 4 and RG 1.33, "Quality Assurance Program Requirements (Operation)," Revision 2. The changes also reflect alignment with the latest edition of NQA-1-2008/2009a which the staff found acceptable for meeting the requirement of Appendix B to 10 CFR part 50.

Following the NRC staff's evaluation of public comments, the NRC intends to finalize SRP Section 17.5, Revision 1 in ADAMS and post it on the NRC's public Web site at <http://www.nrc.gov/reading-rm/doc-collections/nuregs/staff/sr0800/>. The SRP is guidance for the NRC staff. The SRP is not a substitute for the NRC's regulations, and compliance with the SRP is not required.

III. Backfitting and Issue Finality

Issuance of this draft SRP, if finalized, would not constitute backfitting as defined in 10 CFR 50.109 (the Backfit Rule) or otherwise be inconsistent with the issue finality provisions in 10 CFR part 52. The NRC's position is based upon the following considerations:

1. The draft SRP positions, if finalized, would not constitute backfitting, inasmuch as the SRP is internal guidance to the NRC staff.

The SRP provides internal guidance to the NRC staff on how to review an

application for NRC regulatory approval in the form of licensing. Changes in internal staff guidance are not matters for which either nuclear power plant applicants or licensees are protected under either the Backfit Rule or the issue finality provisions of 10 CFR part 52.

2. The NRC staff has no intention to impose the SRP positions on existing licensees either now or in the future.

The NRC staff does not intend to impose or apply the positions described in the draft SRP to existing licenses and regulatory approvals. Hence, the issuance of a final SRP—even if considered guidance within the purview of the issue finality provisions in 10 CFR part 52—would not need to be evaluated as if it were a backfit or as being inconsistent with issue finality provisions. If, in the future, the NRC staff seeks to impose a position in the SRP on holders of already issued licenses in a manner that does not provide issue finality as described in the applicable issue finality provision, then the staff must make the showing as set forth in the Backfit Rule or address the criteria for avoiding issue finality as described in the applicable issue finality provision.

3. Backfitting and issue finality do not—with limited exceptions not applicable here—protect current or future applicants.

Applicants and potential applicants are not, with certain exceptions, protected by either the Backfit Rule or any issue finality provisions under 10 CFR part 52. Neither the Backfit Rule nor the issue finality provisions under 10 CFR part 52—with certain exclusions—were intended to apply to every NRC action that substantially changes the expectations of current and future applicants. The exceptions to the general principle are applicable whenever an applicant references a 10 CFR part 52 license (e.g., an early site permit) and/or NRC regulatory approval (e.g., a design certification rule) with specified issue finality provisions.

The NRC staff does not, at this time, intend to impose the positions represented in the draft SRP in a manner that is inconsistent with any issue finality provisions. If, in the future, the staff seeks to impose a position in the draft SRP in a manner that does not provide issue finality as described in the applicable issue finality provision, then the staff must address the criteria for avoiding issue finality as described in the applicable issue finality provision.

Dated at Rockville, Maryland, this 12th day of September, 2014.

For the Nuclear Regulatory Commission.

Joseph Colaccino,

Chief, New Reactor Rulemaking and Guidance Branch, Division of Advanced Reactors and Rulemaking, Office of New Reactors.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-73140; File No. SR-NASDAQ-2014-073]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Order Granting Approval of Proposed Rule Change, as Modified by Amendment No. 1, To List and Trade Shares of the First Trust Emerging Markets Local Currency Bond ETF of First Trust Exchange-Traded Fund III

September 18, 2014.

I. Introduction

On July 18, 2014, The NASDAQ Stock Market LLC ("Nasdaq" or "Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² a proposed rule change to list and trade shares ("Shares") of the First Trust Emerging Markets Local Currency Bond ETF ("Fund") under Nasdaq Rule 5735. The Exchange filed Amendment No. 1 to the proposal on July 25, 2014.³ The proposed rule change, as modified by Amendment No. 1, was published for comment in the *Federal Register* on August 5, 2014.⁴ The Commission received no comments on the proposed rule change. This order grants approval of the proposed rule change, as modified by Amendment No. 1.

II. Description of the Proposed Rule Change

The Exchange proposes to list and trade Shares of the Fund pursuant to Nasdaq Rule 5735, which governs the listing and trading of Managed Fund Shares on the Exchange. The Shares will be offered by First Trust Exchange-Traded Fund III ("Trust"), which was established as a Massachusetts business trust on January 9, 2008.⁵ The Fund will

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Amendment No. 1 clarified that reverse repurchase agreements will not be used by the Fund to enhance leverage.

⁴ See Securities Exchange Act Release No. 72716 (July 30, 2014), 79 FR 45535 ("Notice").

⁵ According to the Exchange, the Trust is registered with the Commission as an investment