

to the tier schedule are not unfairly discriminatory as all members will be able to attain higher rebates by executing the required volume of QCC and/or other solicited crossing orders on the Exchange.

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

In accordance with Section 6(b)(8) of the Act,<sup>9</sup> the Exchange does not believe that the proposed rule change will impose any burden on intermarket or intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change merely allows for the aggregation of volume from affiliates for purposes of the QCC and Solicitation rebate, consistent with treatment of volume for other purposes in the Schedule of Fees, and with volume aggregation on other options markets. The Exchange operates in a highly competitive market in which market participants can readily direct their order flow to competing venues. In such an environment, the Exchange must continually review, and consider adjusting, its fees and rebates to remain competitive with other exchanges. For the reasons described above, the Exchange believes that the proposed fee changes reflect this competitive environment.

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

No written comments were either solicited or received.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act,<sup>10</sup> and Rule 19b-4(f)(2)<sup>11</sup> thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

<sup>9</sup> 15 U.S.C. 78f(b)(8).

<sup>10</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>11</sup> 17 CFR 240.19b-4(f)(2).

### **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-ISE-2017-17 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-ISE-2017-17. 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-ISE-2017-17 and should be submitted on or before April 5, 2017.

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

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>12</sup>

**Eduardo A. Aleman,**

*Assistant Secretary.*

[FR Doc. 2017-05086 Filed 3-14-17; 8:45 am]

BILLING CODE 8011-01-P

## **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-80193; File No. SR-FINRA-2017-006]

### **Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing of a Proposed Rule Change To Amend Rule 6191 To Implement an Anonymous, Grouped Masking Methodology for Over-the-Counter Activity in Connection With Web Site Data Publication of Appendix B Data Pursuant to the Regulation NMS Plan To Implement a Tick Size Pilot Program**

March 9, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on March 3, 2017, Financial Industry Regulatory Authority, Inc. ("FINRA") 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 prepared by FINRA. 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**

FINRA is proposing to amend Rule 6191 to implement an anonymous, grouped masking methodology for over-the-counter ("OTC") activity in connection with Web site data publication of Appendix B data pursuant to the Regulation NMS Plan to Implement a Tick Size Pilot Program ("Plan").

The text of the proposed rule change is available on FINRA's Web site at <http://www.finra.org>, at the principal office of FINRA and at the Commission's Public Reference Room.

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

<sup>2</sup> 17 CFR 240.19b-4.

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

In its filing with the Commission, FINRA included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. FINRA has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

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

#### 1. Purpose

Rule 6191(b) (Compliance with Data Collection Requirements)<sup>3</sup> implements the data collection and Web site publication requirements of the Plan.<sup>4</sup> Rule 6191(b)(2)(B) provides, among other things, that FINRA will publish data pursuant to Appendix B.I. and B.II. of the Plan on its Web site within 120 calendar days following month end at no charge,<sup>5</sup> and that such publication will not identify the Trading Center that

<sup>3</sup> See, e.g., Securities Exchange Act Release No. 76484 (November 19, 2015), 80 FR 73858 (November 25, 2015) (Notice of Filing of File No. SR-FINRA-2015-048); see also Securities Exchange Act Release No. 77164 (February 17, 2016), 81 FR 9043 (February 23, 2016) (Notice of Filing of Partial Amendment No. 1 and Order Granting Accelerated Approval of File No. SR-FINRA-2015-048) ("Accelerated Approval Order").

<sup>4</sup> The Participants filed the Plan to comply with an order issued by the Commission on June 24, 2014. See Letter from Brendon J. Weiss, Vice President, Intercontinental Exchange, Inc., to Secretary, Commission, dated August 25, 2014 ("SRO Tick Size Plan Proposal"). See Securities Exchange Act Release No. 72460 (June 24, 2014), 79 FR 36840 (June 30, 2014). See also Securities Exchange Act Release No. 74892 (May 6, 2015), 80 FR 27513 (May 13, 2015) ("Approval Order").

<sup>5</sup> On November 30, 2016, the SEC granted exemptive relief to the Participants, and FINRA filed proposed rule changes, to, among other things, delay the publication of Web site data pursuant to Appendices B and C to the Plan until February 28, 2017, and to delay the ongoing Web site publication by ninety days such that it would be published within 120 calendar days following the end of the month. See, e.g., Letter from David S. Shillman, Associate Director, Division of Trading and Markets, Commission, to Marcia E. Asquith, Senior Vice President and Corporate Secretary, FINRA dated November 30, 2016; see also Securities Exchange Act Release No. 79424 (November 29, 2016), 81 FR 87603 (December 5, 2016) (Notice of Filing and Immediate Effectiveness of File No. SR-FINRA-2016-042). FINRA recently filed a proposed rule change to revert to the 30-day delay with regard to Appendix C data Web site publication. See File No. SR-FINRA-2017-005 (Proposed Rule Change to Amend FINRA Rule 6191 to Modify the Date of Appendix B Web site Data Publication Pursuant to the Regulation NMS Plan to Implement a Tick Size Pilot Program).

generated the data. Rule 6191(b)(3)(C) provides, among other things, that FINRA will publish data pursuant to Appendix B.IV. to the Plan on its Web site within 120 calendar days following month end at no charge, and that such publication will not identify the OTC Trading Center that generated the data.

In consultation with SEC staff, FINRA is proposing new supplementary material to Rule 6191 to implement the aggregation methodology described further below. Specifically, FINRA is proposing to provide for an anonymous, grouped masking methodology for Appendix B.I., B.II. and B.IV. data in furtherance of the Plan's requirement that the data made publicly available will not identify the Trading Center that generated the data.<sup>6</sup> The proposed methodology also is intended to mitigate confidentiality concerns previously raised by commenters<sup>7</sup> regarding the publication of data related to OTC activity. Chicago Stock Exchange, Inc. ("CHX") is the designated examining authority ("DEA") for a relatively small number of OTC Trading Centers; thus, FINRA also will incorporate the firms for which CHX is the DEA into the anonymous, grouped masking methodology and publish OTC-wide statistics for Appendix B.I., B.II. and B.IV. data on the FINRA Web site.<sup>8</sup>

#### Grouping Methodology

For purposes of the data to be made available on the FINRA Web site pursuant to the Plan, FINRA proposes to aggregate individual OTC Trading Center Appendix B data within groupings of Trading Centers by ATS and non-ATS categories, using an undisclosed methodology for assigning each Trading Center to a group. FINRA believes that an anonymous, grouped masking methodology for purposes of publishing the required data related to OTC activity will support the Plan's requirement that the data to be made publicly available will not identify the Trading Center that generated the data.<sup>9</sup> In furtherance of this objective, the details of the methodology used to formulate the anonymous groupings

<sup>6</sup> See Section VII.(A) of the Plan (Collection of Trading Center Pilot Data).

<sup>7</sup> See *infra* note 20.

<sup>8</sup> In connection with the instant filing, FINRA and CHX requested exemptive relief from the Plan to permit the publication on the FINRA Web site of data relating to OTC activity pursuant to Appendix B.I., B.II. and B.IV. on an aggregated basis using an anonymous, grouped masking methodology. See Letter from Marcia E. Asquith, Executive Vice President, Board and External Relations, FINRA, to Robert W. Errett, Deputy Secretary, Commission, dated March 2, 2017.

<sup>9</sup> See Section VII.(A) of the Plan.

will not be disclosed. FINRA believes that the proposed approach strikes an appropriate balance between mitigating confidentiality concerns while supporting the public availability of useful Plan data.

Trading Center group assignments will not be published and generally will remain unchanged for the duration of the data publication period, with the exception of the entrance of a new Trading Center (new FINRA member). The anonymized identifier used for each group will remain unchanged for the duration of the data publication period and the same groups and group identifiers will be used for all Appendix B data sets. The number of Trading Centers assigned to each group will not specifically be disclosed; however, each group will contain between five and 25 market participant identifiers (MPIDs). In addition, for each day's statistics, the number of MPIDs in each group with activity in any Pilot Security for that day will be disclosed. Disclosing the number of active MPIDs each day is intended to inform evaluators of the data of whether the number of Trading Centers reflected in the statistics each day has changed—for example, because a Trading Center in the group didn't register activity on a given day.<sup>10</sup>

#### Appendix B.I. Data Aggregation Methodology

FINRA proposes to aggregate the Appendix B.I. data to be made publicly available on the FINRA Web site by aggregating statistics within each group by Pilot Security for each trading day. The methodology used for computing the statistics at the group level will be the same methodology used to compute these statistics at the Trading Center level in the non-public version of the data (and in the public version of the exchange data).<sup>11</sup> Specifically, FINRA would calculate group-level sums for statistics that are quantity counts<sup>12</sup> and use all underlying data within a group to calculate statistics requiring averages or weighted averages.<sup>13</sup> Data will be aggregated separately for each order

<sup>10</sup> FINRA will disclose the number of MPIDs in each group with activity in any Pilot Security for that day either within each Appendix B data set or in an associated file.

<sup>11</sup> See Tick Size Appendix B and C Statistics FAQs (available at <http://www.finra.org/sites/default/files/Tick-Size-Pilot-Appendix-B-and-C-FAQ.pdf>).

<sup>12</sup> See, e.g., Appendix B.I.a(7) (cumulative number of orders).

<sup>13</sup> See, e.g., Appendix B.I.a(28) (the share weighted average realized spread for executions of orders); and Appendix B.I.a(29) (the received share-weighted average percentage for shares not displayable as of order receipt). FINRA will calculate averages for all price variables and percentages.

type and subcategory, and will not be aggregated across order types or subcategories.

aggregated across order types or subcategories.

TABLE 1—ILLUSTRATIVE SAMPLE B.I. DATA AGGREGATION <sup>14</sup>

Date	Trading center	Ticker symbol	Number of active MPIDs in masked group across all pilot stocks	Order type	Cumulative number of orders	Cumulative number of shares of orders	Cumulative number of shares of orders executed at an away trading center	Share weighted average realized spread for execution of orders on trading center only
<b>Unmasked Data</b>								
20160926 .....	ABCD	ZZZZ	n/a	18	2	100,000	75,000	-0.01
20160926 .....	EFGH	ZZZZ	n/a	18	2	100,000	100,000	0.01
20160926 .....	IJKL	ZZZZ	n/a	18	4	750,000	35,000	0.011
<b>Masked Data</b>								
20160926 .....	G1	ZZZZ	5	18	8	950,000	210,000	0.0090

Appendix B.II. Data Aggregation Methodology

Appendix B.II. data includes order-level statistics; thus, FINRA proposes that all individual orders be displayed

for all Trading Centers within a group, with each order attributed to the group rather than the underlying Trading Center. In addition, Appendix B.II. order information would be displayed in pure chronological order based on

time of order receipt to help minimize confidentiality concerns that may occur if other ordering methods were used, such as showing the original chronological order per Trading Center.

TABLE 2—ILLUSTRATIVE SAMPLE B.II. DATA AGGREGATION <sup>15</sup>

Date	Trading center	Issue	Number of active MPIDs in masked group across all pilot stocks	Order received time	Order type	Order shares quantity	B/S code	Limit price
<b>Unmasked Data</b>								
20160906 .....	ABCD	ZZZZ	n/a	93,605.41	10	500	B	(null)
20160906 .....	ABCD	ZZZZ	n/a	94,114.99	11	100	S	52.45
20160906 .....	ABCD	ZZZZ	n/a	101,140.05	11	900	S	52.31
20160906 .....	EFGH	ZZZZ	n/a	93,605.42	10	600	B	(null)
20160906 .....	EFGH	ZZZZ	n/a	94,114.99	11	100	S	52.45
20160906 .....	EFGH	ZZZZ	n/a	101,140.07	11	700	S	52.37
<b>Masked Data</b>								
20160906 .....	G1	ZZZZ	5	93,605.41	10	500	B	(null)
20160906 .....	G1	ZZZZ	5	93,605.42	10	600	B	(null)
20160906 .....	G1	ZZZZ	5	94,114.99	11	100	S	52.45
20160906 .....	G1	ZZZZ	5	94,114.99	11	100	S	52.45
20160906 .....	G1	ZZZZ	5	101,140.05	11	900	S	52.31
20160906 .....	G1	ZZZZ	5	101,140.07	11	700	S	52.37

Appendix B.IV. Data Aggregation Methodology

FINRA proposes to aggregate Appendix B.IV. data by aggregating

statistics within each group by trading day by summing the statistics of all market maker activity represented within the group. The number of market

makers would be displayed as the unique number of market makers <sup>16</sup> across all Trading Centers within the group.

<sup>14</sup> For purposes of illustration, this table reflects only a sample of the data—specifically, the fields described in Appendix B.I.a.(1), (2), (3), (7), (8), (13) and (28). The published data would reflect all fields described in Appendix B.I. to the Plan and as further specified in FINRA Rule 6191 and related rule filings, the Tick Size Appendix B and C Statistics FAQs (available at <http://www.finra.org/sites/default/files/Tick-Size-Pilot-Appendix-B-and-C-FAQ.pdf>), and in FINRA’s Appendix B and C Requirements and Finra.org File Specifications document (available at <http://www.finra.org/sites/>

[default/files/Appendix-B-and-C-Reporting-Specifications.pdf](http://www.finra.org/sites/default/files/Appendix-B-and-C-Reporting-Specifications.pdf)).

<sup>15</sup> For purposes of illustration, this table reflects only a sample of the data—specifically, the fields required by items a. through h. of Appendix B.II. The published data would reflect all fields described in Appendix B.II. to the Plan and as further specified in FINRA Rule 6191 and related rule filings, the Tick Size Appendix B and C Statistics FAQs (available at <http://www.finra.org/sites/default/files/Tick-Size-Pilot-Appendix-B-and-C-FAQ.pdf>), and in FINRA’s Appendix B and C

Requirements and Finra.org File Specifications document (available at <http://www.finra.org/sites/default/files/Appendix-B-and-C-Reporting-Specifications.pdf>).

<sup>16</sup> As provided in FINRA Rule 6191.11, FINRA will provide a count of the number of Market Makers used in the participation calculations. Thus, if a single unique Market Maker traded on multiple Trading Centers within the same masking group, for the Appendix B.IV. count of unique Market Makers on a given trading day, FINRA will count this activity as attributed to one unique Market Maker.

TABLE 3—ILLUSTRATIVE SAMPLE B.IV. DATA AGGREGATION <sup>17</sup>

Date	Trading center	Number of active MPIDs in masked group across all pilot stocks	Number unique MMs buy side	Number unique MMs sell side	Shares participation (buy)	Shares participation (sell)
<b>Unmasked Data</b>						
20160906 .....	ABCD	n/a	2	1	700,000	225,000
20160906 .....	EFGH	n/a	1	1	200	5,000
20160906 .....	IJKL	n/a	4	1	35,000	500,000
<b>Masked Data</b>						
20160906 .....	G1	5	5	2	735,200	730,000

If the Commission approves the proposed rule change, the effective date of the proposed rule change will be 120 days following Commission approval.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,<sup>18</sup> which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest, and Section 15A(b)(9) of the Act,<sup>19</sup> which requires that FINRA rules not impose any burden on competition that is not necessary or appropriate.

The Plan is designed to allow the Commission, market participants, and the public to study and assess the impact of increment conventions on the liquidity and trading of the common stock of small-capitalization companies. FINRA consulted extensively with SEC staff in connection with the instant proposal to design a grouped masking methodology that is consistent with the objectives of Section VII(A) of the Plan to make Appendix B data publicly available while not identifying the Trading Center that generated the data.

<sup>17</sup> For purposes of illustration, this table reflects only a sample of the data—specifically, the fields required by items a. and b. of Appendix B.IV and FINRA Rule 6191.11. The published data would reflect all fields described in Appendix B.IV. to the Plan and as further specified in FINRA Rule 6191 and related rule filings, the Tick Size Appendix B and C Statistics FAQs (available at <http://www.finra.org/sites/default/files/Tick-Size-Pilot-Appendix-B-and-C-FAQ.pdf>), and in FINRA’s Appendix B and C Requirements and Finra.org File Specifications document (available at <http://www.finra.org/sites/default/files/Appendix-B-and-C-Reporting-Specifications.pdf>).

<sup>18</sup> 15 U.S.C. 78o-3(b)(6).

<sup>19</sup> 15 U.S.C. 78o-3(b)(9).

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

FINRA does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. FINRA notes that the proposed rule change implements the provisions of the Plan.

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

The Commission previously received comment letters from FIF and Citadel Securities expressing concern over FINRA’s intent to publish Appendix B data on a Trading Center-by-Trading Center basis.<sup>20</sup> FIF stated that publishing Appendix B.I. and B.II. statistics on FINRA’s Web site in a disaggregated format does not satisfy the requirements of the Plan or Rule 6191 that the publicly available data will not identify the trading center that generated the data.<sup>21</sup> Similarly, Citadel Securities stated that market participants would be able to determine the identity of Trading Centers in violation of the Plan if the Appendix B data were to be published in a disaggregated format.<sup>22</sup>

In consultation with SEC staff, FINRA is filing the instant proposed rule change to mitigate the confidentiality concerns raised by commenters by providing for an anonymized, grouped masking methodology for Appendix B

<sup>20</sup> See Letters from William Hebert, Managing Director, Financial Information Forum (“FIF”), to Robert W. Errett, Deputy Secretary, Commission, dated December 21, 2016 (“FIF letter”); and Adam C. Cooper, Senior Managing Director and Chief Legal Officer, Citadel Securities, to Brent J. Fields, Secretary, Commission, dated December 21, 2016 (“Citadel letter”). See also Securities Exchange Act Release No. 79424 (November 29, 2016), 81 FR 87603 (December 5, 2016) (Notice of Filing and Immediate Effectiveness of File No. SR-FINRA-2016-042).

<sup>21</sup> See FIF letter.

<sup>22</sup> See Citadel letter.

data for all OTC activity in furtherance of the objectives of the Plan.

**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 within such longer period (i) as the Commission may designate up to 90 days of such date 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 such 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](mailto:rule-comments@sec.gov). Please include File Number SR-FINRA-2017-006 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-FINRA-2017-006. 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 FINRA. 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-FINRA-2017-006, and should be submitted on or before April 5, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>23</sup>

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

[FR Doc. 2017-05082 Filed 3-14-17; 8:45 am]

BILLING CODE 8011-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-80199; File No. SR-NYSE-2016-72]

### Self-Regulatory Organizations; New York Stock Exchange LLC; Order Granting Approval of a Proposed Rule Change Amending Initial and Continued Listing Standards for Special Purpose Acquisition Companies

March 10, 2017.

#### I. Introduction

On December 8, 2016, the New York Stock Exchange LLC ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Exchange Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to amend initial listing

standards for Special Purpose Acquisition Companies ("SPACs") to provide an option to hold a tender offer in lieu of a shareholder vote on a proposed acquisition; and amend initial and continued listing standards to, among other things, lower quantitative standards. The proposed rule change was published for comment in the **Federal Register** on December 29, 2016.<sup>3</sup> The Commission received no comments on the proposal. On February 10, 2017, the Commission extended the time period for Commission action on the proposal to March 29, 2017.<sup>4</sup> This order approves the proposed rule change.

#### II. Description of the Proposal

##### A. Background

A SPAC is a special purpose company that raises capital in an initial public offering ("IPO") to enter into future undetermined business combinations through mergers, capital stock exchanges, assets acquisitions, stock purchases, reorganizations or similar business combinations with one or more operating businesses or assets. In its filing, the Exchange stated that in the IPO, a SPAC typically sells units consisting of one share of common stock and one or more warrants (or fraction of a warrant) to purchase common stocks. The units are separable at some point after the IPO. The Exchange also noted that management of the SPAC typically receives a percentage of the equity at the outset and may be required to purchase additional shares in a private placement at the time of the IPO. Due to their unique structure, SPACs do not have any prior financial history, at the time of their listing, like operating companies.

NYSE Listed Company Manual ("Manual") Section 102.06 sets forth the listing standards that apply to SPACs.<sup>5</sup> In addition to requiring SPACs to meet certain quantitative standards, Section 102.06 of the Manual provides additional investor protection safeguards for shareholders investing in SPACs. Currently, Section 102.06 of the Manual requires at least 90% of the proceeds raised in a SPAC IPO, and any

<sup>3</sup> See Securities Exchange Act Release No. 79676 (December 22, 2016), 81 FR 96150 (December 29, 2016) ("Notice").

<sup>4</sup> See Securities Exchange Act Release No. 80022 (February 10, 2017), 82 FR 10947 (February 16, 2017) ("Extension").

<sup>5</sup> The Commission notes that throughout this order we have used the term "SPAC" or "SPACs", but these terms have the same meaning as "Acquisition Company" or "Acquisition Companies" which are the terms used for listing, and continued listing, in Sections 102.06 and 802.01B of the Manual. See NYSE Listed Company Manual Sections 102.06 and 802.01B.

concurrent sale of equity securities, be placed in a trust account.<sup>6</sup> Further within three years, or such shorter time period as specified by the SPAC, the SPAC must complete one or more business combinations having an aggregate fair market value of at least 80% of the value of the trust account.<sup>7</sup> Until the SPAC has completed a business combination, or a series of business combinations, representing at least 80% of the trust account's aggregate fair market value, the SPAC must, among other things, submit the business combination to a shareholder vote.<sup>8</sup> 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.<sup>9</sup> The Manual further states that a business combination cannot be consummated by the SPAC if the public shareholders owning in excess of a threshold amount (to be set no higher than 40%) of the shares of common stock exercise their conversion rights.<sup>10</sup>

In addition to these safeguards, a SPAC must also meet minimum quantitative initial and continued listing standards to list, and remain listed on the Exchange, as well as specified continued listing standards to remain listed after consummation of a business combination.<sup>11</sup>

##### B. Option To Hold a Tender Offer in Lieu of a Shareholder Vote

The Exchange proposes to add an option for the SPAC to conduct a tender offer in lieu of a shareholder vote to complete a business combination. First, under the proposal if a shareholder vote is not held on a business combination for which the SPAC must file and furnish a proxy or information statement subject to Regulation 14A or 14C under the Exchange Act, the SPAC must provide all shareholders with the opportunity to redeem all their shares for cash equal to their pro rata share of the aggregate amount then in the deposit account pursuant to Rule 13e-4 and Regulation 14E under the Exchange Act.<sup>12</sup> The proposal states that a SPAC

<sup>6</sup> See NYSE Listed Company Manual Section 102.06.

<sup>7</sup> *Id.* The 80% fair market value is the net assets held in trust net of amounts disbursed to management for working capital purposes and excluding the amount of any deferred underwriting discount held in trust.

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> See notes 16-18, *infra* and accompanying text.

<sup>12</sup> See Notice, *supra* note 4.

<sup>23</sup> 17 CFR 200.30-3(a)(12).

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

<sup>2</sup> 17 CFR 240.19b-4.