Contractors and licensees are subject to contract controls and unannounced on-site audits and inspections. Computers are protected by mechanical locks, card key systems, or other physical access control methods. The use of computer systems is regulated with installed security software, computer logon identifications, and operating system controls including access controls, terminal and transaction logging, and file management software. Access is controlled by logon ID and password. Online data transmissions are protected by encryption.

MRC (On-site System Access and Facility Access)—Paper records, computers, and computer storage media are located in controlled-access areas under supervision of program personnel. Access to records is limited to individuals whose official duties require such access. Contractors and licensees are subject to contract controls and unannounced on-site audits and inspections. Computers are protected by mechanical locks, card key systems, or other physical access control methods. The use of computer systems is regulated with installed security software, computer logon identifications, and operating system controls including access controls, terminal and transaction logging, and file management software. Online data transmissions are protected by encryption.

Access to the MRC facility is limited to authorized personnel, who must be identified with a badge. The facility is not open to the public.

Status of Missing Mail Search Requests are viewable by any USPS employee via the MRCS application. The information displayed contains no personally identifiable information and is limited to Missing Mail Search ID number, mailpiece tracking or barcode number, status of Missing Mail Search Request, date entered, date modified, submission method, Missing Mail Search Request expiration date, email notification history, and an indicator that a photo is or is not included in the search request (but the actual photo is not viewable).

Missing Mail Search Requests submitted by USPS personnel on behalf of a customer via MRCS are accessible only by MRC employees.

Records maintained in Mail Recovery Center System (MRCS) are only retrievable and viewable by MRC employees who need the information to perform their jobs.

Missing Mail Search Requests submitted by customers via the Missing Mail Application at *www.usps.com* are accessible only by the customer who submitted the Missing Mail Search Request and MRC employees. This also includes Missing Mail Search Requests that have not yet been submitted (draft form), have been closed, or have not yet been fulfilled.

Any internal USPS requests for a specific Missing Mail Search Request must be accompanied by the customer's expressed consent.

RECORD ACCESS PROCEDURES:

Requests for access must be made in accordance with the Notification Procedure above and USPS Privacy Act regulations regarding access to records and verification of identity under 39 CFR 266.5.

CONTESTING RECORD ACCESS PROCEDURES:

See Notification Procedure and Record Access Procedures.

NOTIFICATION PROCEDURES:

Customers wanting to know if information about them is maintained in this system of records must address inquiries to the system manager in writing. Inquiries should include name, address, email address and other identifying information that confirms the requestor's identity.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

None.

Ruth Stevenson,

Chief Counsel, Federal Compliance.

[FR Doc. 2021–00530 Filed 1–12–21; 8:45 am]

BILLING CODE 7710–12–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–90865; File No. SR–NYSE–2020–108]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Extend Its Waiver of the Application of Certain of the Shareholder Approval Requirements in Section 312.03 of the NYSE Listed Company Manual Through March 31, 2021 Subject to Certain Conditions

January 7, 2021.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the "Act") [2] and Rule 19b–4 thereunder,[3] notice is hereby given that on December 28, 2020, New York Stock Exchange LLC ("NYSE" 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 extend through and including March 31, 2021 its waiver, subject to certain conditions, of the application of certain of the shareholder approval requirements set forth in Section 312.03 of the NYSE Listed Company Manual ("Manual"). 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

Pursuant to an earlier proposed rule change,[4] the Exchange waived through and including June 30, 2020, subject to certain conditions, certain of the shareholder approval requirements set forth in Section 312.03 of the Manual (the "Waiver"). Subsequently, the Exchange extended the Waiver for the period through and including September 30, 2020 [5] and, thereafter, the

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

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

[3] 17 CFR 240.19b–4.

[4] *See* Securities Exchange Act Release No. 34–88572 (April 6, 2020); 85 FR 20323 (April 10, 2020) (SR–NYSE–2020–30).

[5] *See* Securities Exchange Act Release No. 89219 (July 2, 2020; 85 FR 41640 (July 10, 2020) (SR–NYSE–2020–58) (extending the Waiver through June 30, 2020); *see also* Securities Exchange Act Release No. 90020 (September 28, 2020; 85 FR

period through and including December 31, 2020. The Exchange now proposes to extend the Waiver through and including March 31. 2021.

It is important to note that the Waiver as it has been applied (and will continue to be applied pursuant to the proposed extension) does not apply to any sales of a listed company's securities where the use of proceeds is to fund an acquisition. As such, regardless of whether an issuance would otherwise meet all of the requirements for the Waiver, any issuance for which the intended use of proceeds is to fund one or more acquisitions remains subject to the shareholder approval requirements of Sections 312.03(b) and 312.03(c) and is ineligible for the benefits of the Waiver.

The U.S. and global economies have experienced unprecedented disruption as a result of the ongoing spread of COVID–19, including severe limitations on companies' ability to operate their businesses and periods of volatility in the U.S. and global equity markets. The Exchange implemented the Waiver because it believed that it was likely that many listed companies would have urgent liquidity needs during this crisis period due to lost revenues and maturing debt obligations. In those circumstances, the Exchange believed that listed companies would need to access additional capital that might not be available in the public equity or credit markets.

Since the implementation of the Waiver a number of listed companies have completed capital raising transactions that would not have been possible without the flexibility provided by the Waiver. While equity indices have recovered from the decline initially associated with the COVID–19 crisis, ongoing economic disruption and uncertainty associated with the pandemic have caused many listed companies to continue to face circumstances in which their businesses and revenues are severely curtailed. Such companies continue to experience difficulty in accessing liquidity from the public markets. In addition, there is continued uncertainty as to the course the COVID–19 pandemic may take in the coming months and the possibility of further disruption related to COVID–19 exists. Consequently, the Exchange believes it is appropriate to extend the application of the Waiver for an additional period through and including March 31, 2021, to provide more flexibility to listed companies that need to access capital in the current unusual economic conditions.

62357 (October 2, 2020) (SR–NYSE–2020–79) (extending the Waiver through December 31, 2020).

Section 312.03 of the Manual, which requires listed companies to acquire shareholder approval prior to certain kinds of equity issuances, imposes significant limitations on the ability of a listed company to engage in the sort of large private placement transaction described above. The most important limitations are as follows:

- *Issuance to a Related Party.* Subject to an exception for early stage companies set forth therein, Section 312.03(b) of the Manual requires shareholder approval of any issuance to a director, officer or substantial security holder [6] of the company (each a ''Related Party'') or to an affiliate of a Related Party [7] if the number of shares of common stock to be issued, or if the number of shares of common stock into which the securities may be convertible or exercisable, exceeds either 1% of the number of shares of common stock or 1% of the voting power outstanding before the issuance. A limited exception permits cash sales to Related Parties and their affiliates that meet a market price test set forth in the rule (the ''Minimum Price'') [8] and that relate to no more than 5% of the company's outstanding common stock. However, this exception may only be used if the Related Party in question has Related Party status solely because it is a substantial security holder of the company.
- *Transactions of 20% of More.* Section 312.03(c) of the Manual requires shareholder approval of any transaction relating to 20% or more of the company's outstanding common stock or 20% of the voting power outstanding before such issuance other than a public offering for cash. Section 312.03(c) includes an exception for transactions involving a cash sale of the company's securities that comply with the Minimum Price requirement and also meet the following definition of a ''bona fide private financing,'' as set forth in Section 312.04(g):

''Bona fide private financing'' refers to a sale in which either:

- ○ A registered broker-dealer purchases the securities from the issuer with a view to the private sale of such securities to one or more purchasers; or
- ○ the issuer sells the securities to multiple purchasers, and no one such purchaser, or group of related purchasers, acquires, or has the right to acquire upon exercise or conversion of the securities, more than five percent of the shares of the issuer's common stock or more than five percent of the issuer's voting power before the sale.''

[6] For purposes of Section 312.03(b), Section 312.04(e) provides that: ''An interest consisting of less than either five percent of the number of shares of common stock or five percent of the voting power outstanding of a company or entity shall not be considered a substantial interest or cause the holder of such an interest to be regarded as a substantial security holder.''

[7] Under Section 312.03 of the Manual, a ''Related Party'' includes ''(1) a director, officer or substantial security holder of the company (each a ''Related Party''); (2) a subsidiary, affiliate or other closely-related person of a Related Party; or (3) any company or entity in which a Related Party has a substantial direct or indirect interest;''

[8] Section 312.04(i) defines the ''Minimum Price'' as follows: ''Minimum Price'' means a price that is the lower of: (i) The Official Closing Price immediately preceding the signing of the binding agreement; or (ii) the average Official Closing Price for the five trading days immediately preceding the signing of the binding agreement.

Section 312.04(j) defines ''Official Closing Price'' as follows: ''Official Closing Price'' of the issuer's common stock means the official closing price on the Exchange as reported to the Consolidated Tape immediately preceding the signing of a binding agreement to issue the securities. For example, if the transaction is signed after the close of the regular session at 4:00 p.m. Eastern Standard Time on a Tuesday, then Tuesday's official closing price is used. If the transaction is signed at any time between the close of the regular session on Monday and the close if the regular session on Tuesday, then Monday's official closing price is used.

The Exchange expects that it will continue to be the case that certain companies during the course of the ongoing unusual economic conditions will urgently need to obtain new capital by selling equity securities in private placements.

In many cases, such transactions may involve sales to existing investors in the company or their affiliates that would exceed the applicable 1% and 5% limits of Section 312.03(b). Given the ongoing economic disruption associated with the COVID–19 pandemic, the Exchange proposes to continue its partial waiver of the application of Section 312.03(b) for the period as of the date of this filing through and including March 31, 2021, with the Waiver specifically limited to transactions that involve the sale of the company's securities for cash at a price that meets the Minimum Price requirement as set forth in Section 312.04.[9] In addition, to qualify for the Waiver, a transaction must be reviewed and approved by the company's audit committee or a comparable committee comprised solely of independent directors.

This Waiver will continue to not be applicable to any transaction involving the stock or assets of another company where any director, officer or substantial security holder of the company has a 5% or greater interest (or such persons collectively have a 10% or greater interest), directly or indirectly, in the company or assets to be acquired or in the consideration to be paid in the

[9] *See* supra note 8.

transaction or series of related transactions and the present or potential issuance of common stock, or securities convertible into or exercisable for common stock, could result in an increase in outstanding common shares or voting power of 5% or more (*i.e.,* a transaction which would require shareholder approval under NASDAQ Marketplace Rule 5635(a)). Specifically, the Waiver will continue to not be applicable to a sale of securities by a listed company to any person subject to the provisions of Section 312.03(b) in a transaction, or series of transactions, whose proceeds will be used to fund an acquisition of stock or assets of another company where such person has a direct or indirect interest in the company or assets to be acquired or in the consideration to be paid for such acquisition.

The effect of the extension of the Waiver would be to allow companies to sell their securities to Related Parties and other persons subject to Section 312.03(b) [10] without complying with the numerical limitations of that rule, as long as the sale is in a cash transaction that meets the Minimum Price requirement and also meets the other requirements noted above. As provided by Section 312.03(a), any transaction benefitting from the proposed waiver will still be subject to shareholder approval if required under any other applicable rule, including the equity compensation requirements of Section 303A.08 and the change of control requirements of Section 312.03(d).

Existing large investors are often the only willing providers of much-needed capital to companies undergoing difficulties and the Exchange believes that it is appropriate to increase companies' flexibility to access this source of capital for an additional limited period. The Exchange notes that, as a result of the extension of the Waiver, the Exchange's application of Section 312.03(b) will be consistent with the application of NASDAQ Marketplace Rule 5635(a) [11] to sales of a listed company's securities to related parties during the Waiver period.

Many private placement transactions under the current market conditions may also exceed the 20% threshold established by Section 312.03(c). Therefore, given the ongoing economic disruption associated with the COIVD–19 pandemic, the Exchange also proposes to continue for the period through and including March 31, 2021, for purposes of the bona fide financing exception to the 20% requirement, its waiver of the 5% limitation for any sale to an individual investor in a bona fide private financing pursuant to Section 312.03(c) and to permit companies to undertake a bona fide private financing during that period in which there is only a single purchaser. As provided by Section 312.03(a), any transaction benefitting from the Waiver will still be subject to shareholder approval if required under any other applicable rule, including the equity compensation requirements of Section 303A.08 and the change of control requirements of Section 312.03(d). Any transaction benefitting from the Waiver must be a sale of the company's securities for cash at a price that meets the Minimum Price requirement.

The effect of the proposed extension of the Waiver would be that a listed company would be exempt from the shareholder approval requirement of Section 312.03(c) in relation to a private placement transaction regardless of its size or the number of participating investors or the amount of securities purchased by any single investor, provided that the transaction is a sale of the company's securities for cash at a price that meets the Minimum Price requirement. If any purchaser in a transaction benefiting from this waiver is a Related Party or other person subject to Section 312.03(b), such transaction must be reviewed and approved by the company's audit committee or a comparable committee comprised solely of independent directors. The Exchange notes that, as a result of the proposed extension of the Waiver, the Exchange's application of Section 312.03(c) will continue to be consistent during the Waiver period with the application of NASDAQ Marketplace Rule 5635(d) with respect to private placements relating to 20% or more of a company's common stock or voting power outstanding before such transaction.[12]

The Exchange notes that these temporary emergency waivers would simply continue to provide NYSE listed companies with the flexibility on a temporary emergency basis to consummate transactions without shareholder approval that would not require shareholder approval under the rules of the NASDAQ Stock Market, as the specific limitations the Exchange is proposing to waive do not exist in the applicable NASDAQ rules.[13]

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act,[14] in general, and furthers the objectives of Section 6(b)(5) of the Act,[15] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect the public interest and the interests of investors, and because it is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

As a result of the economic disruption related to the ongoing spread of the COVID–19 virus, certain listed companies may experience urgent liquidity needs that they are unable to meet by raising funds in the public equity or credit markets. The proposed rule change is designed to provide temporary relief from certain of the NYSE's shareholder approval requirements in relation to stock issuances to provide companies with additional flexibility to raise funds by selling equity in private placement transactions during the current unusual economic conditions provided such transactions meet certain conditions, such as the Minimum Price as defined in Section 312.04(i). The proposed waivers are consistent with the protection of investors because any transaction benefiting from the waivers will not, in the Exchange's view, be dilutive to the company's existing shareholders as it will be subject to a minimum market price requirement and because the audit committee or a comparable committee comprised solely of independent directors will review and approve any transaction benefitting from a waiver that involves a Related Party or affiliates of a Related Party. In addition, as provided by Section 312.03(a), any transaction benefitting from the proposed waiver will still be subject to shareholder approval if required under any other applicable rule, including the equity compensation requirements of Section 303A.08 and the change of control requirements of

[10] *See* supra note 6.

[11] If a company is raising capital through a transaction, or series of transaction, via the waiver, they cannot use such capital to fund an acquisition.

[12] *See* supra note 11 which also applies to the waivers available under Section 312.03(c).

[13] *See* NASDAQ Marketplace Rule 5635, including specifically subsections (a) and (d) thereof.

[14] 15 U.S.C. 78f(b).

[15] 15 U.S.C. 78f(b)(5).

Section 312.03(d). All companies listed on the Exchange would be eligible to take advantage of the proposed temporary waivers.

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

The Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is not designed to address any competitive issues but rather is designed to provide temporary relief from certain of the NYSE's shareholder approval requirements in relation to stock issuances to provide companies with additional flexibility to raise funds by selling equity in private placement transactions during the current unusual economic conditions. In addition, the proposed waivers will simply temporarily conform the treatment of transactions benefitting from the waivers to their treatment under the comparable NASDAQ rules.

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

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [16] and Rule 19b–4(f)(6) thereunder.[17] Because the 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 prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [18] and Rule 19b-4(f)(6)(iii) thereunder.[19]

[16] 15 U.S.C. 78s(b)(3)(A)(iii).

[17] 17 CFR 240.19b–4(f)(6).

[18] 15 U.S.C. 78s(b)(3)(A).

[19] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's 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 complied with this requirement.

A proposed rule change filed under Rule 19b–4(f)(6) [20] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[21] the Commission may 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.

The Exchange believes that the Waiver of the operative delay would be consistent with the protection of investors and the public interest because, in the Exchange's view, the economic disruption caused by the global spread of the COVID–19 virus may give rise to companies experiencing urgent liquidity needs which they may need to meet by undertaking transactions that would benefit from the proposed relief. In support of its request to waive the 30-day operative delay, the Exchange stated, among other things, its belief that the proposed Waiver does not give rise to any novel investor protection concerns, as the proposed rule change conforms the NYSE's shareholder approval requirements temporarily to those of NASDAQ and would not permit any transactions without shareholder approval that are not permitted on another exchange. In addition, the Exchange stated that all transactions utilizing the Waiver would have to satisfy the Minimum Price requirement contained in the rule and be reviewed and approved by the issuer's audit committee or comparable committee of the board comprised entirely of independent directors if any transactions benefitting from the Waiver involve a Related Party or affiliates of a Related Party, as described above.[22] Furthermore, the Exchange has stated that, as provided by Section 312.04(a) of the Manual, any transaction benefitting from the proposed Waiver will still be subject to shareholder approval if required under any other applicable rule, including the equity compensation requirements of Section 303A.08 of the Manual and the change of control requirements of Section 312.03(d) of the Manual. The Exchange also noted that the proposed Waiver is temporary in nature and will only be applied through and including March 31, 2021.

The Commission notes that the proposed rule change would provide a temporary waiver of certain shareholder approval requirements under certain conditions in light of current economic conditions due to COVID–19. As noted by NYSE, the Waiver is consistent with NASDAQ's shareholder approval rules and would not permit any transactions without shareholder approval that is not permitted on another exchange.[23] In addition, all transactions utilizing the Waiver would have to satisfy the Minimum Price requirement which is a market related price, as defined above.[24] Further, all transactions subject to the Waiver that involve Related Parties or affiliates of Related Parties would have to be approved by the listed company's audit committee or comparable committee of the board comprised entirely of independent directors. In addition, the Commission notes that the Waiver of the shareholder approval provisions only applies to the specific provisions in Sections 312.03(b) and (d) of the Manual discussed above and any transaction utilizing the Waiver would still be subject to all other shareholder approval requirements including, for example, the equity compensation requirements of Section 303A.08 and the change of control requirements of Section 312.03(d). The Commission also notes that the proposal is a temporary measure designed to allow companies to raise necessary capital at market related prices without shareholder approval under the limited conditions discussed above in response to current, unusual economic conditions. For these reasons, the Commission believes that waiver of the 30-day operative delay is consistent with the protections of investors and the public interest. According, the Commission hereby waives the 30-day operative delay and designates the proposal operative upon filing.[25]

At any time within 60 days of the filing of such 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

[20] 17 CFR 240.19b–4(f)(6).

[21] 17 CFR 240.19b–4(f)(6)(iii).

[22] The Commission notes that, as described in the purpose section above, all transactions utilizing the Waiver for purposes of Section 312.03(b) would be subject to review and approval by an audit committee or comparable body of independent directors. As to transactions utilizing the temporary Waiver under Section 312.03(c) all transactions involving Related Parties or other persons subject to Section 312.03(b), as described above, must be reviewed and approved by the company's audit committee or a comparable committee comprised solely of independent directors.

[23] In addition, as noted above, if a company is raising capital through a transaction, or series of transactions, via the Waiver, they cannot use such capital to fund an acquisition.

[24] *See supra* note 8.

[25] For purposed only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) [26] of the Act 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 (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSE–2020–108 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–NYSE–2020–108. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSE–2020–108, and should be submitted on or before February 3, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[27]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–00465 Filed 1–12–21; 8:45 am]

BILLING CODE 8011–01–P

[26] 15 U.S.C. 78s(b)(2)(B).

[27] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release Nos. 33–10918; 34–90874; IA–5664; IC–34166]

Adjustments to Civil Monetary Penalty Amounts

AGENCY: Securities and Exchange Commission.

ACTION: Annual inflation adjustment of civil monetary penalties.

SUMMARY: The Securities and Exchange Commission (the ''Commission'') is publishing this notice (the ''Notice'') pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (the ''2015 Act''). This Act requires all agencies to annually adjust for inflation the civil monetary penalties that can be imposed under the statutes administered by the agency and publish the adjusted amounts in the **Federal Register**. This Notice sets forth the annual inflation adjustment of the maximum amount of civil monetary penalties (''CMPs'') administered by the Commission under the Securities Act of 1933, the Securities Exchange Act of 1934 (the ''Exchange Act''), the Investment Company Act of 1940, the Investment Advisers Act of 1940, and certain penalties under the Sarbanes-Oxley Act of 2002. These amounts are effective beginning on January 15, 2021, and will apply to all penalties imposed after that date for violations of the aforementioned statutes that occurred after November 2, 2015.

FOR FURTHER INFORMATION CONTACT: Stephen M. Ng, Senior Special Counsel, Office of the General Counsel, at (202) 551–7957, or Hannah W. Riedel, Senior Counsel, Office of the General Counsel, at (202) 551–7918.

SUPPLEMENTARY INFORMATION:

I. Background

This Notice is being published pursuant to the 2015 Act,[1] which amended the Federal Civil Penalties Inflation Adjustment Act of 1990 (the ''Inflation Adjustment Act'').[2] The Inflation Adjustment Act previously had been amended by the Debt Collection Improvement Act of 1996 (the ''DCIA'') [3] to require that each federal agency adopt regulations at least once every four years that adjust for inflation the CMPs that can be imposed under the statutes administered by the agency. Pursuant to this requirement, the Commission previously adopted regulations in 1996, 2001, 2005, 2009, and 2013 to adjust the maximum amount of the CMPs that could be imposed under the statutes the Commission administers.[4]

The 2015 Act replaces the inflation adjustment formula prescribed in the DCIA with a new formula for calculating the inflation-adjusted amount of CMPs. The 2015 Act requires that agencies use this new formula to re-calculate the inflation-adjusted amounts of the penalties they administer on an annual basis and publish these new amounts in the **Federal Register** by January 15 of each year.[5] The Commission previously published the first annual adjustment required by the 2015 Act on January 6, 2017 (the ''2017 Adjustment'').[6] As part of the 2017 Adjustment, the Commission promulgated 17 CFR 201.1001(a) and Table I to Subsection 1001, which lists the penalty amounts for all violations that occurred on or before November 2, 2015. For violations occurring after November 2, 2015, Subsection 1001(b) provides that the applicable penalty amounts will be adjusted annually based on the formula set forth in the 2015 Act. Subsection 1001(b) further provides that these adjusted amounts will be published in

[1] Public Law 114–74 Sec. 701, 129 Stat. 599–601 (Nov. 2, 2015), codified at 28 U.S.C. 2461 note.

[2] Public Law 101–410, 104 Stat. 890–892 (1990), codified at 28 U.S.C. 2461 note.

[3] Public Law 104–134, Title III, § 31001(s)(1), 110 Stat. 1321–373 (1996), codified at 28 U.S.C. 2461 note.

[4] *See* Release Nos. 33–7361, 34–37912, IA–1596, IC–22310, dated November 1, 1996 (effective December 9, 1996), previously found at 17 CFR 201.1001 and Table I to Subpart E of Part 201; Release Nos. 33–7946, 34–43897, IA–1921, IC–24846, dated January 31, 2001 (effective February 2, 2001), previously found at 17 CFR 201.1002 and Table II to Subpart E of Part 201; Release Nos. 33–8530, 34–51136, IA–2348, IC–26748, dated February 9, 2005 (effective February 14, 2005), previously found at 17 CFR 201.1003 and Table III to Subpart E of Part 201; Release Nos. 33–9009, 34–59449, IA–2845, IC–28635, dated February 25, 2009 (effective March 3, 2009), previously found at 17 CFR 201.1004 and Table IV to Subpart E of Part 201; and Release Nos. 33–9387, 34–68994, IA–3557, IC–30408, dated February 27, 2013 (effective March 5, 2013), previously found at 17 CFR 201.1005 and Table V to Subpart E of Part 201. The penalty amounts contained in these releases have now been consolidated into Table I to 17 CFR 201.1001.

[5] 28 U.S.C. 2461 note Sec. 4.

[6] Release Nos. 33–10276; 34–79749; IA–4599; IC–32414 (effective Jan. 18, 2017).