

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-74175; File No. SR-NYSEArca-2015-01)

January 29, 2015

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Proposed Rule Change Amending NYSE Arca Equities Rule 5.2(j)(3), Commentary .02 Relating to Listing of Investment Company Units Based on Municipal Bond Indexes

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 January 16, 2015, NYSE Arca, Inc. (“Exchange” or “NYSE Arca”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I and II 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 NYSE Arca Equities Rule 5.2(j)(3), Commentary .02 relating to listing of Investment Company Units based on municipal bond indexes. The text of 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.

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

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

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

NYSE Arca Equities Rule 5.2(j)(3) permits the listing and trading, including trading pursuant to unlisted trading privileges (“UTP”), of Investment Company Units (“Units”).⁴ NYSE Arca Equities Rule 5.2(j)(3), Commentary .02 provides for listing on the Exchange pursuant to Rule 19b-4(e)⁵ under the Act of a series of Units with an underlying index or portfolio of Fixed Income Securities⁶ meeting specified criteria.⁷ These “generic” listing criteria permit listing and trading on the Exchange of series of Units meeting such criteria without

⁴ An Investment Company Unit is a security that represents an interest in a registered investment company that holds securities comprising, or otherwise based on or representing an interest in, an index or portfolio of securities (or holds securities in another registered investment company that holds securities comprising, or otherwise based on or representing an interest in, an index or portfolio of securities). See NYSE Arca Equities Rule 5.2(j)(3)(A).

⁵ 17 CFR 240.19b-4(e).

⁶ Fixed Income Securities are described in NYSE Arca Equities Rule 5.2(j)(3), Commentary .02 as debt securities that are notes, bonds, debentures or evidence of indebtedness that include, but are not limited to, U.S. Department of Treasury securities, government-sponsored entity securities, municipal securities, trust preferred securities, supranational debt and debt of a foreign country or a subdivision thereof.

⁷ The Commission approved NYSE Arca Equities Rule 5.2(j)(3), Commentary .02 in Securities Exchange Act Release No. 55783 (May 17, 2007), 72 FR 29194 (May 24, 2007) (SR-NYSEArca-2007-36) (order approving generic listing standards for series of Units based on Fixed Income Indexes and Combination Indexes). The Commission also approved generic listing standards for the American Stock Exchange LLC (“Amex”) for Index Fund Shares based on Fixed Income Indexes and Combination Indexes in Securities Exchange Act Release No. 55437 (March 9, 2007), 72 FR 12233 (March 15, 2007) (SR-Amex-2006-118). The Commission has approved listing of exchange-traded funds based on a fixed income index or portfolio. See, e.g., Securities Exchange Act Release No. 48534 (September 24, 2003), 68 FR 56353 (September 30, 2003) (SR-Amex-2003-75) (order approving listing on Amex of eight series of iShares Lehman Bond Funds).

Commission approval of each individual product pursuant to Section 19(b)(2) of the Act.⁸

NYSE Arca Equities Rule 5.2(j)(3), Commentary .02(a)(2) provides that, in order to be listed and traded pursuant to Rule 19b-4(e), components of an index or portfolio that in aggregate account for at least 75% of the weight of the index or portfolio each shall have a minimum original principal amount outstanding of \$100 million or more. The Exchange proposes to amend its generic listing criteria applicable to Units in order to better accommodate listing of Units based on indexes that include municipal bonds, in view of features of such bonds that differ from those of most other Fixed Income Securities.⁹

⁸ 15 U.S.C. 78s(b)(2).

⁹ The Commission previously has approved proposed rule changes relating to listing and trading on the Exchange of Units based on municipal bond indexes. See Securities Exchange Act Release Nos. 67985 (October 4, 2012), 77 FR 61804 (October 11, 2012) (SR-NYSEArca-2012-92) (order approving proposed rule change relating to the listing and trading of iShares 2018 S&P AMT-Free Municipal Series and iShares 2019 S&P AMT-Free Municipal Series under NYSE Arca Equities Rule 5.2(j)(3), Commentary .02); 67729 (August 24, 2012), 77 FR 52776 (August 30, 2012) (SR-NYSEArca-2012-92) (notice of proposed rule change relating to the listing and trading of iShares 2018 S&P AMT-Free Municipal Series and iShares 2019 S&P AMT-Free Municipal Series under NYSE Arca Equities Rule 5.2(j)(3), Commentary .02) (“iShares 2018 Notice”); 72523, (July 2, 2014), 79 FR 39016 (July 9, 2014) (SR-NYSEArca-2014-37) (order approving proposed rule change relating to the listing and trading of iShares 2020 S&P AMT-Free Municipal Series under NYSE Arca Equities Rule 5.2(j)(3), Commentary .02); 72172 (May 15, 2014), 79 FR 29241 (May 21, 2014) (SR-NYSEArca-2014-37) (notice of proposed rule change relating to the listing and trading of iShares 2020 S&P AMT-Free Municipal Series under NYSE Arca Equities Rule 5.2(j)(3), Commentary .02) (“iShares 2020 Notice”); 72464 (June 25, 2014), 79 FR 37373 (July 1, 2014) (File No. SR-NYSEArca-2014-45) (order approving proposed rule change governing the continued listing and trading of shares of the PowerShares Insured California Municipal Bond Portfolio, PowerShares Insured National Municipal Bond Portfolio, and PowerShares Insured New York Municipal Bond Portfolio). The Commission also has issued a notice of filing and immediate effectiveness of a proposed rule change relating to listing and trading on the Exchange of shares of the iShares Taxable Municipal Bond Fund. See Securities Exchange Act Release No. 63176 (October 25, 2010), 75 FR 66815 (October 29, 2010) (SR-NYSEArca-2010-94). The Commission has approved for Exchange listing and trading of shares of two actively managed funds of the PIMCO ETF Trust that principally hold municipal bonds. See Securities Exchange Act Release No. 60981 (November 10, 2009), 74 FR 59594 (November 18, 2009) (SR-NYSEArca-2009-79)

Specifically, the Exchange proposes to amend NYSE Arca Equities Rule 5.2(j)(3), Commentary .02(a)(2) to state that components that in aggregate account for at least 75% of the weight of the index or portfolio shall meet the following: (A) each shall have a minimum original principal amount outstanding of \$100 million or more; or (B) if a municipal bond component, such component shall be issued in an offering with an aggregate size, as set forth in the official statement of the offering, of \$100 million or more. Thus, with respect to a municipal bond component of an index or portfolio, the aggregate size of the municipal bond issue covered by the official statement applicable to such municipal bond component, i.e., a municipal bond offering, must be \$100 million or more. Thus, even if the individual municipal bond component (i.e., an individual maturity) of an index has an amount outstanding of less than \$100 million, such component could be included in the 75% weight required to meet the \$100 million principal amount outstanding requirement if such component were part of a municipal bond offering of \$100 million or more.

The Exchange believes it is appropriate to calculate components of a municipal bond index differently from other Fixed Income Securities for purposes of the 75% weighting requirement of NYSE Arca Equities Rule 5.2(j)(3), Commentary .02(a)(2) because municipal bond offerings differ from U.S. Treasury, Government Sponsored Entities (“GSEs”), or other fixed income offerings in a variety of ways. Principally, municipal bonds are issued with either “serial” or “term” maturities or some combination thereof. The official statement issued in connection with a municipal bond offering describes the terms of the component bonds and the

(order approving listing and trading of shares of the PIMCO Short-Term Municipal Bond Strategy Fund and PIMCO Intermediate Municipal Bond Strategy Fund). The Commission also has approved listing and trading on the Exchange of shares of the SPDR Nuveen S&P High Yield Municipal Bond Fund under Commentary .02 of NYSE Arca Equities Rule 5.2(j)(3). See Securities Exchange Act Release No. 63881 (February 9, 2011), 76 FR 9065 (February 16, 2011) (SR-NYSEArca-2010-120).

issuer and/or obligor on the related bonds. Such an offering is comprised of a number of specific maturity sizes.¹⁰ The entire issue or offering that includes such maturity sizes (sometimes also referred to as the “deal size”) receives the same credit rating and the various maturities are all subject to the provisions set forth in the official statement. The entire issue or offering is based on a specified project or group of related projects and funded by the same revenue or other funding sources identified in the official statement.¹¹

Because the individual municipal bond components of an index may predominantly have maturities of less than \$100 million outstanding (although part of a municipal bond offering of \$100 million or greater), NYSE Arca Equities Rule 5.2(j)(3), Commentary .02 generally would not permit listing under Rule 19b-4(e) of Units based on an underlying municipal bond index if only individual maturity sizes were considered. The Exchange believes the proposed amendment to Commentary .02(a)(2) would facilitate listing of Units based on municipal bond indexes by permitting the Exchange, in applying its generic listing criteria, to take into account the aggregate size of the municipal bond offering of which the index component is part, as set forth in the applicable official statement.

The Exchange notes that major municipal bond indexes, while they include individual bond maturities as index components, include “deal size” as a factor in the criteria for index

¹⁰ There are two principal types of municipal bonds—general obligation, which are issued to raise capital supported by the taxing power of the issuer, and revenue bonds, which fund projects supported by the income these projects generate. Multiple maturities allow municipal bond issuers to better match and manage the timing of revenues and expenses associated with municipal bond offerings and projects financed thereby, and allow issuers to reduce their cost of funding over time. This is especially important given the long-term nature of the projects that secure municipal bond offerings and intermittent cash flows generated from the projects or other revenue sources. The issuer is able to pay down the municipal bond offering, lowering the amount outstanding, and thereby paying less interest over the life of the issue in contrast to an issue with a term maturity.

¹¹ Financial information vendors provide deal size as well as maturity size information for each issue.

constituents and additions. For example, the index methodology for the S&P National AMT-Free Municipal Bond Index specifies that each bond must be a constituent of a deal where the deal's original offering amount was at least \$100 million.¹² For Barclays Capital municipal bond indexes, the index methodology for the Barclays Capital Investment-Grade Municipal Index specifies that a bond in the index must be issued as part of a transaction of at least \$75 million; for the Barclays Capital High-Yield Municipal Index and the Barclays Capital Enhanced State Specific Indices, the bond constituents must be issued as part of a transaction of at least \$20 million.¹³

The Exchange notes that the Commission previously has approved listing and trading of Units where the applicable municipal index components did not individually meet the 75% percentage requirement of NYSE Arca Equities Rule 5.2(j)(3), Commentary .02(a)(2).¹⁴ As stated in the iShares 2020 Notice, the investment adviser (Blackrock Fund Advisors or "BFA") for the iShares 2020 S&P AMT-Free Municipal Series has represented that the nature of the municipal bond market and municipal bond instruments makes it feasible to categorize individual issues represented by CUSIPs (i.e., the specific identifying number for a security) into categories according to common characteristics-- specifically, rating, purpose, geographical region, and maturity. BFA represented that bonds that share similar characteristics tend to trade similarly to one another; therefore, within these categories, the issues may be considered fungible from a portfolio management perspective, allowing one CUSIP to be represented by another that shares similar characteristics for purposes of developing an investment strategy.¹⁵

¹² Source: Standard & Poor's, available at www.us.spindices.com.

¹³ Source: Barclays Capital Municipal Index Research.

¹⁴ See note 9, supra.

¹⁵ See also iShares 2018 Notice.

Therefore, while a relatively low percentage of the weight of the applicable index components may be part of an aggregate size offering of \$100 million or more, the nature of the municipal bond market makes such components relatively fungible for investment purposes when aggregated into categories such as ratings, purpose, geographical region, and maturity. In addition, BFA represented that, within a single municipal bond issuer, there are often multiple contemporaneous or sequential issuances that have the same rating, structure and maturity, but have different CUSIPs; these separate issues by the same issuer are also likely to trade similarly to one another. Individual CUSIPs within the applicable municipal bond index that share characteristics with other CUSIPs based on rating, purpose, geographical region, and maturity have a high yield to maturity correlation, and frequently have a correlation of one or close to one. Such correlation demonstrates that the CUSIPs within their respective category behave similarly.

Likewise, as noted above, the individual maturity sizes that comprise a municipal bond offering share a number of important features, including credit rating and the purpose and terms of the offering as set forth in the applicable official statement. As with individual CUSIPs in an index that share certain characteristics, as described above, the individual maturity sizes comprising the municipal bond offering can be expected to be relatively fungible for investment purposes. The Exchange believes that the proposed rule change is reasonable and appropriate in that pricing and liquidity of such maturity sizes is predominately based on the common characteristics of the aggregate issue of which the municipal bond is part. Thus, consideration of the aggregate size of the municipal bond offering rather than the individual bond component does not raise concerns regarding pricing or liquidity of the applicable municipal bond index components or of the Units overlying the applicable index.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b)¹⁶ of the Act, in general, and furthers the objectives of Section 6(b)(5),¹⁷ in particular, in that 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 facilitating transactions in securities, and to remove impediments to and perfect the mechanisms of a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Exchange believes that the proposed rule change applicable to trading pursuant to generic listing and trading criteria, together with the Exchange's surveillance procedures applicable to trading in the securities covered by the proposed rules, serve to foster investor protection. The proposed rule change will also enhance market competition by assisting in bringing issues of Units with an underlying index of municipal securities to market more quickly, consistent with the Commission's adoption of Rule 19b-4(e) under the Act. The Commission has previously approved proposed rule changes relating to listing and trading on the Exchange of Units based on municipal bond indexes and issues of Managed Fund Shares that hold municipal bonds.¹⁸ Major municipal bond indexes, while they include individual bond maturities as index components, include "deal size" as a factor in the criteria for index constituents and additions. As noted above, municipal bonds that share similar characteristics tend to trade similarly to one another; therefore, within these categories, the issues may be considered fungible from a portfolio management perspective, allowing one CUSIP to be

¹⁶ 15 U.S.C. 78f(b).

¹⁷ 15 U.S.C. 78f(b)(5).

¹⁸ See note 9, supra.

represented by another that shares similar characteristics for purposes of developing an investment strategy.¹⁹ Therefore, while a relatively low percentage of the weight of the applicable index components may be part of an offering with an aggregate size of \$100 million or more, the nature of the municipal bond market makes such components relatively fungible for investment purposes when aggregated into categories such as ratings, purpose, geographical region, and maturity. As with individual CUSIPs in an index that share certain characteristics, as described above, the individual maturity sizes comprising a municipal bond offering can be expected to be relatively fungible for investment purposes. The Exchange believes that the proposed rule change is reasonable and appropriate in that pricing and liquidity of such maturity sizes is predominately based on the common characteristics of the municipal bond offering of which the municipal bond component is part. Thus, consideration of the municipal bond offering rather than the individual bond component does not raise concerns regarding pricing or liquidity of the applicable municipal bond index components or of the Units overlying the applicable index. In addition, financial information vendors provide deal size as well as maturity size information for each municipal bond issue.

The Exchange believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices in that Units based on an index or portfolio that includes municipal bond components will be listed and traded on the Exchange pursuant to the initial and continued listing criteria in NYSE Arca Equities Rule 5.2(j)(3). The proposed amendment to NYSE Arca Equities Rule 5.2(j)(3), Commentary .02(a)(2) will better accommodate listing of Units based on indexes that include municipal bonds, in view of features of such bonds that differ from those of most other Fixed Income Securities. In connection with establishing

¹⁹ See iShares 2018 Notice and iShares 2020 Notice.

compliance with NYSE Arca Equities Rule 5.2(j)(3), Commentary .02(a)(2), individual municipal bond components in an index or portfolio would be required to be part of an offering of substantial size (i.e., at least \$100 million aggregate size). The Exchange believes that the \$100 million minimum threshold will help ensure that a substantial percentage of the applicable index components are liquid.

The proposed rule change is designed to perfect the mechanism of a free and open market and, in general, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanisms of a free and open market and a national market system, and, in general, to protect investors and the public interest in that it will facilitate the listing and trading of additional types of exchange-traded funds that hold municipal bonds pursuant to the generic listing criteria of NYSE Arca Equities Rule 5.2(j)(3), Commentary .02, and thus will enhance competition among market participants, to the benefit of investors and the marketplace. The Exchange is proposing to modify the criteria for qualifying Units based on a Fixed Income Securities index or portfolio that includes municipal bond components by applying the same quantitative threshold (i.e., \$100 million or more) to the aggregate size of the municipal bond offering as the threshold that applies to component Fixed Income Securities generally, as set forth in Commentary .02(a)(2) of Rule 5.2(j)(3). The Exchange believes that applying the \$100 million threshold to the aggregate size of the municipal bond offering rather than to individual maturities of the offering is appropriate in view of differences in the characteristics of municipal bond issuances from issuances of other Fixed Income Securities, as described above, while, at the same time, assuring that any individual municipal bond component is part of an offering of substantial size (i.e., at least \$100 million aggregate size).

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

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is not intended to address competition among exchanges. The Exchange believes that the proposed rule change would remove a burden on competition for issuers of municipal bond offerings to provide that the Exchange's rules regarding the listing and trading of Units pursuant to Commentary .02 of Rule 5.2(j)(3) are evaluated on a similar basis to other fixed income offerings. As discussed above, because the "deal size" associated with a municipal bond offering is deemed the relevant basis for determining pricing and liquidity of maturity sizes of municipal bond components that comprise an index, the Exchange believes that the proposed rule change addresses the unique characteristics of municipal bond offerings as compared to other fixed income products in a manner consistent with the existing requirements of Commentary .02(a)(2) of Rule 5.2(j)(3).

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 (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-NYSEArca-2015-01 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-NYSEArca-2015-01. This file number should be included on the subject line if e-mail 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 (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for 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 10:00 a.m. and 3:00 p.m. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not

edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NYSEArca-2015-01 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁰

Jill M. Peterson
Assistant Secretary

²⁰ 17 CFR 200.30-3(a)(12).