SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–79676; File No. SR–NYSE–2016–72]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing of Proposed Rule Change Amending Its Listing Standards for Special Purpose Acquisition Companies

December 22, 2016.

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 8, 2016, 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, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its listing standards for special purpose acquisition companies (''SPACs'') set forth in Section 102.06 of the NYSE Listed Company Manual (the ''Manual'') to (i) reflect changes to the SPAC structure in transactions that have come to market in recent years and (ii) adjust the quantitative requirements for initial and continued listing. The proposed rule change is available on the Exchange's Web site 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.

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

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

[3] 17 CFR 240.19b–4.

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 its listing standards for Acquisition Companies (or ''ACs'') set forth in Section 102.06.

An AC (typically known in the marketplace as a special purpose acquisition company or ''SPAC'') is a special purpose company formed for the purpose of effecting a merger, capital stock exchange, asset acquisition, stock purchase, reorganization or similar business combination with one or more operating businesses or assets. The securities sold by the AC in its initial public offering are typically units, consisting of one share of common stock and one or more warrants (or a fraction of a warrant) to purchase common stock, that are separable at some point after the IPO. Management generally is granted a percentage of the AC's equity and may be required to purchase additional shares in a private placement at the time of the AC's IPO.

The typical AC structure has changed significantly since the NYSE adopted its current listing standards. The listing standards of the Nasdaq Stock Market and NYSE MKT both permit the listing of ACs with this revised structure and the NYSE now proposes to revise Section 102.06 accordingly.

Currently, Section 102.06 requires that at least 90% of the proceeds raised in the IPO and any concurrent sale of equity securities be placed in a trust account. Further, Section 102.06 requires that, within 36 months or such shorter time period as specified by the AC, the AC complete one or more business combinations having an aggregative fair market value of at least 80% of the value of the trust account (the ''Business Combination''). Until the AC has completed a business combination of at least 80% of the trust account value, the AC must, among other things, submit the Business Combination to a shareholder vote. Any public shareholders who vote against the Business Combination have a right to convert their shares of common stock into a *pro rata* share of the aggregate amount then in the trust account, if the business combination is approved and consummated. The AC cannot consummate its Business Combination if public shareholders owning in excess of a threshold amount (to be set no higher than 40%) of the shares of common stock issued in the AC's initial public offering exercise their conversion rights in connection with such Business Combination.

Since the adoption of Section 102.06, ACs that went public and did not list on an exchange began to adopt a modified structure. In response, Nasdaq and NYSE MKT both amended their listing rules to accommodate these changes. The Exchange understands that these changes were made to address a strategy that had been undertaken by hedge funds and other activist investors in relation to a number of ACs. The Exchange understands that these investors may have acquired an interest in an AC and used their ability to vote against a proposed acquisition as leverage to obtain additional consideration not available to other shareholders. For example, they may negotiate the sale of their stake to an affiliate of the AC's management for a price higher than their *pro rata* share of the trust account. In other cases, the withheld votes may have caused the proposed acquisition to fail altogether. The Exchange understands the revisions to the AC structure were adopted to prevent this sort of ''greenmail.''

Under the revised structure, an AC would not seek a vote on the Business Combination unless otherwise required by law. Instead, the AC would conduct a redemption offer pursuant to Rule 13e–4 and Regulation 14E under the Act after the public announcement and prior to the completion of the business combination, enabling shareholders who are opposed to the transaction to tender their shares in exchange for a pro rata share of the cash held by the acquisition vehicle. This is the same outcome available to public shareholders who vote against the acquisition pursuant to the Exchange's existing rule. Under this new alternative, shareholders would still maintain the ability to ''vote with their feet'' if they oppose a proposed transaction and would, as just noted, also obtain their pro rata share of the AC's cash through the tender offer pursuant to Rule 13e–4 and Regulation 14E under the Act. As such, the Exchange believes that the protections provided by the existing rule would continue to be available. Accordingly, the Exchange proposes to modify Section 102.06 to allow an AC to conduct a tender offer for all shares of all shareholders in exchange for a *pro rata* share of the cash held in trust by the AC in compliance with Rule 13e–4 and Regulation 14E under the Act instead of soliciting a shareholder vote.

In addition, the proposed rule change would require an AC that is not subject to the Commission's proxy rules to conduct a tender offer for shares in

exchange for a *pro rata* share of the cash held in trust by the AC in compliance with Rule 13e–4 and Regulation 14E under the Act and provide information similar to that required by the Commission's proxy rules, even if the AC seeks a shareholder vote. This change would assure that investors, in all cases, get comparable information about the proposed transaction.

The Exchange also proposes to eliminate the requirement that the AC cannot consummate its Business Combination if public shareholders owning in excess of a threshold amount (to be set no higher than 40%) of the shares of common stock issued in the AC's initial public offering exercise their conversion rights in connection with such Business Combination. The Exchange notes that this limitation does not exist under the rules of Nasdaq or NYSE MKT and also that there will be disclosure enabling shareholders to include in their decision making consideration of the fact that the post-Business Combination entity may vary in size depending on how many shares are redeemed for cash. The amended rule would permit AC shareholders to make their own informed decisions as to whether they want to participate in the Business Combination.

The Exchange also proposes to amend the quantitative requirements of Section 102.06. Under the current rule, an AC must have an aggregate market value of $250 million and $200 million of market value of publicly-held shares [4] at the time of initial listing. The Exchange has observed that most of the ACs that have listed on other markets in recent years are significantly smaller than they would need to be to meet the NYSE's current quantitative requirements. As such, the Exchange proposes to change the aggregate market value and market value of publicly-held shares requirements of Section 102.06 to $100 million and $80 million, respectively. The Exchange notes that there are a number of ACs listed currently on other markets that would have met these revised requirements, but not those of the current rule, and that there is no evidence that these companies are unfit for exchange trading. The Exchange also notes that its revised quantitative requirements would remain higher than those of Nasdaq and NYSE MKT.[5]

The Exchange also proposes to adjust the continued listing standards for ACs to align them with the proposed revised initial listing standards. Currently, the Exchange will initiate suspension and delisting procedures of an AC prior to its Business Combination if its average aggregate global market capitalization fell below $125 million or the average aggregate global market capitalization attributable to its publicly-held shares fell below $100 million, in each case over 30 consecutive trading days. An AC is not eligible to follow the compliance plan procedures outlined in Sections 802.02 and 802.03 with respect to this criterion, and any such AC is subject to an immediate trading suspension and the commencement of immediate delisting proceedings. The Exchange proposes to replace this with a provision under which a pre-Business Combination AC would be subject to prompt initiation of suspension and delisting procedures if its average global market capitalization fell below $50 million or its aggregate market value of publicly-held shares fell below $40,000,000 over 30 consecutive trading days. The Exchange believes that this continued listing standard is appropriate as it is consistent with the requirement applied to operating companies (as described in the next paragraph), but without the cure periods provided to operating companies. The Exchange would notify the AC if its average aggregate global market capitalization fell below $75,000,000 or its aggregate market value of publicly-held shares fell below $60,000,000.

Currently, an AC upon consummation of its Business Combination is subject only to the continued listing requirements applicable to operating companies (*i.e.,* either its average global market capitalization or its stockholders' equity must be at least $50 million).[6] In connection with its adjustment of the initial listing standards for ACs, the Exchange proposes to adopt a requirement that, immediately after consummation of the Business Combination, the post-Business Combination company must meet the following requirements:

- A price per share of at least $4.00;
- a global market capitalization of at least $150,000,000;
- an aggregate market value of publicly-held shares of at least $40,0000,000; and
- the requirements with respect to shareholders and publicly-held shares set forth in Section 102.01A for companies listing in connection with an initial public offering.[7]

When a listed AC consummates its Business Combination, the Exchange will require the AC to submit an original listing application which must be approved by the Exchange prior to consummation of the Business Combination. The Exchange believes that by requiring a post-Business Combination AC to meet a significantly enhanced continued listing requirement, it would better ensure that only ACs that post-Business Combination are clearly suitable for listing on the NYSE will remain listed.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[8] in general, and furthers the objectives of Section 6(b)(5) [9] of the Act, in particular in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and 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 investors and the public interest and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The Exchange believes the proposed rule change furthers these goals in that it imposes additional requirements on ACs, which are designed to protect investors and the public interest and prevent fraudulent and manipulative acts and practices on the part of ACs and their promoters.

The Exchange believes that the proposed revisions to the aggregate market value and market value of publicly-held shares requirements are consistent with the protection of investors in that a number of ACs have listed on other markets that would have

[4] Shares held by directors, officers, or their immediate families and other concentrated holding of 10 percent or more are excluded in calculating the number of publicly-held shares.

[5] The Exchange notes that an AC could list on Nasdaq Global Market under Nasdaq Marketplace Rule 5405(b)(3) on the basis of a market value of listed securities of $75 million and a market value of publicly held shares of $20 million. The Exchange's understanding is that Nasdaq calculates the market value of listed securities by multiplying the total shares outstanding by the public offering price per share, which is also how the Exchange calculates aggregate market value for purposes of Section 102.06. As such, the comparable requirements are clearly lower on Nasdaq Global Market in both cases.

[6] In addition, when a listed AC consummates its Business Combination, the Exchange will consider whether the Business Combination gives rise to a ''back door listing'' as described in Section 703.08(E). If the resulting company would not qualify for original listing, the Exchange will promptly initiate suspension and delisting of the AC.

[7] Currently, Section 102.01A requires companies listing in connection with their IPO to have a minimum of 400 holders of 100 shares and 1,100,000 publicly-held shares.

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(5).

met the proposed new standards (but not those in the existing rule) and there is no evidence that they have proven unfit for exchange trading. The Exchange also believes that the proposal to modify Section 102.06 to allow an AC to conduct a tender offer for all shares of all shareholders in exchange for a *pro rata* share of the cash held in trust by the AC in compliance with Rule 13e–4 and Regulation 14E under the Act instead of soliciting a shareholder vote protects investors and the public interest, as it will help prevent ''greenmail'' strategies where professional investors seek to force ACs to give them consideration not available to other shareholders as a condition for voting in favor of an acquisition.

The Exchange believes that it is consistent with the protection of investors to delete the requirement that a Business Combination not go forward if shareholders exceeding a threshold amount exercise their conversion rights, as shareholders will be informed in advance of the fact that the size of the post-Business Combination entity will vary depending on the amount of securities that are converted and they will be able to make their own informed decisions as to whether to participate in light of that disclosure. The Exchange believes that the proposed amendments to the continued listing standards are consistent with the protection of investors as the requirements for pre-Business Combination ACs would be as high as those applied to operating companies and the standard applied at the time of the Business Combination would be significantly higher than that applied to other continued listings.

While the proposed amended quantitative requirements for the listing of ACs would be lower than those for other listing applicants, the Exchange does not believe that this difference is unfairly discriminatory. The Exchange believes this to be the case because market value-based listing standards are largely adopted to ensure adequate trading liquidity and, consequently, efficient market pricing of a company's securities. As an investment in an AC prior to its Business Combination represents a right to a *pro rata* share of the AC's assets held in trust, AC shares typically have a trading price very close to their liquidation value and the liquidity and market efficiency concerns relevant to listed operating companies do not arise to the same degree. As such, the Exchange does not believe it is unfairly discriminatory to apply different market value requirements to ACs than to other listing applicants.

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

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. The proposed rule change is designed to harmonize the Exchange's rules with changes in the AC structure prevalent in the marketplace and embodied in the rules of other listing markets. As such, it is intended to promote competition for the listing of ACs.

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

Within 45 days of the date of publication of this notice in the **Federal Register** or *up to 90 days* (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve or disapprove the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be 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–2016–72 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–NYSE–2016–72. 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 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–NYSE–2016–72 and should be submitted on or before January 19, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2016–31488 Filed 12–28–16; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–79667; File No. SR–BX–2016–071]

Self-Regulatory Organizations; NASDAQ BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Modify Administrative Charges for Distributors of Proprietary Data Feed Products

December 22, 2016.

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 December 14, 2016, NASDAQ BX, Inc. (''BX'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been

[10] 17 CFR 200.30–3(a)(12).

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

[2] 17 CFR 240.19b–4.