

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-79736; File No. SR-NYSE-2016-44)

January 4, 2017

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Designation of a Longer Period for Commission Action on Proceedings to Determine Whether to Approve or Disapprove a Proposed Rule Change, as Modified by Amendments No. 1 and 2, Allowing the Exchange to Trade Pursuant to Unlisted Trading Privileges Any NMS Stock Listed on Another National Securities Exchange; Establishing Listing and Trading Requirements for Exchange Traded Products; and Adopting New Equity Trading Rules Relating to Trading Halts of Securities Traded Pursuant to UTP on the Pillar Platform

On June 30, 2016, New York Stock Exchange LLC (“Exchange”) filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² a proposed rule change to (1) allow the Exchange to trade pursuant to unlisted trading privileges (“UTP”) any NMS Stock listed on another national securities exchange; (2) establish listing and trading requirements for exchange-traded products (“ETPs”); and (3) adopt new equity trading rules relating to trading halts of securities traded pursuant to UTP on the Pillar platform. The proposed rule change was published for comment in the Federal Register on July 14, 2016.³ On July 26, 2016, the Exchange filed Amendment No. 1 to the proposed rule change.⁴ On August 23, 2016, pursuant to

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 78263 (July 8, 2016), 81 FR 45580 (July 14, 2016).

⁴ In Amendment No. 1, the Exchange: (1) added a bullet point stating that “[b]ecause the Exchange’s rules regarding the production of books and records are described in Rule 440, the Exchange is proposing to refer to Rule 440 in its proposed rules wherever NYSE Arca Equities Rule 4.4 is referenced in the rules of NYSE Arca Equities proposed in this filing;” (2) deleted the sentence stating, “If an exchange has approved trading rules, procedures and listing standards in place that have been approved by the Commission for the product class that would include a new derivative securities product, the listing and trading of such ‘new derivative securities product,’ does not require a proposed rule change under Section 19b-4 of the Act” and made conforming changes to the rest of that

Section 19(b)(2) of the Act,⁵ the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change.⁶ On August 26, 2016, the Exchange filed Amendment No. 2 to the proposed rule change.⁷ On October 12, 2016, the Commission instituted proceedings under Section 19(b)(2)(B) of the Act⁸ to determine whether to approve or disapprove the proposed rule change.⁹ The Commission has received no comments on the proposed rule change.

paragraph; (3) deleted the bullet point that stated, “Correction of a typographical error in NYSE Arca Equities Rule 8.400(a) so that proposed Rule 8.400(a) reads ‘as such terms are used in Rule 5.1(b)’ in the last sentence, rather than ‘as such terms are used in the Rule 5.1(b)’ as is currently drafted in NYSE Arca Equities Rule 8.400(a)”;

and (4) noted that “for new ETPs to be traded pursuant to UTP, which are listed and traded on another exchange pursuant to Rule 19b-4(e), the Exchange would be required to file Form 19b-4(e) with the Commission in accordance with the requirements therein.” Amendment No. 1 is available at: <https://www.sec.gov/comments/sr-nyse-2016-44/nyse201644-1.pdf>. Because Amendment No. 1 to the proposed rule change does not materially alter the substance of the proposed rule change or raise unique or novel regulatory issues, Amendment No. 1 is not subject to notice and comment.

⁵ 15 U.S.C. 78s(b)(2).

⁶ See Securities Exchange Act Release No. 78641, 81 FR 59259 (Aug. 29, 2016).

⁷ In Amendment No. 2, the Exchange: (1) added the clause “pursuant to UTP” at the end of the sentence that states, “The Exchange would have to file a Form 19b-4(e) with the Commission to trade these ETPs;” (2) in the first footnote that follows that sentence, deleted the clause “pursuant to Rule 19b-4(e);” and (3) at the end of that same footnote, added the reference, “See proposed Rule 5.1(a)(2); supra note 19 and accompanying text.” Amendment No. 2 is available at: <https://www.sec.gov/comments/sr-nyse-2016-44/nyse201644-2.pdf>. Because Amendment No. 2 to the proposed rule change does not materially alter the substance of the proposed rule change or raise unique or novel regulatory issues, Amendment No. 2 is not subject to notice and comment.

⁸ 15 U.S.C. 78s(b)(2)(B).

⁹ See Securities Exchange Act Release No. 79085, 81 FR 71771 (Oct. 18, 2016). Specifically, the Commission instituted proceedings to allow for additional analysis of the proposed rule change’s consistency with Section 6(b)(5) of the Act, which requires, among other things, that the rules of a national securities exchange be “designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade,” and “to protect investors and the public interest.” See id. at 71772.

Section 19(b)(2) of the Act¹⁰ provides that, after initiating disapproval proceedings, the Commission shall issue an order approving or disapproving the proposed rule change not later than 180 days after the date of publication of notice of filing of the proposed rule change. The Commission may extend the period for issuing an order approving or disapproving the proposed rule change, however, by not more than 60 days if the Commission determines that a longer period is appropriate and publishes the reasons for such determination. The proposed rule change was published for notice and comment in the Federal Register on July 14, 2016. January 10, 2017 is 180 days from that date, and March 11, 2017 is 240 days from that date.

The Commission finds it appropriate to designate a longer period within which to issue an order approving or disapproving the proposed rule change so that it has sufficient time to consider this proposed rule change. Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,¹¹ designates March 11, 2017 as the date by which the Commission shall either approve or disapprove the proposed rule change (File No. SR-NYSE-2016-44).

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

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Assistant Secretary

¹⁰ 15 U.S.C. 78s(b)(2).

¹¹ Id.

¹² 17 CFR 200.30-3(a)(57).