SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-103244; File No. SR-NYSE-2025-20]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing of Proposed Rule Change Amending Section 302.00 of the NYSE Listed Company Manual

June 12, 2025.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 ("Act")[2] and Rule 19b-4 thereunder,[3] notice is hereby given that on June 6, 2025, 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 Section 302.00 of the NYSE Listed Company Manual ("Manual") to exempt closed-end funds registered under the 1940 Act from the requirement to hold annual shareholder meetings. 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.

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

2 15 U.S.C. 78a.

3 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, 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

Closed-end funds ("CEFs") are a category of investment companies that are registered under the Investment Company Act of 1940 ("1940 Act")[4] and listed by the NYSE under Section 102.04A of the Manual. Section 302.00 of the Manual provides that companies listing common stock or voting preferred stock and their equivalents are required to hold an annual shareholders' meeting for the holders of such securities during each fiscal year.[5] CEFs are presently required to comply with the annual shareholder meeting requirement. The Exchange now proposes to amend Section 302.00 of the Manual to specify that newly listed CEFs would

4 15 USC 80a-1 et seq.

5 Section 302.00 of the Manual exempts from this requirement companies whose only securities listed on the Exchange are non-voting preferred and debt securities, passive business organizations (such as royalty trusts), or securities listed pursuant to Rule 5.2(j)(2) (Equity Linked Notes), Rule 5.2(j)(3) (Investment Company Units), Rule 5.2(j)(4) (Index-Linked Exchangeable Notes), Rule 5.2(j)(5) (Equity Gold Shares), Rule 5.2(j)(6) (Equity-Index Linked Securities, Commodity- Linked Securities, Currency-Linked Securities, Fixed Income Index-Linked Securities, Futures-Linked Securities and Multifactor Index-Linked Securities), Rule 5.2(j)(8) (Exchange-Traded Fund Shares), Rule 8.100 (Portfolio Depositary Receipts), Rule 8.200 (Trust Issued Receipts), Rule 8.201 (Commodity-Based Trust Shares), Rule 8.202 (Currency Trust Shares), Rule 8.203 (Commodity Index Trust Shares), Rule 8.204 (Commodity Futures Trust Shares), Rule 8.300 (Partnership Units), Rule 8.400 (Paired Trust Shares), Rule 8.600 (Managed Fund Shares), Rule 8.601 (Active Proxy Portfolio Shares), Rule 8.700 (Managed Trust Securities), and 8.900 (Managed Portfolio Shares).

be exempt from the annual meeting requirement.[6] Any CEF listed prior to approval of the proposal would remain subject to the Exchange's annual meeting requirement. The Exchange believes that providing an exemption to the annual shareholder meeting requirement exclusively to newly-listed CEFs achieves a balance by maintaining existing voting rights for shareholders in established funds while giving new funds an option to avoid the potentially costly and detrimental outcomes often associated with annual shareholder meetings for listed CEFs. Although the proposal would eliminate the Exchange requirement for annual shareholder meetings for newly-listed CEFs, new funds would still have the option to voluntarily include annual meeting requirements in their own bylaws if they choose to do so.

The Exchange notes that, in addition to the listing under Section 102.04A of the Manual of CEFs registered under the 1940 Act, the Exchange also lists under Section 102.04B of the Manual business development companies ("BDCs"). A BDC is a closed-end management investment company that is registered under the Exchange Act and that has filed an election to be treated as a business development company under the 1940 Act. The Exchange does not at this time propose to provide an exemption from the annual meeting requirement of Section 302.00 to BDCs.

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[6] The Exchange previously submitted a similar proposed rule change that proposed to exempt all closed-end funds from the annual shareholder meeting requirement. See Securities Exchange Act No. 100460 (July 3, 2024) 89 FR 56447 (July 9, 2024) (SR-NYSE-2024-35) (Notice of Filing of a Proposed Rule Change Amending Section 302.00 of the NYSE Listed Company Manual to Exempt Closed-End Funds Registered Under the Investment Company Act of 1940 From the Requirement to Hold Annual Shareholder Meetings) (the "Prior Proposal"). The Commission issued an order instituting proceedings to determine whether to approve or disapprove the Prior Proposal, but the Exchange ultimately withdrew the Prior Proposal before the Commission issued a final order. See Securities Exchange Act Nos. 101257 (October 4, 2024), 89 FR 82277 (October 10, 2024) (Order Instituting Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Amend Section 302.00 of the NYSE Listed Company Manual to Exempt Closed-End Funds Registered Under the Investment Company Act of 1940 From the Requirement to Hold Annual Shareholder Meetings) (the "Prior Proposal OIP"); 102324 (February 3, 2025) 90 FR 9176 (February 7, 2025) (Notice of Withdrawal of a Proposed Rule Change to Amend Section 302.00 of the NYSE Listed Company Manual to Exempt Closed-End Funds Registered Under the Investment Company Act of 1940 From the Requirement to Hold Annual Shareholder Meetings).

Background

The Exchange notes that there are significant differences between CEFs and listed operating companies that justify exempting CEFs from the Exchange's annual meeting requirement. In particular, the Exchange notes that the 1940 Act includes specific requirements with respect to the election of directors by CEF shareholders, while there is no such requirement under federal law for listed operating companies. Specifically, Section 16(a) of the 1940 Act[7] specifies the right of CEF shareholders to elect directors as follows:

> No person shall serve as a director of a registered investment company unless elected to that office by the holders of the outstanding voting securities of such company, at an annual or a special meeting duly called for that purpose; except that vacancies occurring between such meetings may be filled in any otherwise legal manner if immediately after filling any such vacancy at least two-thirds of the directors then holding office shall have been elected to such office by the holders of the outstanding voting securities of the company at such an annual or special meeting. In the event that at any time less than a majority of the directors of such company holding office at that time were so elected by the holders of the outstanding voting securities, the board of directors or proper officer of such company shall forthwith cause to be held as promptly as possible and in any event within sixty days a meeting of such holders for the purpose of electing directors to fill any existing vacancies in the board of directors unless the Commission shall by order extend such period. The foregoing provisions of this subsection shall not apply to members of an advisory board.

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7 15 USC 80a-16(a).

The Exchange also notes that the 1940 Act requires that directors who are not "interested persons"[8] ("1940 Act Interested Persons") must comprise at least 40% of an investment company's board.[9] In the Exchange's experience, a large majority of listed CEFs exceed this requirement by having boards on which more than 50% of members are not 1940 Act Interested Persons.

In addition to the director election provisions described above, the 1940 Act requires that a majority of directors who are not 1940 Act Interested Persons approve significant actions, such as approval of the investment advisory agreement between a CEF and its investment advisor.[10] Specifically, the following types of actions require approval of a majority of a CEF's directors who are not 1940 Act Interested Persons : approval of advisory agreements;[11] approval of underwriting agreements;[12] selection of independent public accountant;[13] acquisition of securities by a CEF from an underwriting syndicate of which the CEF's advisor or certain other affiliates are members;[14] the purchase or sale of securities between CEFs that have the same investment advisor;[15] mergers or asset acquisitions involving CEFs that have the same

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8 The term "interested person" is defined in Section 2(a)(19) of the 1940 Act.

9 15 USC 80a-2(a)(19).

10 See Section 15 of the 1940 Act. 15 USC 80a-15.

11 Ibid.

12 Ibid.

13 See Section 32 of the 1940 Act. 15 USC 80a-32.

14 See 1940 Act Rule 10f-3(h).

15 See 1940 Act Rule 17a-7(e).

investment advisor;[16] use of an affiliate broker-dealer to effect portfolio transactions on a national securities exchange;[17] and approval of the CEF's fidelity bond coverage.[18]

There are also a number of material matters with respect to which the 1940 Act requires registered investment companies, including CEFs, to obtain shareholder approval. These matters include: a new investment management agreement or a material amendment to an investment management agreement;[19] a change from closed-end to open-end status or vice versa;[20] a change from diversified company to non-diversified company;[21] a change in a policy with respect to borrowing money, issuing senior securities; underwriting securities that other persons issue, purchasing or selling real estate or commodities or making loans to other persons, except in each case in accordance with the recitals of policy contained in its registration statement in respect thereto;[22] a deviation from a policy in respect of concentration of investments in any particular industry or fundamental investment policy;[23] and a change in the nature of the investment company's business so as to cease to be an investment company.[24]

In light of the above-described significant statutory protections under the 1940 Act provided to the shareholders of CEFs, for which there are no parallel legal protections for the shareholders of public operating companies, the Exchange believes that it is appropriate to

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16 See 1940 Act Rule 17a-8(e).

17 See 1940 Act Rule 17e-1(b).

18 See 1940 Act Rule 17g-1(d).

19 See U.S.C. 80a-15.

20 See U.S.C. 80a-13.

21 Ibid.

22 Ibid.

23 Ibid.

24 Ibid.

exempt CEFs from the annual shareholder meeting requirements of Section 302.00 of the Manual.

Policy Considerations

The Exchange notes that all of the categories of investment companies for which the Exchange has listing standards other than CEFs are already explicitly exempt from the annual shareholder meeting requirement of Section 302.00 of the Manual. In the Prior Proposal OIP, the Commission indicated that the structural differences between exchange-traded funds ("ETFs"), which are exempt from the Exchange's annual meeting requirement, and CEFs could potentially create unique investor protection issues for CEF shareholders if their annual meeting rights were eliminated--concerns that might not exist for ETF shareholders.[25] This distinction stems primarily from the fact that CEFs frequently trade at market prices below their net asset value ("NAV") per share, commonly referred to as trading at a "discount."[26]

The Exchange believes that the argument that retail investors seek to exit their investment at NAV incorrectly assumes that investors purchased shares of a CEF with that expectation. This assumption is contradicted by actual investor behavior, as many investors deliberately purchase listed CEFs on the secondary market when they are trading at a discount to NAV.[27] Listed CEFs provide retail investors access to less-liquid investments through a retail-focused wrapper with 1940 Act protections. These funds may trade at premiums or discounts for various reasons unrelated to management quality. Academic research suggests that discounts may reflect several factors, including: the uncapitalized expenses and time value required to liquidate less liquid

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25 See Prior Proposal OIP at 9.

26 Ibid.

27 See Section 1 of the letter from ICI dated October 31, 2024, regarding SR-NYSE-2024-355 ("Second ICI Letter").

portfolios and unwind leveraged positions, investor sentiment fluctuations, or potential tax liabilities from unrealized capital gains.[28] The fact that most listed CEFs generally trade at a discount demonstrates that such discounts are an operational characteristic, rather than a flaw, of the listed CEF structure. For many investors, these discounts represent buying opportunities, allowing them to acquire shares or reinvest dividends below NAV, which boosts their dividend yield and potential total return.[29] Indeed, data from approximately 3.6 million CEF-owning households in 2024 shows that eight out of ten are pleased to reinvest dividends when a CEF they own trades at a discount, and seven out of ten consider buying additional shares under these circumstances.[30] This purchasing and reinvestment behavior at discount prices clearly indicates that many shareholders invest in CEFs primarily for yield and distributions rather than any expectation of exiting at NAV. Furthermore, the CEF structure allows for the possibility of trading at a premium to NAV, potentially enabling exits above NAV.

Importantly, to the extent there are reasons that a CEF is trading at a discount for non-market driven reasons Congress delineated a function in the 1940 Act to oversee discount management: Independent directors of the CEF. Independent Directors monitor a CEF discount and can – and have – enacted changes if the fund is trading at a discount for reasons unrelated to

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28 Ibid. See also cf., Martin Cherkes, Jacob Sagi, and Richard Stanton, A Liquidity-Based Theory of Closed-End Funds, The Review of Financial Studies, Vol. 22, Issue 1 at 257–97 (Jan. 2009) ("This paper develops a rational, liquidity-based model of closed-end funds (CEFs) that provides an economic motivation for the existence of this organizational form: They offer a means for investors to buy illiquid securities, without facing the potential costs associated with direct trading and without the externalities imposed by an open-end fund structure. Our theory predicts the . . . observed behavior of the CEF discount, which results from a tradeoff between the liquidity benefits of investing in the CEF and the fees charged by the fund's managers.").

29 See Section 1 of the Second ICI Letter. See also Catherine Gillis, Are Discounts Really a Problem?, Morningstar Closed-End Funds (Mar. 13, 1992) ("The funds' inclination to trade at premiums and more often than not, at discounts to their net asset values, has yielded many profit opportunities to astute investors[.]").

30 See Section 1 of the Second ICI Letter at footnote 15.

market conditions.[31] For example, several boards have pursued liquidations, discount management programs, and/or share buy-back programs on their own volition. Independent directors are the congressionally mandated oversight to monitor discounts thus rendering the annual meeting requirement superfluous for any discount management reason.

Retail Shareholder Engagement in Annual Shareholder Meeting

According to data presented by the Investment Company Institute ("ICI"), retail shareholders show minimal participation in annual meetings.[32] When retail investors do engage with proxy materials and cast votes, they predominantly support existing management rather than activist agendas. This evidence suggests that eliminating the annual meeting requirement would not significantly disadvantage retail shareholders, as their participation is already limited, and when they do participate, they typically endorse the fund's current investment approach, management team, and board structure.[33]

Removes the Harms of Activism

Despite the benefits CEFs provide to long-term retail investors, activist entities have increasingly targeted these funds using discount arbitrage strategies.[34] Specifically, following periods of significant market volatility when CEFs trade at wider discounts, activist investors can establish relatively small positions yet wield disproportionate influence to implement strategies that undermine protections the 1940 Act was designed to create.

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31 See Section 4 of the letter from ICI dated January 24, 2025, regarding SR-NYSE-2024-35 ("Third ICI Letter").

32 See Section 2 of the Second ICI Letter.

33 Ibid.

34 See section 4.3 of the letter from ICI, dated July 30, 2024, regarding SR-NYSE-2024-35 (the "First ICI Letter").

This activity has not only caused the specific harms that the 1940 Act sought to prevent but has contributed to a significant decline in the number of listed Closed-End Funds available to investors.[35] There were zero listed Closed-End Fund initial public offerings ("IPOs") in 2023 and only three listed Closed-End Fund IPOs in 2024. Yet, launches of ETFs and unlisted CEFs, where activism is not an issue because there is no annual meeting requirement, boomed in both years. The Exchange believes that removing the annual meeting requirement for newly-listed CEFs will remove the activist threat and generate capital formation by re-opening the listed CEF IPO market.

Preserves Existing Shareholder Rights

Not only will the removal of the annual shareholder meeting requirement for newly-listed CEFs provide benefits to shareholders, the proposal would not eliminate any existing rights since it only affects future closed-end funds that list after implementation. Since these funds haven't been created yet and no investors have purchased shares in them, no current shareholders would lose any voting privileges they currently possess.[36] Furthermore, eliminating the exchange listing requirement for annual meetings doesn't prohibit newly-listed CEFs from holding them as funds would still have the option to hold annual meetings through their own bylaws if they choose to do so.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[37] in general, and furthers the objectives of Section 6(b)(5) of the Act,[38] in particular,

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35 See section 4.3 of the First ICI Letter and figure 6 of the Second ICI Letter.

36 An existing CEF that merges or reorganizes into a new CEF will be subject to the by-laws and listing standards applicable to the new fund.

37 15 U.S.C. 78f(b).

38 15 U.S.C. 78f(b)(5).

because 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 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 because it is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that the proposed exemption of newly-listed CEFs from the annual shareholder meeting requirement of Section 302.00 of the Manual is consistent with the protection of investors and the public interest because of the provisions in the 1940 Act providing significant protection of CEF shareholders, including by requiring: (i) the election of directors by the CEF's shareholders when the number of 1940 Act Interested Persons on the board exceed specified levels; (ii) the approval of certain specified material matters by a majority of the directors who are not 1940 Act Interested Persons; and (ii) the approval of certain specified material matters by the shareholders. In addition, newly-listed CEFs would retain the flexibility to voluntarily incorporate annual meeting provisions into their organizational bylaws should they elect to do so.

The Exchange believes that by applying the proposed exemption exclusively to newly-listed CEFs, the proposal ensures no existing shareholders lose any voting privileges they currently possess. This forward-looking approach means current investors in existing CEFs maintain all their rights, while future investors will enter new funds with full knowledge of the governance structure, enabling informed investment decisions.

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

The Exchange believes that the proposal will not impose any burden on competition that

is not necessary or appropriate in furtherance of the purposes of the Act.

The Exchange believes that the proposal will not impose a burden on either intramarket or intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is designed to permit newly-listed CEFs to rely on the shareholder voting requirements under the 1940 Act rather than complying with the annual meeting requirement of Section 302.00 of the Manual. As all similarly situated CEFs listed on the NYSE would be treated the same under the proposed amended rule, the Exchange does not believe that the proposal would impose any burden on intramarket competition. Any other market that lists CEFs could seek to amend its own annual meeting requirements applicable to CEFs and, as such, the Exchange does not believe that the proposal places any undue burden on intermarket competition.

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 within such longer period 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 (https://www.sec.gov/rules/sro.shtml); or
- Send an email to rule-comments@sec.gov. Please include file number SR-NYSE-2025-20 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-2025-20. 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 (https://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 a.m. and 3

p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR-NYSE-2025-20 and should be submitted on or before [INSERT DATE 21 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[39]

Vanessa A. Countryman,

Secretary.

[39] 17 CFR 200.30-3(a)(12).