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Dated: October 26, 2026.

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026–22001 Filed 10–27–26; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–106726; File No. 4–930]

Order Under Section 36 of the Securities Exchange Act of 1934 Granting Conditional Exemptive Relief Regarding the Treatment of Customer Margin Under Item 13 and Note F of Exhibit A to Rule 15c3–3

October 23, 2026.

I. Introduction

A. Overview of the Exemptive Order

On September 18, 2026, Cboe Clear U.S., LLC (“CCUS”), a clearing agency now temporarily registered with the Securities and Exchange Commission (“Commission”) pursuant to Rule 17Ab2–1(c)¹ under the Securities Exchange Act of 1934² (“Exchange Act”) for a period of 18 months,³ filed an application with the Commission (“Application”)⁴ to obtain an exemption pursuant to section 36(a)(1)⁵ of the Exchange Act, in accordance with the procedures set forth in Exchange Act

Rule 0–12.⁶ Specifically, CCUS requested exemptive relief on behalf of broker-dealers that are CCUS clearing members (“Clearing Members”) from the limitation in Item 13 and Note F of Exhibit A to Rule 15c3–3⁷ that confines the Item 13 debit to the amount of margin required and on deposit with the Options Clearing Corporation (“OCC”) for all option contracts written or purchased in customer accounts. This would afford Clearing Members the same treatment for margin required and on deposit at CCUS for purposes of the reserve computation requirements under Item 13 and Note F of Rule 15c3–3a as is currently afforded to margin required and on deposit with the OCC.⁸

On September 25, 2026, the Commission published a notice of an application for an exemption and requested comment regarding the Application and the proposed conditions set forth therein.⁹ The Notice was published in the **Federal Register** on September 29, 2026.¹⁰ The Commission received one comment on the Notice of an Application.¹¹ For the reasons discussed below, this order grants Clearing Members conditional exemptive relief from the limitation in Item 13 and Note F of 15c3–3a that confines the Item 13 debit to margin required and on deposit with the OCC for all option contracts written or purchased in customer accounts.

B. Overview of Rule 15c3–3 and Rule 15c3–3a

Rule 15c3–3, the broker-dealer customer protection rule, requires, among other things, broker-dealers that hold customer cash and securities (“carrying broker-dealers”) to compute the net amount of cash owed to customers under a formula in Rule 15c3–3a (“customer reserve computation”).¹² Generally, carrying broker-dealers must perform this customer reserve computation and make

any required deposit into special reserve bank account daily or weekly. The rule also requires a carrying broker-dealer to perform a PAB reserve computation for the proprietary securities and cash it holds for other broker-dealers, known as proprietary accounts of broker-dealers (“PAB accounts”).¹³ Item 13 of the customer reserve computation in Rule 15c3–3a includes as a debit in the computation the amount of margin required and on deposit with OCC for all option contracts written or purchased in customer accounts. Note F to Item 13 states that Item 13 must include the amount of margin required and on deposit with the OCC to the extent such margin is represented by cash, proprietary qualified securities and letters of credit collateralized by customers’ securities.¹⁴ Under that framework, the permitted debit is based on the margin amount posted by the broker-dealer to OCC that is calculated by OCC across all of the broker-dealer’s customers with listed options (*i.e.*, on an omnibus basis).

C. Request for Exemptive Relief From CCUS

In its Application, CCUS requested, pursuant to section 36(a)(1) of the Exchange Act, and in accordance with the procedures set forth in Rule 0–12, that the Commission issue an order exempting its Clearing Members from the limitation in Item 13 and Note F of Rule 15c3–3a that confines the Item 13 debit to the amount of margin required and on deposit with OCC for option contracts written or purchased in customer accounts. CCUS also requested that the exemptive relief apply with respect to the PAB reserve computation.¹⁵ In effect, CCUS is seeking comparable treatment for its Clearing Members under the customer reserve computation with respect to the margin that is required and on deposit at CCUS as has been afforded broker-dealers that are clearing members of OCC.

In support of its request, CCUS stated that when the Commission adopted Item 13, and Note F thereto, OCC was the only clearing agency registered with the Commission to provide central counterparty services for securities options. CCUS stated that it does not

¹ 17 CFR 240.17Ab2–1(c).

² 15 U.S.C. 78a *et seq.*

³ See Exchange Act Rel. No. 34–106723 (October 22, 2026) (“CCUS Temporary Registration Order”) (granting CCUS’s request for temporary registration with an exemption from certain requirements for a period of 18 months). Pursuant to the CCUS Temporary Registration Order, CCUS is registered to provide central counterparty services for cash-settled binary security options, including security options overlying key performance indicators reported by certain issuers of stock. *Id.*

⁴ Letter from Dale Michaels, Head of Clearing, CCUS, to Vanessa A. Countryman, Secretary, Commission (Sept. 18, 2026); See also *infra* note 9.

⁵ 15 U.S.C. 78mm. Section 36(a)(1) of the Exchange Act gives the Commission the authority to exempt any person, security or transaction or any class or classes of persons, securities or transactions, conditionally or unconditionally, from any Exchange Act provision by rule, regulation or order, to the extent that the exemption is necessary or appropriate in the public interest and consistent with the protection of investors.

⁶ 17 CFR 240.0–12. Exchange Act Rule 0–12 sets forth the procedures for filing applications for orders for exemptive relief pursuant to section 36.

⁷ 17 CFR 240.15c3–3a (“Rule 15c3–3a”).

⁸ See Application, at 1.

⁹ See Notice of an Application of Cboe Clear U.S., LLC for an Exemption Pursuant to Section 36 of the Securities Exchange Act of 1934 Regarding the Treatment of Customer Margin Under Item 13 and Note F of Exhibit A to Rule 15c3–3, Exchange Act Release No. 106493 (Sep. 25, 2026), 91 FR 61528 (Sep. 29, 2026) (“Notice of an Application”). The Application is attached as an appendix to the Notice of an Application and is available at: <https://www.sec.gov/files/rules/other/2026/34-106493.pdf>.

¹⁰ *Id.*

¹¹ See Letter from Shawn SN, dated October 13, 2026. The public comment file is available at <https://www.sec.gov/rules-regulations/public-comments/4-930>.

¹² 17 CFR 240.15c3–3.

¹³ Broker-dealers use the formula in Rule 15c3–3a for the purposes of computing the PAB reserve requirement, except that references to “accounts,” “customer accounts,” or “customers” will be treated as references to PAB accounts. See Note 1 to Rule 15c3–3a. For the purposes of this order, references to “accounts,” “customer,” or “customer accounts” will also include “PAB” or “PAB accounts.”

¹⁴ See Note F to Rule 15c3–3a.

¹⁵ See Application, at 3–4.

believe that the Exchange Act requires or warrants different treatment for margin held on similar terms for security option products at different registered clearing agencies. Further, CCUS stated that section 17A(a)(2) of the Exchange Act¹⁶ directs the Commission, with due regard for the maintenance of fair competition among clearing agencies, to facilitate a national system for the prompt and accurate clearance and settlement of securities transactions and to assure equal regulation under the Exchange Act of registered clearing agencies. Consequently, CCUS stated that reading Item 13 to exclude margin held at a second registered options clearing agency because it did not exist when the rule was amended would be inconsistent with this statutory mandate.¹⁷

To further support its position, CCUS stated that Item 14¹⁸ and Item 15¹⁹ of the customer reserve computation do not name any particular clearing agency, and do not distinguish between registered clearing agencies.²⁰ CCUS stated that where the Commission anticipated that more than one clearing agency could hold margin, it framed the customer reserve computation treatment of such margin by reference to a registered category rather than name a specific existing clearing agency.²¹ Consequently, CCUS stated that permitting broker-dealers to treat margin held at other registered clearing agencies would treat functionally equivalent margin on equivalent terms.²²

Additionally, CCUS stated that its proposed rules contemplate customer protection standards that satisfy the same regulatory requirements as those

under which OCC operates. Specifically, CCUS stated that it will offer separate customer, firm, and market-maker accounts, and that its rules require all funds and assets held for securities customers of a Clearing Member be maintained in a segregated Securities Customer Account. Further, CCUS stated that the binary options it proposed to clear will be fully margined and that its risk management framework provides for daily and intraday margin collection, guaranty fund resources, and a default waterfall.²³

In its Application, CCUS stated that a failure to provide equivalent treatment under the customer reserve computation to margin required and on deposit at CCUS would result in its Clearing Members facing a customer reserve computation penalty for clearing customer security options at CCUS. CCUS stated that this result could hinder the development of a cleared securities environment for trading in binary options that CCUS expects to clear.²⁴

In connection with its request for an exemption, CCUS proposed certain conditions that would apply in connection with its Clearing Members being able to include margin required and on deposit with CCUS with respect to customer binary options transactions in the Item 13 debit.²⁵

IV. Discussion

A. Statement of Relief

Section 36(a)(1) of the Exchange Act authorizes the Commission to conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from certain provisions of the Exchange Act or certain rules or regulations thereunder, by rule, regulation, or order, to the extent that such exemption is necessary or appropriate in the public interest, and is consistent with the protection of investors.²⁶ As described below, the Commission finds that the conditional exemptive relief granted herein to permit Clearing Members to include an Item 13 debit for margin required and on deposit with CCUS in the customer and PAB reserve computations is appropriate in the

public interest, and is consistent with the protection of investors.

In particular, it is appropriate to permit Clearing Members to include an Item 13 debit in the customer and PAB reserve computations for margin required and on deposit at CCUS for customer binary options. Without the availability of an Item 13 debit, increases in the amounts of required customer margin as a result of the clearance of binary options at CCUS would result in corresponding increases in the need for Clearing Members to use their own cash and securities to meet CCUS customer margin requirements. This relief also may avoid potential increases in a Clearing Member's required deposits in its special reserve bank accounts (because there is no permitted Item 13 debit for CCUS to offset credits).²⁷ This relief would also help to reduce any capital constraints and inefficiencies for Clearing Members, which may affect their liquidity and reduce their willingness to intermediate customer access to cleared binary options at CCUS. Additionally, it is in the public interest to permit an Item 13 debit to help promote competition in the development of a cleared securities market for trading binary security options of the type anticipated to be cleared by CCUS and facilitate access to the central clearing and settlement of securities options.

Further, the Commission adopted amendments to Rule 15c3–3a to add the Item 13 debit in 1977, when the OCC was the only clearing agency registered with the Commission that provided central counterparty services for options contracts.²⁸ The rule's specific reference to OCC therefore identifies the single qualifying clearing agency that existed at that time. However, circumstances have changed. CCUS has been approved as a second clearing agency for options.²⁹ Providing this relief will help ensure that the same margin treatment under the Item 13 debit applies to both CCUS and OCC, and to their broker-dealer members, thereby facilitating fair competition among Commission-registered options clearing agencies which is in the public interest. Finally, permitting the Item 13 debit for CCUS will support a broker-dealer's customer facilitation activity in securities options

¹⁶ 15 U.S.C. 78q–1(a)(2).

¹⁷ See Application at 4.

¹⁸ Item 14 of the customer reserve computation is a debit item for margin that is required and on deposit with a registered clearing agency under section 17A of the Exchange Act (15 U.S.C. 78q–1), or a derivatives clearing organization (“DCO”) registered with the Commodity Futures Trading Commission (“CFTC”) under section 5b of the Commodity Exchange Act (“CEA”) (7 U.S.C. 7a–1) related to positions written, purchased or sold in customer accounts with respect to security futures products, and futures contracts (and options thereon) carried in a securities account pursuant to a self-regulatory organization (“SRO”) margining rule. See 17 CFR 240.15c3–3a, Item 14.

¹⁹ Item 15 of the customer reserve computation is a debit item for margin required and on deposit with a clearing agency registered with the Commission under section 17A of the Exchange Act resulting from specified transactions in U.S. Treasury securities in customer accounts that have been cleared, settled and novated by the clearing agency. See 17 CFR 240.15c3–3a, Item 15.

²⁰ See Application at 4–5.

²¹ See *id.*

²² See *id.*

²³ See Application at 2–3. CCUS's margin requirements for binary options, discussed in Exhibit J to its Form CA–1 application seeking temporary registration and known as its “margin model,” are contained in its Margin Model and Stress Scenarios document (Ex. E–1.86 to Form CA–1).

²⁴ See Application at 5.

²⁵ See Application at 3–4.

²⁶ 15 U.S.C. 78mm(a)(1).

²⁷ See section I.B. (discussing customer reserve computation and special reserve bank account).

²⁸ See *Uniform Net Capital Rule and Customer Protection Rule; Final Rule*, Exchange Act Release No. 13565 (May 23, 1977), 42 FR 27221 (May 27, 1977).

²⁹ See CCUS Temporary Registration Order, *supra* note 3.

clearing, in light of the increased number of securities clearing agencies.

The conditions in this order, discussed below in section I.B, are designed to permit the Item 13 debit only in circumstances that provide protections to customers consistent with the customer protection objectives of Rules 15c3–3 and 15c3–3a and the current approach for margin required and on deposit at OCC. For example, Rule 15c3–3 requires broker-dealers to take steps to safeguard customer assets by segregating their securities and cash from the carrying broker-dealer's proprietary business activities.³⁰ The conditions in this order are designed to ensure that customer margin is appropriately segregated and that a broker-dealer cannot use customer cash and securities to finance its proprietary business activities. Further, consistent with the existing Item 13 debit for margin required and on deposit at OCC, the conditions of this order explicitly limit the exemption to customer margin required and deposit with CCUS with respect to customer positions in binary options. These conditions help reduce the likelihood of certain risks that may undermine the customer protection objectives of Rule 15c3–3, including that broker-dealers may not appropriately safeguard customer cash and securities or may improperly include debits in their customer reserve computation.

The one comment letter that the Commission received on the Notice of an Application generally supported the request for an exemption,³¹ but recommended that the Commission impose additional conditions in connection with granting the request. Specifically, the commenter pointed to the conditions contained in Note G to the Item 14 debit related to margin required and on deposit at a registered clearing agency for security futures products and futures contracts, as well as Note H to the Item 15 debt related to margin required and on deposit at a registered clearing agency for transactions in Treasury securities and recommended that the Commission impose the conditions therein on CCUS in connection with the requested exemption to the extent that such conditions “fit” binary options.³² The Commission has considered the comment letter, and is declining to incorporate the suggested conditions. The conditions proposed by CCUS, and outlined below, are robust and

reasonably designed to protect investors.

Accordingly, after careful consideration of the Application and the comment received, the Commission is issuing, pursuant to section 36(a)(1) of the Exchange Act, conditional exemptive relief to exempt Clearing Members from the limitation in Item 13 and Note F of Rule 15c3–3a that confines the Item 13 debit to the amount of margin required and on deposit with the OCC, and as such, Clearing Members may include a debit in Item 13 of their customer and PAB reserve computations for margin required and on deposit with CCUS for all binary options contracts written or purchased in customer accounts, subject to the conditions discussed below.

B. Discussion of Conditions

The first condition provides that CCUS must be registered with the Commission as a clearing agency in accordance with section 17A(b)³³ of the Exchange Act and Rule 17ab2–1³⁴ thereunder. This condition is designed to ensure that the relief provided in this order remains consistent with the customer protection objectives of Rule 15c3–3, and specifically those provided by the limitations in Item 13 and Note F of Exhibit A to Rule 15c3–3, by ensuring that CCUS operates subject to the same regulatory framework as the OCC, which is a registered clearing agency.³⁵

The second condition requires that the relief provided by this order will apply solely to margin required and on deposit with CCUS with respect to customer positions in binary options. This condition is designed to ensure that the relief provided is limited to only margin applicable to options transactions in customer accounts, the same type of transactions covered under Item 13 of Rule 15c3–3a. This condition also will ensure that margin required and on deposit at CCUS as a result of a Clearing Member's proprietary positions may not be included as a debit in the reserve computations. Therefore, this condition is designed to effectuate a fundamental aspect of Rule 15c3–3 that a broker-dealer cannot use customer cash or securities to finance its proprietary business activities.

The third condition provides that the binary options that CCUS clears will be margined by CCUS consistent with the requirements of Rule 17Ad–22(e) and

Clearing Members will collect such margin from their customers, with any proposed changes to CCUS's margin system subject to Commission review, and, as appropriate, approval pursuant to section 19(b) of the Exchange Act and Rule 19b–4 thereunder. CCUS has stated that the binary options will be fully margined at the clearing agency level.³⁶ This condition ensures that the Clearing Members hold sufficient customer collateral to cover the required margin amounts at CCUS, and that proposed changes to CCUS's margin system would need to be filed with the Commission through a rule filing under section 19(b) of the Exchange Act. The purpose of this condition is to help ensure that the exemption provided under this order is only available when regulatory requirements are appropriately followed.

The fourth condition requires that, for the purposes of Rule 15c3–3a, CCUS will maintain margin required and on deposit with CCUS for binary options contracts written or purchased in customer accounts separately and independently from margin required and on deposit for proprietary positions of Clearing Members. This condition will increase customer protection by ensuring that customer margin is clearly identifiable and segregated from margin related to the Clearing Member's proprietary positions.³⁷ In doing so, this condition, similar to the second condition, is designed to further effectuate the fundamental aspect of Rule 15c3–3 that prohibits a broker-dealer from using customer cash or securities to finance its proprietary business activities.

The fifth condition limits the scope of relief provided by this order to the same conditions set forth in Note F to Item 13 of Rule 15c3–3a that apply to margin required and on deposit with OCC for all option contracts written or purchased in customer accounts. Specifically, Note F to Item 13 states that Item 13 must include the amount of margin required and on deposit with the OCC to the extent such margin is represented by cash, proprietary qualified securities and letters of credit collateralized by customers' securities. This condition is thus designed to protect investors by ensuring that

³⁶ Broker-dealers are also subject to margin requirements in rules promulgated by the Federal Reserve (12 CFR 220.1, *et seq.*) and SROs (*see, e.g.*, FINRA Rule 4210 and Cboe Rule 10.3).

³⁷ *See, e.g.*, OCC By-Laws, Article 1 (Definitions) (defining the term “customers’ account” in respect of a Clearing Member to mean “an account of the Clearing Member on the records of the Corporation which is confined to confirmed trades cleared and positions carried by the Clearing Member on behalf of its securities customers . . .”).

³⁰ *See* section I.B. of this order.

³¹ *See* letter from Shawn SN, at 2.

³² *Id.* at 2–3 and 11–15.

³³ 15 U.S.C. 78q–1.

³⁴ 17 CFR 240.17ab2–1.

³⁵ A list of registered clearing agencies is available at: <https://www.sec.gov/rules-regulations/self-regulatory-organization-rulemaking>.

Clearing Members can only include the Item 13 debit where they deposit with CCUS the full amount of margin required for all binary options contracts written or purchased in customer accounts. Further, this condition will ensure the permitted debit under Item 13 will remain limited to the same scope of assets that are permissible to use as collateral delivered to the OCC under Note F to Rule 15c3–3a, to remain consistent with established customer protections under the rule.

The sixth condition states that the rules of CCUS must have been amended, as necessary to reflect the conditions of this order. This condition is designed to require that Clearing Members may only include an Item 13 debit in their reserve computations pursuant to this order where the rules of CCUS have been amended to conform to the conditions of this exemptive order. This will also ensure that the rules of CCUS that are amended in accordance with the conditions of this order adequately implement the customer protection objectives of Rule 15c3–3 and Rule 15c3–3a.

For the reasons discussed above, the Commission finds that granting Clearing Members conditional exemptive relief from the limitation in Item 13 and Note F to Rule 15c3–3a that confines the Item 13 debit to the amount of margin required and on deposit with the OCC for all option contracts written or purchased in customer accounts is appropriate in the public interest, and consistent with the protection of investors.

III. Conclusion

Accordingly, *it is hereby ordered* pursuant to section 36(a)(1) of the Exchange Act, Clearing Members are exempt from the limitation in Item 13 and Note F of Rule 15c3–3a that confines the Item 13 debit to the amount of margin required and on deposit with the OCC for all option contracts written or purchased in customer accounts, and as such, Clearing Members may include a debit in Item 13 of their customer and PAB reserve computations for margin required and on deposit with CCUS for all binary options contracts written or purchased in customer accounts, subject to the following conditions:

1. *Registration*: CCUS is registered with the Commission as a clearing agency in accordance with section 17A(b) ³⁸ of the Exchange Act and Rule 17ab2–1 ³⁹ thereunder.

2. *Eligibility Limitation*: The relief will apply solely to margin required and on

deposit with CCUS with respect to customer positions in binary options.

3. *Margined Customer Positions*: The binary options that CCUS clears will be margined by CCUS consistent with the requirements of Rule 17Ad–22(e) ⁴⁰ and Clearing Members will collect such margin from their customers, with any proposed changes to CCUS's margin system subject to Commission review, and, as appropriate, approval pursuant to section 19(b) ⁴¹ of the Exchange Act and Rule 19b–4 ⁴² thereunder.

4. *Segregation of Customer Margin*: For purposes of Rule 15c3–3a, CCUS will maintain margin required and on deposit with CCUS for binary options contracts written or purchased in customer accounts separately and independently from margin required and on deposit for proprietary positions of Clearing Members.

5. The relief would be subject to the same conditions set forth in Note F to Item 13 of Rule 15c3–3a that apply to margin required and on deposit with OCC for all option contracts written or purchased in customer accounts.

6. The rules of CCUS must have been amended to reflect the conditions of this order.

By the Commission.

J. Matthew DeLesDernier,
Deputy Secretary.

[FR Doc. 2026–21931 Filed 10–27–26; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[OMB Control No. 3235–0617]

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Extension: Rule 433

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (“Commission”) has submitted to the Office of Management and Budget this request for extension of the previously approved collection of information discussed below.

Rule 433 (17 CFR 230.433) governs the use and filing of free writing prospectuses with respect to the securities of an issuer that are the subject of a registration statement that has been filed under the Securities Act of 1933 (15 U.S.C. 77a *et seq.*). A free writing prospectus that satisfies the

conditions pursuant to Rule 433 will be a prospectus under Section 10(b) of the Securities Act and will be deemed to be public without regard to its method of use or distribution. Rule 433 is intended to facilitate issuer communications during a registered offering of securities after a registration statement has been filed with the Commission. The information filed under Rule 433 is mandatory, and filings made pursuant to Rule 433 are publicly available on the Commission's Electronic Data Gathering, Analysis, and Retrieval (“EDGAR”) system. We estimate that there are approximately 20,179 free writing prospectuses filed pursuant to Rule 433 annually, for a total of approximately 20,179 responses annually. We estimate that respondents incur approximately 2.45 burden hours per Rule 433 response, for a total annual reporting burden of 49,439 hours (2.45 hours per response × 20,179 responses). We estimate that respondents incur \$380.03 cost burden per Rule 433 response, for a total annual cost of \$7,668,625 (\$380.03 cost per response × 20,179 responses).

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB Control Number.

The public may view and comment on this information collection request at: https://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=202607-3235-025 or send an email comment to MBX.OMB.OIRA.SEC_desk_officer@omb.eop.gov within 30 days of the day after publication of this notice by November 30, 2026.

Dated: October 26, 2026.

Sherry R. Haywood,
Assistant Secretary.

[FR Doc. 2026–22000 Filed 10–27–26; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–106727; File No. SR–MEMX–2026–33]

Self-Regulatory Organizations; MEMX LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Rule 11.15 (Clearly Erroneous Executions)

October 23, 2026.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”),¹ and Rule 19b–4 thereunder,²

³⁸ 15 U.S.C. 78q–1.

³⁹ 17 CFR 240.17ab2–1.

⁴⁰ 17 CFR 240.17ad–22(e).

⁴¹ 15 U.S.C. 78s.

⁴² 17 CFR 240.19b–4.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.