SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-103931; File No. SR-NYSE-2025-20]

Self-Regulatory Organizations; New York Stock Exchange LLC; Order Instituting Proceedings to Determine Whether to Approve or Disapprove 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

September 10, 2025.

I. Introduction

On June 6, 2025, 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")[1] and Rule 19b-4 thereunder,[2] a proposed rule change to amend Section 302.00 of the NYSE Listed Company Manual ("Manual") to exempt closed-end funds registered under the Investment Company Act of 1940 ("1940 Act")[3] from the requirement to hold annual shareholder meetings. The proposed rule change was published for comment in the Federal Register on June 17, 2025.[4] On July 25, 2025, pursuant to Section 19(b)(2) of the Exchange Act,[5] the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute

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

2 17 CFR 240.19b-4.

3 15 U.S.C. 80a-1 et seq.

4 See Securities Exchange Act Release No. 103244 (June 12, 2025), 90 FR 25659 ("Notice"). Comments on the proposed rule change are available at: https://www.sec.gov/comments/sr-nyse-2025-20/srnyse202520.htm.

5 15 U.S.C. 78s(b)(2).

proceedings to determine whether to disapprove the proposed rule change.[6] The Commission is instituting proceedings pursuant to Section 19(b)(2)(B) of the Exchange Act[7] to determine whether to approve or disapprove the proposed rule change.

II. Description of the Proposed Rule Change

Section 102.04A of the Manual sets forth listing requirements for closed-end management investment companies registered under the 1940 Act ("CEFs"). Section 302.00 of the Manual ("Section 302.00") 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. Section 302.00 also sets forth certain exemptions from this annual shareholder meeting requirement.[8] CEFs listed on the Exchange are currently required to comply with the Section 302.00 annual shareholder meeting requirement and are not subject to an exemption. The Exchange proposes to amend Section 302.00 to exempt CEFs listed under Section 102.04A of the Manual that initially list on the Exchange after the date of approval of this proposal from the requirement to hold an annual shareholder meeting.[9] The Exchange

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6 See Securities Exchange Act Release No. 103549, 90 FR 35946 (July 30, 2025). The Commission designated September 15, 2025, as the date by which the Commission shall approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change.

7 15 U.S.C. 78s(b)(2)(B).

8 Specifically, Section 302.00 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 NYSE 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 Rule 8.900 (Managed Portfolio Shares).

9 The Exchange lists closed-end management investment companies that have filed an election to be treated as a business development company under the 1940 Act ("BDCs") under Section 102.04B of the Manual.

states that any CEF listed prior to approval of the proposal would remain subject to the Exchange's annual shareholder meeting requirement.[10] The Exchange states that 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.[11]

III. Proceedings to Determine Whether to Approve or Disapprove SR-NYSE-2025-20 and Grounds for Disapproval Under Consideration

The Commission is instituting proceedings pursuant to Section 19(b)(2)(B) of the Exchange Act[12] to determine whether the proposed rule change should be approved or disapproved. Institution of proceedings is appropriate at this time in view of the legal and policy issues raised by the proposed rule change. Institution of proceedings does not indicate that the Commission has reached any conclusions with respect to any of the issues involved.

Pursuant to Section 19(b)(2)(B) of the Exchange Act,[13] the Commission is providing notice of the grounds for disapproval under consideration. The Commission is instituting proceedings to allow for additional analysis of the proposed rule change's consistency with the Exchange Act and, in particular, with Section 6(b)(5) of the Exchange 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, to remove impediments to and perfect the mechanism of a free and open market and a national

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The Exchange is not proposing to exempt BDCs listed under Section 102.04B of the Manual from the annual shareholder meeting requirement set forth in Section 302.00. See Notice, supra note 4, at 25660.

10 See id.

11 See id. at 25662 n.36.

12 15 U.S.C. 78s(b)(2)(B).

13 See id.

market system, and, in general, to protect investors and the public interest, and not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.[14]

The development and enforcement of meaningful corporate governance exchange listing standards is of substantial importance to financial markets and the investing public, especially given investor expectations regarding the nature of companies that have achieved an exchange listing for their securities and the role of an exchange in overseeing its market and ensuring compliance with its listing standards.[15] The corporate governance standards embodied in exchange listing standards play an important role in assuring that listed companies observe good governance practices, including safeguarding the interests of shareholders.[16]

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14 15 U.S.C. 78f(b)(5).

15 See, e.g., Securities Exchange Act Release Nos. 99238 (Dec. 26, 2023), 89 FR 113, 116 (Jan. 2, 2024) (SR-NYSE-2023-34) (Notice of Filing of Amendment No. 1 and Order Granting Accelerated Approval of Proposed Rule Change, as Modified by Amendment No. 1, Amending Sections 312.03(b) and 312.04 of the NYSE Listed Company Manual To Modify the Circumstances Under Which a Listed Company Must Obtain Shareholder Approval of a Sale of Securities Below the Minimum Price to a Substantial Security Holder of the Company) ("NYSE 2023 Order"); 100816 (Aug. 26, 2024), 89 FR 70674, 70677-78 (Aug. 30, 2024) (SR-NASDAQ-2024-019) (Order Granting Approval of a Proposed Rule Change, to Rules 5605, 5615 and 5810 To Amend Phase-In Schedules for Certain Corporate Governance Requirements and Applicability of Certain Cure Periods) ("Nasdaq Order").

16 See e.g., NYSE 2023 Order at 116; NASDAQ Order at 70678; Securities and Exchange Act Release No. 91517 (Apr. 14, 2021), 86 FR 20556 (Apr. 20, 2021) (SR-NASDAQ-2020-100) (Notice of Filing of Amendment No. 1 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 1, to Modify the Quorum Requirement). Strong qualitative corporate governance requirements that serve to safeguard the interests of public shareholders are consistent with Section 6(b)(5) of the Exchange Act, in that they are, among other things, designed to protect investors and the public interest. See, e.g., Securities Exchange Act Release Nos. 48108 (June 30, 2003), 68 FR 39995, 40005 (July 3, 2003) (SR-NYSE-2002-46 and SR-NASD-2002-140) (Order Approving NYSE and Nasdaq Proposed Rule Changes and Notice of Filing and Order Granting Accelerated Approval to NYSE Amendments No. 1 and 2 and Nasdaq Amendments No. 2 and 3 Thereto Relating to Equity Compensation Plans) (stating that the exchanges' proposals, which require shareholder approval of equity compensation plans, should have the effect of safeguarding the interests of shareholders); 65225 (Aug. 30, 2011), 76 FR 55148, 55152 (Sept. 6, 2011) (SR-BATS-2011-018) (Order Approving Proposed Rule Change to Adopt Rules for the Qualification, Listing and Delisting of Companies on the Exchange) (stating that qualitative listing requirements, including shareholder approval rules, are designed to ensure that companies trading on a national securities exchange will adequately protect the interest of public shareholders).

In particular, the Commission has consistently recognized the importance of the annual shareholder meeting requirement to the protection of investors and the public interest.[17] Among other things, annual shareholder meetings allow the shareholders of a company the opportunity to elect directors and meet with, and engage, management to discuss company affairs.[18] The Commission has recognized that, in limited circumstances, the exchange requirement to hold an annual shareholder meeting may not be necessary for certain issuers of specific types of securities where the holders of such securities do not directly participate as equity holders or vote in the annual election of directors or generally on the affairs, operations, or policies of the listed company.[19] However, when approving a prior Exchange proposal for specific exemptions from the annual shareholder meeting requirement, which included an exemption for exchange-traded

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17 The Commission has stated that the right of shareholders to vote at an annual meeting is an essential and important one. See, e.g., Securities Exchange Act Release Nos. 86406 (July 18, 2019), 84 FR 35431, 35432 (July 23, 2019) (SR-NYSE-2019-20) (Order Granting Approval of a Proposed Rule Change Amending Section 302 of the Listed Company Manual To Provide Exemptions for the Issuers of Certain Categories of Securities From the Obligation To Hold Annual Shareholders' Meetings) ("NYSE 2019 Order"); 57268 (Feb. 4, 2008), 73 FR 7614, 7616 (Feb. 8, 2008) (SR-Amex-2006-31) (Order Approving Proposed Rule Change, as Modified by Amendment Nos. 1, 2, and 3 Thereto, Relating to Annual Shareholder Meeting Requirements) ("Amex Order").

18 See, e.g., Amex Order at 7614; Securities Exchange Act Release No. 53578 (Mar. 30, 2006), 71 FR 17532 (Apr. 6, 2006) (SR-NASD-2005-073) (Order Granting Approval of a Proposed Rule Change and Amendment Nos. 1 and 2 Thereto and Notice of Filing and Order Granting Accelerated Approval of Amendment No. 3 Thereto Relating to Rule 4350(e) To Amend the Annual Shareholder Meeting Requirement) ("NASD Order").

19 See NYSE 2019 Order at 35432; Amex Order at 7616. See also NASD Order at 17533. The Commission has also stated that where an exchange has exempted issuers of certain categories of securities from the exchange requirement to hold an annual meeting, such issuers would remain subject to any applicable state and federal securities laws that relate to annual meetings and may still be required to hold annual shareholder meetings in accordance with such state and federal securities laws. See NYSE 2019 Order at 35432; Amex Order at 7616; NASD Order at 17533. In addition, such issuers would remain subject to state and federal securities laws that may require other types of shareholder meetings, such as special meetings of shareholders. See NYSE 2019 Order at 35432; NASD Order at 17533. The Commission has also stated that the exemptions apply only with respect to particular securities, and that if a company also lists other common stock or voting preferred stock, or their equivalent, such company must nevertheless hold an annual meeting for the holders of such securities during each fiscal year. See NYSE 2019 Order at 35433; Amex Order at 7616; NASD Order at 17533.

funds ("ETFs"), the Commission expressly stated that CEFs are still required to hold annual meetings under Section 302.00.[20]

The Exchange states in support of its proposal that there are significant statutory protections under the 1940 Act provided to the shareholders of CEFs, for which there are no parallel legal protections for shareholders of public operating companies, and that these protections justify exempting listed CEFs from the Exchange's annual shareholder meeting requirement.[21] Specifically, the shareholder protections applicable to CEFs include requirements with respect to the election of directors by CEF shareholders, a requirement that directors who are not "interested persons"[22] comprise at least 40% of the board, requirements that certain specified material matters be approved by a majority of the directors who are not "interested persons," and requirements that certain specified material matters be approved by the shareholders.[23]

The Exchange also states that all other categories of investment companies for which the Exchange has listing standards are already exempt from the annual shareholder meeting requirement of Section 302.00.[24] According to the Exchange, the tendency for CEFs to trade at a

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20 See NYSE 2019 Order at 35433 n.20.

21 See Notice, supra note 4, at 25660-61.

22 The term "interested person" is defined in Section 2(a)(19) of the 1940 Act, 15 U.S.C. 80a-2(a)(19).

23 See Notice, supra note 4, at 25660-61.

24 See id. at 25661. When justifying its prior proposal to exempt ETFs listed on the Exchange from the annual shareholder meeting requirement of Section 302.00, the Exchange stated, among other things, that the net asset value ("NAV") of such products is determined by the market price of each fund's underlying securities or other reference asset; and that because shareholders can value their investments in such products on an ongoing basis, the Exchange believes that there is less need for such shareholders to engage management at an annual meeting. See Securities Exchange Act Release No. 85889 (May 17, 2019), 84 FR 23815, 23816 (May 23, 2019) (SR-NYSE-2019-20) (Notice of Filing of Proposed Rule Change Amending Section 302 of the Listed Company Manual To Provide Exemptions for the Issuers of Certain Categories of Securities From the Obligation To Hold Annual Shareholders' Meetings). See also NYSE 2019 Order at 35432.

discount to NAV represents an "operational characteristic, rather than a flaw of the listed CEF structure" that many investors recognize as buying opportunities, and investors purchasing and reinverting in CEFs indicates that many shareholders invest in CEFs primarily for yield and distributions rather than any expectation of exiting at NAV.[25] The Exchange also states that the annual shareholder meeting requirement is superfluous for any discount management reason because independent directors, which CEFs are required to have under the 1940 Act, oversee discounts and can enact changes to address such discounts, if necessary.[26]

The Exchange states that eliminating the annual shareholder meeting requirement would not significantly disadvantage retail shareholders, as retail shareholder participation in annual meetings is limited and, when retail shareholders do participate, they typically endorse the CEF's current investment approach, management team, and board structure.[27] In addition, the Exchange states that removing the annual shareholder meeting requirement for newly-listed CEFs will remove the opportunity for concentrated minority shareholders to wield disproportionate influence over CEFs and will facilitate capital formation by bringing more CEFs to the public market.[28]

Finally, the Exchange states that its proposal will ensure that no existing CEF shareholders lose any voting privileges they currently possess because the proposal only applies

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25 See Notice, supra note 4, at 25661. The Exchange further states that many investors deliberately purchase listed CEFs on the secondary market when they are trading at a discount to NAV and for many investors these discounts represent buying opportunities that allow investors to acquire shares or reinvest dividends below NAV, thereby boosting their dividend yield and potential return. See id.

26 See id.

27 See id. (citing Letter from Paul G. Cellupica, General Counsel, and Kevin Ercoline, Assistant General Counsel, Investment Company Institute ("ICI") dated Oct. 31, 2024, regarding SR-NYSE-2024-35, available at https://www.sec.gov/comments/sr-nyse-2024-35/srnyse202435-536435-1537902.pdf.)

28 See id.

to CEFs listed after approval of the proposed rule change.[29] The Exchange states that CEFs listed after approval of the proposed rule change would retain the flexibility to voluntarily incorporate annual meeting provisions into their organizational bylaws should they elect to do so.[30]

The Commission received comments supporting the proposal.[31] One commenter stated that CEFs are investment vehicles that allow retail investors to access the private equity markets while still being afforded protections under the 1940 Act.[32] Because these products are not designed to provide for daily investor redemptions, managers are able to fully invest in an underlying investment strategy that may focus on less liquid investments.[33] This commenter stated that certain shareholders have engaged in practices that undermine these purposes, and that removing the annual shareholder meeting for CEFs would eliminate the ability of such shareholders to use annual shareholder meetings as a means to take over funds.[34] This commenter also stated that certain investors exploit the current annual shareholder meeting requirement for their own gain—for example, by forcing a liquidity event and then exiting their

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29 See id. at 25662.

30 See id.

31 See Letters from Paul G. Cellupica, General Counsel, and Kevin Ercoline, Assistant General Counsel, Investment Company Institute ("ICI"), dated July 8, 2025 ("ICI Letter"); James P. McKay, dated July 22, 2025 ("McKay Letter"); and David Young, dated July 25, 2025 ("Young Letter").

32 See ICI Letter at 3. This commenter stated that it provided data that it believes demonstrates that retail investors often buy shares of listed CEFs at a discount and reinvest dividends when CEFs continue to trade at a discount, showing that some shareholders buy and hold shares of listed CEFs for the yield and distributions as opposed to any future opportunity to exit at NAV. See id. at 9 (citing Letter from Paul G. Cellupica, General Counsel, and Kevin Ercoline, Assistant General Counsel, ICI, dated Nov. 5, 2024, at 3-5 ("2024 ICI Letter")).

33 See ICI Letter at 3.

34 See id. at 4. See also id. at 9 (citing 2024 ICI Letter, which discussed data concerning shareholder engagement and shareholder activism, and citing Letter from Paul G. Cellupica, General Counsel, Kevin Ercoline, Assistant General Counsel, and Shelly Antoniewicz, Chief Economist, ICI, dated Jan. 24, 2025, which discussed prior academic literature on shareholder activism). Another commenter that supports the proposal stated that large minority investors liquidate CEFs at low prices, thwarting his investment strategy to hold the CEF as a long-term investment. See McKay Letter.

position, but not focusing on any change to governance.[35] This commenter further stated that removing the annual shareholder meeting requirement would hamper the ability of certain shareholders to engage in activity that prevents the capital formation of products.[36] This commenter also stated that exempting CEFs from the requirement to hold annual shareholder meetings would remove "a key disincentive" to listing new CEFs by protecting them from such actors.[37]

This commenter also stated that if a CEF chose not to hold annual shareholder meetings it would still have protections as provided in the 1940 Act (e.g., independent directors who would maintain their fiduciary duty to monitor discounts and direct changes).[38] This commenter further stated that exempting CEFs from the Exchange's annual shareholder meeting requirement would allow the decision regarding whether to hold such a meeting to be determined by state law and the CEF's organizational documents.[39] In addition, this commenter stated that because the exemption from the requirement to hold annual shareholder meetings would only be available to new funds that do not yet have shareholders, no existing "right" to a meeting would be taken away under the proposal.[40] This commenter stated that a CEF would still have the ability to

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35 See ICI Letter at 5. See also Young Letter (stating that certain investors hurt CEFs' value to realize short-term profits, at the expense of long-term shareholders).

36 See ICI Letter at 4.

37 See id. at 4-5. This commenter stated that the campaigns of certain minority activists have negatively impacted the market for CEF IPOs, noting that no CEFs launched in 2023, only three launched in 2024, and none have launched yet in 2025, as compared to the rates of launches for other products that do not require an annual shareholder meeting requirement (e.g., 518 ETFs launched in 2023 and 757 launched in 2024). See id. at 4.

38 See id. at 6.

39 See id.

40 See id. at 7.

preserve the right to an annual shareholder meeting in its by-laws if it determines that retail shareholders value that right.[41]

The Commission also received comments opposing the proposal.[42] Comment letters from individuals opposing the proposal generally requested that the Commission not allow their voting rights to be taken away and stated that annual shareholder meetings are necessary to hold managers accountable so that CEFs are not devalued.[43] One commenter stated that the annual shareholder meeting requirement facilitates transparency and promotes the protection of investors and the public interest, and that the Exchange has not demonstrated "how this fundamental shareholder right . . . fails to ultimately protect investors."[44] Another commenter stated that the historical backdrop of the adoption of the 1940 Act, when at the time an annual meeting was required by every state's laws, makes clear that Congress never contemplated elimination of an annual shareholder meeting for CEFs, regardless of the other shareholder protections set forth in the 1940 Act.[45] One commenter stated that the safeguards in the 1940 Act complement, but do not replace, a shareholder's right to participate in the election of directors.[46]

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41 See id. at 3.

42 See, e.g., Letters from Michael D'Angelo, Saba Capital Management, LP, dated June 27, 2025 ("Saba Letter"); Phillip Goldstein, Managing Partner, Bulldog Investors LLP, dated July 5, 2025 ("Bulldog Letter"); Gabi Gliksberg, ATG Capital Management LLC, dated July 3, 2025 ("ATG Letter"); Hank Krakover, SLK Private Wealth, dated July 8, 2025 ("SLK Letter"); Ben Brostoff, dated July 4, 2025 ("Brostoff Letter"); James Ritchie, CorpGov.net, dated July 7, 2025 ("CorpGov.net Letter"); Kenneth Chance, dated July 8, 2025 ("Chance Letter"); Tom Kerr, dated July 10, 2025 ("Kerr Letter"); James Elbaor, Managing Partner, Marlton LLC, dated July 23, 2025 ("Marlton Letter").

43 See, e.g., Brostoff Letter; Chance Letter; Kerr Letter; Letters from Daniel Lippincott, President and Chief Investment Officer, Karpus Investment Management, dated July 18, 2025 ("Karpus Letter"); Bernard Haven, dated July 22, 2025 ("Haven Letter").

44 Marlton Letter at 2.

45 See Bulldog Letter. See also CorpGov.net Letter.

46 See Marlton Letter at 2-3 ("[w]hile such [1940 Act] provisions and safeguards address specific potential conflicts and fund-specific issues, annual meetings address the fundamental need for shareholder oversight and director accountability").

Several commenters stated that CEFs are different from other registered investment companies, including ETFs listed on the Exchange, which are not required to hold annual shareholder meetings.[47] In particular, commenters stated that, unlike ETFs which trade at or near their NAV, CEFs commonly trade at significant discounts to their NAV, meaning that CEF shareholders cannot trade out of their shares if they are dissatisfied with management without incurring large losses.[48] Commenters also stated that annual shareholder meetings are essential in order to hold the directors of CEFs accountable and that, without this accountability, boards will be less responsive to shareholder concerns and discounts to NAV will widen.[49]

One commenter explained that without annual shareholder meetings, shareholders cannot avail themselves of the shareholder proposal process provided for in Rule 14a-8 of the Exchange Act[50] because shareholders cannot submit proposals if there is no shareholder meeting at which to present them.[51] In turn, the commenter stated, if Rule 14a-8 becomes moot, shareholders

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47 See, e.g., Saba Letter at 6-7; Karpus Letter; Haven Letter; Marlton Letter at 3.

48 See, e.g., Saba Letter at 6-7; Karpus Letter; Haven Letter; Marlton Letter at 3 ("[u]nlike ETF shareholders who more readily may 'vote with their feet' because of their ability to continuously redeem shares at or close to NAV, CEF shareholders 'vote with their voice' via critically important annual shareholder meetings").

49 See, e.g., ATG Letter at 1; SLK Letter; Letter from Devin Hanrahan, dated July 23, 2025. See also Saba Letter at 8-9; Marlton Letter at 5 (stating that action by concentrated minority shareholders to bring change is "an important counterweight" when advisers or boards are unwilling or unable to address issues with CEFs that persistently trade at deep discounts or underperform). One commenter referenced letters from academics on a prior iteration of proposal that, among other things, discussed data on the costs of director entrenchment, reasons CEFs trade at NAV discounts, and shareholder activism. See Saba Letter at 9 (citing Letters from Profs. Lucian A. Bebchuk, Harvard School of Law, and Robert J. Jackson, Jr., NYU School of Law, dated July 30, 2024; Profs. Daniel J. Taylor, The Wharton School, Edwin Hu, University of Virginia Law School, Shiva Rajgopal, Columbia Business School, Robert E. Bishop, Duke School of Law, Bradford Levy, Chicago Booth School of Business, and Jonathon Zytnick, Georgetown University Law Center, on behalf of the Working Group on Market Efficiency and Investor Protection in Closed-End Funds, dated July 30, 2024; Prof. Robert J. Jackson, Jr., dated Nov. 14, 2024).

50 17 CFR 240.14a-8. Rule 14a-8 requires companies that are subject to the federal proxy rules to include shareholder proposals in companies' proxy statements, subject to certain procedural and substantive requirements.

51 See Marlton Letter at 3.

would also lose their right provided for in Section 15(a)(3) of the 1940 Act[52] to approve and terminate investment advisory agreements because such proposals are typically submitted as Rule 14a-8 proposals or as business at an annual shareholder meeting.[53]

Commenters also stated that although the Exchange contends that the proposal will not affect shareholders of existing CEFs, existing CEFs will just merge or reorganize into new CEFs in order to be exempt from the annual shareholder meeting requirements.[54] One commenter stated that the proposal fails to justify why one group of investors (those that invested in CEFs after approval of the proposal) should be entitled to fewer rights than other group of investors (those that invested in CEFs prior to approval of the proposal).[55]

The Commission has concerns about whether NYSE's proposal to exempt CEFs that are listed on the Exchange after approval of the proposed rule change from the annual shareholder meeting requirement set forth in Section 302.00 of the Manual is designed to protect investors and the public interest, as required by Section 6(b)(5) of the Exchange Act.[56] Although NYSE's rules provide a similar exemption for ETFs listed on the Exchange,[57] there are important differences between CEFs and ETFs. Shares of CEFs often trade at prices that are less than, or at a "discount" to, the funds' NAV per share. In contrast, while ETFs may trade at a discount, it is often to a much lesser degree than CEFs.[58] The Exchange states that the tendency for CEFs to

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52 15 U.S.C. 80a-15.

53 See Marlton Letter at 3.

54 See, e.g. Saba Letter at 1-2; Marlton Letter at 4; Letter from Timothy Fischer, dated July 24, 2025. See also Saba Letter at 3-6.

55 See Marlton Letter at 4.

56 15 U.S.C. 78f(b)(5).

57 See NYSE 2019 Order, supra note 17.

58 See Securities Act Release No. 10695, Investment Company Act Release No. 33646, S7-15-18 (Sept. 25, 2019), 84 FR 57162, 57165 (Oct. 24, 2019) (Exchange-Traded Funds Final Rule) ("The combination of the creation and redemption process with secondary market trading in ETF shares and underlying securities

trade at a discount to NAV represents an operational characteristic of CEFs, that shareholders invest in CEFs primarily for yield and distributions rather than any expectation of exiting at NAV, and that, in any case, the annual meeting requirement is superfluous for discount management because independent directors will address such discounts, if necessary.[59] However, certain commenters disagree and state that shareholders of CEFs may have an interest in expressing their views at annual shareholder meetings in order to hold CEF managers accountable, particularly because CEF shareholders may not be able to trade out of their positions without incurring losses.[60] As a result, the Commission believes there may be investor protection concerns for CEF shareholders with respect to eliminating the right to an annual shareholder meeting that may not be present for shareholders of ETFs listed on the Exchange.

In addition, while the Exchange states that the proposal would maintain existing voting rights for shareholders in established CEFs because it would only be applicable to CEFs listed on the Exchange after approval of its proposed rule change,[61] the Exchange also states that 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.[62] Thus, any CEF listed on NYSE or another exchange prior to approval of the proposed rule that merges or reorganizes into a new CEF listed on NYSE following approval of the proposed rule change would be exempt from the Exchange's annual shareholder meeting requirement. As a result, the proposal could allow for the elimination of the rights of existing CEF shareholders to engage management at an annual shareholder

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provides arbitrage opportunities that are designed to help keep the market price of ETF shares at or close to the NAV per share of the ETF."). See also supra note 24.

59 See supra notes 25-26 and accompanying text.

60 See supra notes 48-49 and accompanying text.

61 See supra note 29 and accompanying text.

62 See supra note 11 and accompanying text.

meeting, a right which a shareholder may have relied on when purchasing the CEF shares and which may be particularly important to existing shareholders given the tendency of CEF shares to trade at a discount to NAV. The Exchange has not addressed how this potential elimination of the rights of existing shareholders is consistent with the protection of investors and the public interest, as required by Section 6(b)(5) of the Exchange Act.[63]

As a result, the Commission believes there are questions as to whether the proposal is consistent with Section 6(b)(5) of the Exchange Act[64] and its requirement, among other things, that the rules of a national securities exchange be designed to protect investors and the public interest. For this reason, it is appropriate to institute proceedings pursuant to Section 19(b)(2)(B) of the Exchange Act[65] to determine whether the proposal should be approved or disapproved.

IV. Procedure: Request for Written Comments

The Commission requests that interested persons provide written submissions of their data, views, and arguments with respect to the issues identified above, as well as any other concerns they may have with the proposal. In particular, the Commission invites the written views of interested persons concerning whether the proposed rule change is consistent with Section 6(b)(5) of the Exchange Act[66] or any other provision of the Exchange Act, or the rules and regulations thereunder. Although there do not appear to be any issues relevant to approval or disapproval that would be facilitated by an oral presentation of data, views, and arguments, the

63 15 U.S.C. 78f(b)(5).

64 Id.

65 15 U.S.C. 78s(b)(2)(B).

66 15 U.S.C. 78f(b)(5).

Commission will consider, pursuant to Rule 19b-4 under the Exchange Act,[67] any request for an opportunity to make an oral presentation.[68]

Interested persons are invited to submit written data, views, and arguments regarding whether the proposed rule change should be approved or disapproved by [INSERT DATE 21 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]. Any person who wishes to file a rebuttal to any other person's submission must file that rebuttal by [INSERT DATE 35 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]. The Commission asks that commenters address the sufficiency of the Exchange's statements in support of the proposal, in addition to any other comments they may wish to submit about the proposed rule change. 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.

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67 17 CFR 240.19b-4.

68 Section 19(b)(2) of the Exchange Act, as amended by the Securities Acts Amendments of 1975, Pub. L. 94-29 (June 4, 1975), grants to the Commission flexibility to determine what type of proceeding—either oral or notice and opportunity for written comments—is appropriate for consideration of a particular proposal by a self-regulatory organization. See Securities Acts Amendments of 1975, Senate Comm. on Banking, Housing & Urban Affairs, S. Rep. No. 75, 94th Cong., 1st Sess. 30 (1975).

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 filing 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*]. Rebuttal comments should be submitted by [INSERT DATE 35 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[69]

Sherry R. Haywood,

Assistant Secretary.

[69] 17 CFR 200.30-3(a)(57).