

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; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BatsBYX–2017–23 and should be submitted on or before October 25, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>10</sup>

**Eduardo A. Aleman,**  
Assistant Secretary.

[FR Doc. 2017–21277 Filed 10–3–17; 8:45 am]

BILLING CODE 8011–01–P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–81755; File No. SR–NYSEAMER–2017–19]

### Self-Regulatory Organizations; NYSE American LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend NYSE American Rule 5.2E(j)(6)

September 28, 2017.

Pursuant to Section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934 (the “Act”)<sup>2</sup> and Rule 19b–4 thereunder,<sup>3</sup> notice is hereby given that on September 18, 2017, NYSE American LLC (the “Exchange” or “NYSE American”) 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 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 NYSE American Rule 5.2E(j)(6) to exclude Investment Company Units, securities defined in Section 2 of NYSE American Rule 8E and Index-Linked Securities when applying the quantitative generic listing criteria

applicable to Equity Index-Linked Securities. The proposed rule change is available on the Exchange’s Web site at [www.nyse.com](http://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 NYSE American Rule 5.2E(j)(6) to exclude Investment Company Units (“Units”) and securities defined in Section 2 of NYSE American Rule 8E (collectively, together with Units, “Derivative Securities Products”),<sup>4</sup> as well as Index-Linked Securities,<sup>5</sup> when applying the quantitative generic listing criteria applicable to Equity Index-Linked Securities.<sup>6</sup>

<sup>4</sup> Units are securities that represent an interest in a registered investment company that could be organized as a unit investment trust, an open-end management investment company, or a similar entity, that holds securities comprising, or otherwise based on or representing an interest in, an index or portfolio of securities or securities in another registered investment company that holds such securities. See NYSE American Rule 5.2E(j)(3). The following securities currently are included in Section 2 of NYSE American Rule 8E: Portfolio Depositary Receipts (Rule 8.100E); Trust Issued Receipts (Rule 8.200E); Commodity-Based Trust Shares (Rule 8.201E); Currency Trust Shares (Rule 8.202E); Commodity Index Trust Shares (Rule 8.203E); Commodity Futures Trust Shares (Rule 8.204E); Partnership Units (Rule 8.300E); Paired Trust Shares (Rule 8.400E); Trust Units (Rule 8.500E); Managed Fund Shares (Rule 8.600E); and Managed Trust Securities (Rule 8.700E).

<sup>5</sup> Index-Linked Securities are securities that qualify for Exchange listing and trading under NYSE American Rule 5.2E(j)(6). The securities described in Rule 5.2E(j)(3), Rule 5.2E(j)(6) and Section 2 of Rule 8E, as referenced above, would include securities listed on another national securities exchange pursuant to substantially equivalent listing rules.

<sup>6</sup> The Commission has approved amendments to NYSE Arca Rule 5.2E(j)(6) that are substantially identical to those proposed herein. See Securities Exchange Act Release No. 81442 (August 18, 2017), 82 FR 40178 (August 24, 2017) (SR–NYSEArca–2017–54) (order approving a proposed rule change

Equity Index-Linked Securities are securities that provide for the payment at maturity (or earlier redemption) based on the performance of an underlying index or indexes of equity securities, securities of closed end management investment companies registered under the Investment Company Act of 1940<sup>7</sup> and/or Units.<sup>8</sup> In addition to certain other generic listing criteria, Equity Index-Linked Securities must satisfy the generic quantitative initial and continued listing criteria under NYSE American Rule 5.2E(j)(6)(B)(I) in order to become, and continue to be, listed and traded on the Exchange. Certain of the applicable quantitative criteria specify minimum or maximum thresholds that must be satisfied with respect to, for example, market value, trading volume, and dollar weight of the index represented by a single component or groups of components.

The applicable initial quantitative listing criteria include (i) that each underlying index is required to have at least ten component securities;<sup>9</sup> (ii) that each component security has a minimum market value of at least \$75 million, except that for each of the lowest dollar weighted component securities in the index that in the aggregate account for no more than 10% of the dollar weight of the index, the market value can be at least \$50 million; (iii) that component stocks that in the aggregate account for at least 90% of the weight of the index each have a minimum global monthly trading volume of 1,000,000 shares, or minimum global notional volume traded per month of \$25,000,000, averaged over the last six months; (iv) that no underlying component security represents more than 25% of the dollar weight of the index, and the five highest dollar weighted component securities in the index do not in the aggregate account for more than 50% of the dollar weight of the index (60% for an index consisting of fewer than 25 component securities); and (v) that 90% of the index’s numerical value and at least 80% of the total number of component securities meet the then current criteria for standardized option trading set forth in Rule 915; except that an index will not be subject to this last requirement if (a) no underlying component security represents more than 10% of the dollar weight of the index and (b) the index

to amend the generic listing criteria applicable to Equity Index-Linked Securities).

<sup>7</sup> 15 U.S.C. 80–1.

<sup>8</sup> See Rule 5.2E(j)(6)(B)(I)(1).

<sup>9</sup> See Rule 5.2E(j)(6)(B)(I)(1)(a).

<sup>10</sup> 17 CFR 200.30–3(a)(12).

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

<sup>2</sup> 15 U.S.C. 78a.

<sup>3</sup> 17 CFR 240.19b–4.

has a minimum of 20 components.<sup>10</sup> The applicable continued quantitative listing criteria require that component stocks that in the aggregate account for at least 90% of the weight of the index each have a minimum global monthly trading volume of 500,000 shares, or minimum global notional volume traded per month of \$12,500,000, averaged over the last six months.<sup>11</sup>

The Exchange proposes to amend NYSE American Rule 5.2E(j)(6)(B)(I)(1)(a), which provides that each underlying index is required to have at least ten component securities, to provide that there will be no minimum number of component securities if one or more issues of Derivative Securities Products or Index-Linked Securities constitute, at least in part, component securities underlying an issue of Equity Index-Linked Securities. The proposed amendment to NYSE American Rule 5.2E(j)(6)(B)(I)(1)(a) also would provide that the securities described in Rule 5.2E(j)(3) and Section 2 of Rule 8E (that is, Derivative Securities Products), and Rule 5.2E(j)(6) (that is, Index-Linked Securities), as referenced in proposed amended Rule 5.2E(j)(6)(B)(I)(1)(b)(2) and Rule 5.2E(j)(6)(B)(I)(2)(a) would include securities listed on another national securities exchange pursuant to substantially equivalent listing rules.<sup>12</sup>

The Exchange also proposes to exclude Derivative Securities Products and Index-Linked Securities from consideration when determining whether the applicable quantitative generic thresholds have been satisfied under the initial listing standards specified in NYSE American Rule 5.2E(j)(6)(B)(I)(1)(b)(i)–(iv) and the continued listing standards specified in NYSE American Rules 5.2E(j)(6)(B)(I)(2)(a)(i) and (ii).<sup>13</sup> Thus,

for example, when determining compliance with NYSE American Rule 5.2E(j)(6)(B)(I)(1)(b)(ii), component stocks, excluding Derivative Securities Products or Index-Linked Securities, that in the aggregate account for at least 90% of the remaining index weight would be required to have a minimum global monthly trading volume of 1 million shares, or minimum global notional volume traded per month of 25 million, averaged over the last six months.

The Exchange proposes further to provide that the weighting limitation for the five highest weighted component securities in an index in NYSE American Rules 5.2E(j)(6)(B)(I)(1)(b)(iii) and 5.2E(j)(6)(B)(I)(2)(a)(i) would apply “to the extent applicable.”<sup>14</sup> When considered in conjunction with the proposed amendment to NYSE American Rule 5.2E(j)(6)(B)(I)(1)(a) referenced above, this language would make clear that an index that includes Derivative Securities Products or Index-Linked Securities may include fewer than five component securities.

The Exchange believes that it is appropriate to exclude Derivative Securities Products and Index-Linked Securities from the generic listing and continued listing criteria specified above for Equity Index-Linked Securities because Derivative Securities Products and Index-Linked Securities that may be included in an index or portfolio underlying a series of Equity Index-Linked Securities are themselves subject to specific initial and continued listing requirements of the exchange on which they are listed. For example, Units listed and traded on the Exchange are subject to the listing standards specified under NYSE American Rule 5.2E(j)(3). Also, Derivative Securities Products and Index-Linked Securities would have been listed and traded on an exchange pursuant to a filing submitted under Sections 19(b)(2) or 19(b)(3)(A) of the Act,<sup>15</sup> or would have been listed by an exchange pursuant to the requirements of Rule 19b–4(e) under the Act.<sup>16</sup> Derivative Securities Products and Index-Linked Securities are derivatively priced, and, therefore, the Exchange does not believe that it is necessary to apply the generic

quantitative criteria (e.g., market capitalization, trading volume, or component weighting) applicable to securities that are not Derivative Securities Products or Index-Linked Securities (e.g., common stocks) to such products. Finally, by way of comparison, Derivative Securities Products are excluded from consideration when determining whether the components of Units satisfy the applicable listing criteria in Rule 5.2E(j)(3),<sup>17</sup> and both Derivative Securities Products and Index-Linked Securities are excluded from the applicable listing criteria for Managed Fund Shares holding equity securities in Commentary .01 to Rule 8.600E.<sup>18</sup>

The Exchange also proposes (1) to replace “investment company units” with “Investment Company Units” in two places in NYSE American Rule 5.2E(j)(6)(B)(I)(1) in order to conform to other usages of this term in Exchange rules; and (2) to replace the word “Index” with “index” in two places in Rule 5.2E(j)(6)(B)(I)(2)(a)(i) to conform to other usages of this word in Rule 5.2E(j)(6)(B)(I)(2).

The Exchange notes that the proposed change is not otherwise intended to address any other issues and that the Exchange is not aware of any problems that ETP Holders or issuers would have in complying with the proposed change.

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,<sup>19</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act,<sup>20</sup> in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest.

The Exchange believes that the proposed change would facilitate the listing and trading of additional types of Equity Index-Linked Securities, which would enhance competition among market participants, to the benefit of

<sup>10</sup> See Rule 5.2E(j)(6)(B)(I)(1)(b)(i)–(iv).

<sup>11</sup> See Rule 5.2E(j)(6)(B)(I)(2)(a)(ii).

<sup>12</sup> This provision is similar to that in Commentary .01(a) to NYSE American Rule 8.600E relating to generic listing criteria applicable to issues of Managed Fund Shares.

<sup>13</sup> NYSE American Rules 5.2E(j)(6)(B)(I)(2)(a)(i) and (ii) provide that the Exchange will maintain surveillance procedures for securities listed under Rule 5.2E(j)(6) and may halt trading in such securities and will initiate delisting proceedings pursuant to Rule 5.5E(m) (unless the Commission has approved the continued trading of the subject Index-Linked Security), if any of the standards set forth in Rules 5.2E(j)(6)(B)(I)(1)(a) and 5.2E(j)(6)(B)(I)(1)(b)(2) are not continuously maintained, except that: (i) The criteria that no single component represent more than 25% of the dollar weight of the index and the five highest dollar weighted components in the index cannot represent more than 50% (or 60% for indexes with less than 25 components) of the dollar weight of the index, need only be satisfied at the time the index is rebalanced (Rule 5.2E(j)(6)(B)(I)(2)(a)(i)), and (ii) component stocks that in the aggregate account for

at least 90% of the weight of the index each will have a minimum global monthly trading volume of 500,000 shares, or minimum global notional volume traded per month of \$12,500,000, averaged over the last six months (Rule 5.2E(j)(6)(B)(I)(2)(a)(ii)).

<sup>14</sup> The phrase “to the extent applicable” also is included in Commentary .01(a)(A)(3) to NYSE American Rule 5.2E(j)(3) for Investment Company Units and Commentary .01(a)(1)(C) to NYSE American Rule 8.600E for Managed Fund Shares.

<sup>15</sup> 15 U.S.C. 78s(b)(2); 15 U.S.C. 78s(b)(3)(A).

<sup>16</sup> 17 CFR 240.19b–4(e).

<sup>17</sup> See Commentary .01 to NYSE American Rule 5.2E(j)(3). See also, Securities Exchange Act Release No. 57751 (May 1, 2008), 73 FR 25818 (May 7, 2008) (SR–NYSEArca–2008–29) (order approving amendments to the eligibility criteria for components of an index underlying Investment Company Units).

<sup>18</sup> See Commentary .01 to NYSE American Rule 8.600E. See also, Securities Exchange Act Release No. 78397 (July 22, 2016), 81 FR 49320 (July 27, 2016) (SR–NYSEArca–2015–110) (order approving amendments to NYSE Arca Equities Rule 8.600 to adopt generic listing standards for Managed Fund Shares).

<sup>19</sup> 15 U.S.C. 78f(b).

<sup>20</sup> 15 U.S.C. 78f(b)(5).

investors and the marketplace. The proposed change would also result in greater efficiencies in the listing process with respect to Equity Index-Linked Securities by eliminating an unnecessary consideration regarding underlying components, which would therefore remove impediments to, and perfect the mechanism of, a free and open market. In addition, the proposed amendment to the Equity Index-Linked Securities listing criteria is intended to protect investors and the public interest in that it is consistent with the manner in which Derivative Securities Products are also excluded from consideration when determining whether the components of an index or portfolio underlying an issue of Units satisfy the applicable listing criteria,<sup>21</sup> and both Derivative Securities Products and Index-Linked Securities are excluded from the applicable listing criteria for Managed Fund Shares holding equity securities in Commentary .01 to Rule 8.600E.<sup>22</sup> Additionally, Equity Index-Linked Securities would remain subject to all existing listing standards, thereby maintaining existing levels of investor protection. The Exchange believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices because the Equity Index-Linked Securities would continue to be listed and traded on the Exchange pursuant to the initial and continued listing criteria in Rule 5.2E(j)(6). Further, the proposed change would not impact the existing listing process for Derivative Securities Products and Index-Linked Securities, whereby the exchanges on which such securities are listed must, for example, submit proposed rule changes with the Commission prior to listing and trading.

The Exchange believes that it is appropriate to exclude Derivative Securities Products and Index-Linked Securities from the generic criteria specified above for Equity Index-Linked Securities because Derivative Securities Products and Index-Linked Securities that may be included in an index or portfolio underlying a series of Equity Index-Linked Securities are themselves subject to specific initial and continued listing requirements of the exchange on which they are listed. For example, Units listed and traded on the Exchange are subject to the listing standards specified under NYSE American Rule 5.2E(j)(3). Also, such Derivative Securities Products and Index-Linked Securities would have been listed and traded on an exchange pursuant to a filing submitted under Sections 19(b)(2)

or 19(b)(3)(A) of the Act,<sup>23</sup> or would have been listed by an exchange pursuant to the requirements of Rule 19b-4(e) under the Act.<sup>24</sup> The Exchange believes that quantitative factors—such as market value, global monthly trading volume, or weighting—when applied to index components (such as common stocks) underlying a series of Equity Index-Linked Securities, are relevant criteria in establishing that such series is sufficiently broad-based to minimize potential manipulation.<sup>25</sup> Derivative Securities Products and Index-Linked Securities, however, are derivatively priced, and, therefore, the Exchange does not believe that it is necessary to apply the generic quantitative criteria applicable to securities that are not Derivative Securities Products and Index-Linked Securities (e.g., common stocks) to such products. As noted above, Derivative Securities Products are excluded from consideration on NYSE American when determining whether the components of Units satisfy the applicable listing criteria,<sup>26</sup> and both Derivative Securities Products and Index-Linked Securities are excluded from the applicable listing criteria for Managed Fund Shares holding equity securities in Commentary .01 to Rule 8.600E. Moreover, for shares of Derivative Securities Products that are not listed on an exchange pursuant to an exchange's generic listing rules, the Commission must first approve an exchange's proposed rule change under

<sup>23</sup> 15 U.S.C. 78s(b)(2); 15 U.S.C. 78s(b)(3)(A).

<sup>24</sup> 17 CFR 240.19b-4(e).

<sup>25</sup> See, e.g., Securities Exchange Act Release No. 54739 (November 9, 2006), 71 FR 66693 (SR-Amex-2006-78) (order approving generic listing standards for Portfolio Depositary Receipts and Index Fund Shares based on international or global indexes), in which the Commission stated that “these standards are reasonably designed to ensure that stocks with substantial market capitalization and trading volume account for a substantial portion of any underlying index or portfolio, and that when applied in conjunction with the other applicable listing requirements, will permit the listing only of ETFs that are sufficiently broad-based in scope to minimize potential manipulation.”

<sup>26</sup> See Commentary .01 to NYSE American Rule 5.2E(j)(3). See also Securities Exchange Act Release No. 57751 (May 1, 2008), 73 FR 25818 (May 7, 2008) (SR-NYSEArca-2008-29) (order approving amendments to eligibility criteria for components of an index underlying Investment Company Units), in which the Commission noted that “based on the trading characteristics of Derivative Securities Products, it may be difficult for component Derivative Securities Products to satisfy certain quantitative index criteria, such as the minimum market value and trading volume limitations. However, because Derivative Securities Products are themselves subject to specific initial and continued listing requirements, the Commission believes that it would be reasonable to exclude Derivative Securities Products, as components, from certain index component eligibility criteria for [Investment Company] Units.”

Section 19(b) of the Act regarding a particular Derivative Securities Product or Index-Linked Securities, which is subject to the representations and restrictions included in such proposed rule change.

The Exchange also believes it is appropriate to exclude Derivative Securities Products and Index-Linked Securities from the requirement under NYSE American Rule 5.2E(j)(6)(B)(I)(1)(b)(iv) that 90% of the applicable index's numerical value and at least 80% of the total number of component securities will meet the criteria for standardized option trading set forth in Rule 915. Rule 915 includes criteria for securities underlying option contracts approved for listing and trading on the Exchange. Among such criteria are those applicable to “Exchange-Traded Fund Shares” (as referenced in Rule 915, Commentary .06(a)), Trust Issued Receipts (as referenced in Rule 915, Commentary .07(a)), and Index-Linked Securities (as referenced in Rule 915, Commentary .11) that underlie Exchange-traded option contracts. The Exchange does not believe that criteria in Rule 915 should be applied to Derivative Securities Products and Index-Linked Securities because such securities are subject to separate numerical and other criteria included in the applicable exchange listing rules, including both generic listing rules permitting listing pursuant to Rule 19b-4(e) and non-generic listing rules. Derivative Securities Products and Index-Linked Securities that are the subject of a Commission approval order under Section 19(b) of the Act also are subject to specific representations made in the applicable Rule 19b-4 filing. These include representations regarding the existence of comprehensive surveillance agreements between the applicable exchange and the principal markets for certain financial instruments underlying Derivative Securities Products, or percentage limitations on assets (e.g., non-U.S. stocks, futures and options) whose principal market is not a member of the Intermarket Surveillance Group (“ISG”).<sup>27</sup>

<sup>27</sup> See, e.g., Securities Exchange Act Release No. 76719 (December 21, 2015), 80 FR 80859 (December 28, 2015) (order approving Exchange listing and trading of shares of the Guggenheim Total Return Bond ETF (“Fund”) under NYSE Arca Equities Rule 8.600), which filing stated: “Not more than 10% of the net assets of the Fund in the aggregate invested in equity securities (other than non exchange-traded investment company securities) will consist of equity securities whose principal market is not a member of the ISG or is a market with which the Exchange does not have a comprehensive surveillance sharing agreement. In addition, not

Continued

<sup>21</sup> See *supra*, note 17.

<sup>22</sup> See *supra*, note 18.

The Exchange believes it is appropriate to provide that the weighting limitation for the five highest weighted component securities in an index in NYSE American Rules 5.2E(j)(6)(B)(I)(1)(b)(iii) and 5.2E(j)(6)(B)(I)(2)(a)(i) would apply “to the extent applicable.” When considered in conjunction with the proposed amendment to NYSE American Rule 5.2E(j)(6)(B)(I)(1)(a) referenced above, this language would make clear that an index that includes Derivative Securities Products or Index-Linked Securities may include fewer than five component securities. In addition, the phrase “to the extent applicable” is included in Commentary .01(a)(A)(3) to NYSE American Rule 5.2E(j)(3) for Investment Company Units and Commentary .01(a)(1)(C) to NYSE American Rule 8.600E for Managed Fund Shares.

The proposed replacement of “investment company units” with “Investment Company Units” in two places in NYSE American Rule 5.2E(j)(6)(B)(I)(1) is appropriate as such changes conform to other usages of this term in Exchange rules. The proposed replacement of the word “Index” with “index” in two places in Rule 5.2E(j)(6)(B)(I)(2)(a)(i) is appropriate as such changes would conform to other usages of this word in Rule 5.2E(j)(6)(B)(I)(2).

The Exchange has in place surveillance procedures that are adequate to properly monitor trading in Index-Linked Securities in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws. All Index-Linked Securities listed and traded pursuant to NYSE American Rule 5.2E(j)(6) are included within the definition of “security” or “securities” as such terms are used in the Exchange rules and, as such, are subject to Exchange rules and procedures that currently govern the trading of securities on the Exchange. Trading in the securities will be halted under the conditions specified in NYSE American Rule 5.2E(j)(6)(E).

For these reasons, the Exchange believes that the proposal is consistent with the Act.

more than 10% of the net assets of the Fund in the aggregate invested in futures contracts or exchange-traded options contracts will consist of futures contracts or exchange-traded options contracts whose principal market is not a member of ISG or is a market with which the Exchange does not have a comprehensive surveillance sharing agreement.”

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

In accordance with Section 6(b)(8) of the Act,<sup>28</sup> the Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Instead, the Exchange believes that the proposed change will encourage competition by enabling additional types of Equity Index-Linked Securities to be traded on the Exchange and, by eliminating an unnecessary consideration regarding underlying components, create a more efficient process surrounding the trading of Equity Index-Linked Securities.

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

No written comments were solicited or received with respect to the proposed rule change.

### **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>29</sup> and subparagraph (f)(6) of Rule 19b-4 thereunder.<sup>30</sup>

A proposed rule change filed pursuant to Rule 19b-4(f)(6) under the Act<sup>31</sup> normally does not become operative for 30 days after the date of its filing. However, Rule 19b-4(f)(6)(iii)<sup>32</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 proposal may become operative immediately upon filing. According to the Exchange, the proposed rule change is substantively identical to rule changes previously

<sup>28</sup> 15 U.S.C. 78f(b)(8).

<sup>29</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>30</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, 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.

<sup>31</sup> 17 CFR 240.19b-4(f)(6).

<sup>32</sup> 17 CFR 240.19b-4(f)(6)(iii).

approved for the NYSE Arca exchange and that trading on the Exchange pursuant to unlisted trading privileges of issues of Index-Linked Securities that conform to the requirements of amended NYSE American Rule 5.2E(j)(6) would further competition among exchange markets. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because permitting the Exchange without delay to trade issues of Index-Linked Securities that conform to the proposed requirements of NYSE American Rule 5.2E(j)(6)—which are substantively identical to previously approved rules of another exchange—would further competition among exchanges trading these securities. Therefore, the Commission hereby waives the operative delay and designates the proposal operative upon filing.<sup>33</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: (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 will 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-NYSEAMER-2017-19 on the subject line.

#### *Paper Comments*

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549-1090. All submissions should refer to File Number SR-NYSEAMER-2017-19. This file number should be included on the

<sup>33</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).

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 Web site (<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 Web site 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; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NYSEAMER-2017-19, and should be submitted on or before October 25, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>34</sup>

**Eduardo A. Aleman,**  
Assistant Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 32839; File No. 812-14818]

### National Securities Clearing Corporation

September 28, 2017.

**AGENCY:** Securities and Exchange Commission ("Commission").

**ACTION:** Notice. Notice of application for an order under section 3(b)(2) of the Investment Company Act of 1940 ("Act").

**APPLICANT:** National Securities Clearing Corporation ("NSCC").

**SUMMARY OF APPLICATION:** Applicant seeks an order under Section 3(b)(2) of

the Act declaring it to be primarily engaged in a business other than that of investing, reinvesting, owning, holding or trading in securities. Applicant is primarily in the business of providing clearing, settlement, risk management, central counterparty ("CCP") and ancillary services to the registered broker-dealers, banks and other market participants that are its "Members", as such term is defined in the rules and procedures of Applicant ("NSCC Rules").

**FILING DATE:** The application was filed on September 8, 2017.

**HEARING OR NOTIFICATION OF HEARING:** An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on October 23, 2017, and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

**ADDRESSES:** Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549-1090. Applicant, c/o David F. Freeman, Jr., Arnold & Porter LLP, 601 Massachusetts Avenue NW., Washington, DC 20001.

**FOR FURTHER INFORMATION CONTACT:** Jennifer O. Palmer, Senior Counsel, at (202) 551-5786, or Nadya B. Roytblat, Assistant Chief Counsel, at (202) 551-6825 (Division of Investment Management, Chief Counsel's Office). **SUPPLEMENTARY INFORMATION:** The following is a summary of the application. The complete application may be obtained via the Commission's Web site by searching for the file number, or applicant using the Company name box, at <http://www.sec.gov/search/search.htm> or by calling (202) 551-8090.

#### Applicant's Representations

1. Formed in 1976, Applicant is organized under the Business Corporation Law of the State of New York and is registered as a clearing agency under the Securities and Exchange Act of 1934, as amended ("Exchange Act"), and the rules and regulations thereunder ("Exchange Act Rules"). Applicant is also designated as a systemically important financial

market utility ("SIFMU") by the Financial Stability Oversight Council ("FSOC") under Title VIII of The Dodd-Frank Wall Street Reform and Consumer Protection Act ("Dodd-Frank Act"). As a registered clearing agency, Applicant is regulated by the Commission. As a SIFMU, Applicant is subject to enhanced supervision by the Commission in consultation with the Board of Governors of the Federal Reserve System ("FRB").<sup>1</sup>

2. Applicant is a wholly-owned subsidiary of The Depository Trust & Clearing Corporation ("DTCC"). Applicant has one authorized class of stock, which is common stock. All issued and outstanding shares of Applicant's common stock are held by DTCC and there are no plans to alter this wholly-owned subsidiary structure. There is no trading market in Applicant's shares.

3. Applicant provides clearing, settlement, risk management and CCP services to its Members for broker-to-broker trades in the United States involving equities, corporate and municipal debt, American depository receipts, exchange traded funds and unit investment trusts. In addition to these core services, Applicant also offers ancillary, non-guaranteed services, including wealth management services ("WMS") and insurance and retirement services ("I&RS"), which automate manual processes in the mutual funds, insurance and alternative investment products areas. Applicant's operations are national.

4. Applicant operates a continuous net settlement ("CNS") system, through which the trades in CNS-eligible securities are processed. Applicant acts as a CCP in respect of such CNS trades, becoming the buyer to every seller and the seller to every buyer, thereby guaranteeing the completion of such trades and eliminating counterparty risk among its Members. As a result, Applicant has obligations to and claims against its Members on opposite sides of guaranteed netted transactions. Applicant also provides a trade guarantee with respect to balance order transactions.

5. Due to the nature of Applicant's operations and the large volume and dollar value of trades that it guarantees, Applicant maintains a large clearing fund ("Clearing Fund") and a large amount of other cash on hand. The Clearing Fund consists of deposits (*i.e.*, margin and other contributions) posted by Members in the form of cash and

<sup>1</sup> See Securities Exchange Act Release No. 34-78961 (Sep. 28, 2016), 81 FR 70786, 70788 (Oct. 13, 2016).

<sup>34</sup> 17 CFR 200.30-3(a)(12).