

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-75811; File No. SR-NYSEArca-2015-01)

September 2, 2015

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Amendment No. 1 to Proposed Rule Change to Amend NYSE Arca Equities Rule 5.2(j)(3), Commentary .02 Relating to Listing of Investment Company Units Based on Municipal Bond Indexes

On January 16, 2015, NYSE Arca, Inc. (“Exchange”) filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act” or “Exchange Act”)¹ and Rule 19b-4 thereunder,² a proposed rule change to amend NYSE Arca Equities Rule 5.2(j)(3), Commentary .02 relating to the listing of Investment Company Units based on municipal bond indexes. The proposed rule change was published for comment in the Federal Register on February 4, 2015.³ On March 19, 2015, pursuant to Section 19(b)(2) of the Act,⁴ 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.⁵ On May 4, 2015, the Commission published an order instituting proceedings under Section 19(b)(2)(B) of the Act⁶ to determine whether to approve or disapprove the proposed rule change.⁷ On July 30, 2015, the Commission issued a

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 74175 (Jan. 29, 2015), 80 FR 6150 (“Notice”).

⁴ 15 U.S.C. 78s(b)(2).

⁵ See Securities Exchange Act Release No. 74534, 80 FR 15834 (Mar. 25, 2015). The Commission designated a longer period within which to take action on the proposed rule change and designated May 5, 2015, as the date by which it should approve, disapprove, or institute proceedings to determine whether to disapprove the proposed rule change.

⁶ 15 U.S.C. 78s(b)(2)(B).

⁷ See Securities Exchange Act Release No. 74863 (May 4, 2015), 80 FR 26591 (May 8, 2015) (“Order Instituting Proceedings”). Specifically, the Commission instituted proceedings to allow for additional analysis of the proposed rule change’s consistency

notice of designation of a longer period for Commission action on proceedings to determine whether to approve or disapprove the proposed rule change.⁸ The Commission has received no comment letters on the proposed rule change.

Pursuant to Section 19(b)(1)⁹ of the Act¹⁰ and Rule 19b-4 thereunder,¹¹ notice is hereby given that, on August 28, 2015, the Exchange filed with the Commission Amendment No. 1 to the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange.¹² The Commission is publishing this notice to solicit comments from interested

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.

⁸ See Securities Exchange Act Release No. 75569, 80 FR 46627 (Aug. 5, 2015). The Commission designated a longer period within which to take action on the proposed rule change and designated October 2, 2015 as the date by which it should approve or disapprove the proposed rule change.

⁹ 15 U.S.C. 78s(b)(1).

¹⁰ 15 U.S.C. 78a.

¹¹ 17 CFR 240.19b-4.

¹² Amendment No. 1 replaces SR-NYSEArca-2015-01 as originally filed and supersedes such filing in its entirety. In Amendment No. 1, the Exchange proposes to amend NYSE Arca Equities Rule 5.2(j)(3), Commentary .02(a)(2) to add the following criteria for listing on the Exchange, pursuant to Rule 19b-4(e) under the Act, of a series of Investment Company Units based on an index or portfolio of only municipal bond components: (1) 75% of the weight of the index or portfolio 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; (2) the average dollar amount outstanding of components of the index or portfolio shall be at least \$10 million; (3) each component of the index or portfolio shall have a minimum principal amount outstanding of at least \$2 million; (4) the index or portfolio must include at least 1,000 components; and (5) the index or portfolio must include a minimum of 13 non-affiliated issuers. Additionally, in Amendment No. 1, the Exchange proposes to remove municipal securities from the exempted securities excluded from the criterion in NYSE Arca Equities Rule 5.2(j)(3), Commentary .02(a)(5) that an underlying index or portfolio (excluding one consisting entirely of exempted securities) must include a minimum of 13 non-affiliated issuers. In Amendment No. 1, the Exchange also describes the bases for its proposed changes to the criteria in NYSE Arca Equities Rule 5.2(j)(3), Commentary .02; explains that the proposed criteria in proposed

persons on the proposed rule change, as modified by Amendment No. 1.

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 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”).¹³

NYSE Arca Equities Rule 5.2(j)(3), Commentary .02 provides for listing on the Exchange

Commentary .02(a)(2)(B)(ii)-(v) would facilitate the generic listing of funds based on municipal bond index components that are sufficiently broad-based and liquid to deter manipulation; and makes technical changes to the filing.

¹³ 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).

pursuant to Rule 19b-4(e)¹⁴ under the Act of a series of Units with an underlying index or portfolio of Fixed Income Securities¹⁵ meeting specified criteria.¹⁶ These “generic” listing criteria permit listing and trading on the Exchange of series of Units meeting such criteria without Commission approval of each individual product pursuant to Section 19(b)(2) of the Act.¹⁷

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.¹⁸ The Exchange proposes to amend its generic listing criteria applicable to Units to better apply to the listing of Units based

¹⁴ 17 CFR 240.19b-4(e).

¹⁵ 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.

¹⁶ 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).

¹⁷ 15 U.S.C. 78s(b)(2).

¹⁸ This Amendment No. 1 to SR-NYSEArca-2015-01 replaces SR-NYSEArca-2015-01 as originally filed and supersedes such filing in its entirety.

on indexes that include municipal bonds because the features of such bonds differ from those of most other Fixed Income Securities.¹⁹

¹⁹ 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) (“PowerShares Order”); 75468 (July 16, 2015), 80 FR 43500 (July 22, 2015) (SR-NYSEArca-2015-25) (order approving proposed rule change relating to the listing and trading of iShares iBonds Dec 2021 AMT-Free Muni Bond ETF and iShares iBonds Dec 2022 AMT-Free Muni Bond ETF under NYSE Arca Equities Rule 5.2(j)(3)) (“iShares 2021/2022 Order”); 74730 (April 15, 2015), 76 FR 22234 (April 21, 2015) (notice of proposed rule change relating to the listing and trading of iShares iBonds Dec 2021 AMT-Free Muni Bond ETF and iShares iBonds Dec 2022 AMT-Free Muni Bond ETF under NYSE Arca Equities Rule 5.2(j)(3), Commentary .02) (“iShares 2021/2022 Notice”); 74730 [sic] 75376 (July 7, 2015), 80 FR 40113 (July 13, 2015) (SR-NYSEArca-2015-18) (order approving proposed rule change relating to the listing and trading of Vanguard Tax-Exempt Bond Index Fund under NYSE Arca Equities Rule 5.2(j)(3)). 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) (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

The Exchange proposes to amend NYSE Arca Equities Rule 5.2(j)(3), Commentary .02(a)(2) to provide an alternative for Units based on an index or portfolio of municipal bond securities to the criterion that components that in the aggregate account for 75% of the weight of the index or portfolio have a minimum original principal amount outstanding of \$100 million or more. Specifically, the Exchange proposes that, with respect to an index or portfolio of only municipal bond components, the index or portfolio shall meet the following criteria:

- 75% of the weight of the index or portfolio 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 (the “75% Requirement”);
- the average dollar amount outstanding of components of the index or portfolio shall be at least \$10 million;
- each component of the index or portfolio shall have a minimum principal amount outstanding of at least \$2 million;
- the index or portfolio must include at least 1,000 components; and
- the index or portfolio must include a minimum of 13 non-affiliated issuers.

With respect to proposed Commentary .02(a)(2)(B)(i), 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 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

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).

connection with a municipal bond offering describes the terms of the component bonds and the issuer and/or obligor on the related bonds. Such an offering is comprised of a number of specific maturity sizes and is based on a specified project or group of projects and funded by the same revenue or other funding sources identified in the official statement.²⁰ 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.²¹

Because the individual municipal bond components of an index may predominantly have an original principal amount outstanding of less than \$100 million (although part of a municipal bond offering of \$100 million or greater), NYSE Arca Equities Rule 5.2(j)(3), Commentary .02 would not generally permit listing under Rule 19b-4(e) of Units based on a municipal bond index. 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, as set forth in the applicable official statement, of which an index or portfolio component is part.

²⁰ 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.

²¹ Financial information vendors provide deal size as well as maturity size.

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 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.²² In addition, 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; and 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.²³

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)(A).²⁴ As stated in the iShares 2020 Notice, for example, 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

²² Source: Standard & Poor’s, available at www.us.spindices.com.

²³ Source: Barclays Capital Municipal Index Research.

²⁴ See note 19, supra.

another that shares similar characteristics for purposes of developing an investment strategy.²⁵ 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

²⁵ See also iShares 2021/2022 Notice, note 19, supra.

does not raise concerns regarding pricing or liquidity of the applicable municipal bond index components or of the Units overlying the applicable index.

With respect to the criteria in proposed Commentary .02(a)(2)(B)(ii) through (v), the Exchange believes such criteria would limit generic listing of funds based on municipal bond index components that are sufficiently broad-based and liquid to deter potential manipulation of the Units. In particular, the proposed requirement that the average dollar amount outstanding of components be at least \$10 million is comparable to the average dollar amount outstanding for index components of municipal bond indexes underlying funds previously approved by the Commission for Exchange trading.²⁶ The Exchange, in proposing the listing of these other funds, believed they would not be readily susceptible to manipulation and such funds are currently trading in a fair and orderly manner. Similarly, the proposed requirements that each component have a minimum principal amount outstanding of at least \$2 million, combined with the 75% Requirement, would assure that individual maturities within an index or portfolio be of substantial size. The substantial size of a large proportion of components in the index or portfolio further deters the susceptibility of the Units to manipulation. Finally, the proposed requirement that an index or portfolio include at least 1,000 components and include a minimum of 13 non-affiliated issuers is comparable to the number of index components of municipal bond indexes underlying funds previously approved by the Commission for Exchange trading²⁷ and the current requirement in Commentary .02(a)(5).²⁸ These requirements would effectively require that index

²⁶ See, e.g., 2021/2022 Order and PowerShares Order, note 19, supra.

²⁷ See, e.g., PowerShares Order, note 19, supra.

²⁸ The Exchange notes that an index or portfolio underlying a series of Units also would be required to meet the requirement of NYSE Arca Equities Rule 5.2(j)(3), Commentary .02(a)(4) that “[n]o component fixed-income security (excluding Treasury Securities and GSE Securities) shall represent more than 30% of the weight of the index or portfolio, and the five most heavily weighted component fixed-income securities in the index or

or portfolio components have a total dollar amount outstanding of at least \$10 billion, which, would limit listing of Units under the [sic] Rule 19b-4(e) to those based on underlying indexes of substantial size and multiple securities.

In addition, because the Exchange's proposed alternative listing criteria for Units based on municipal bond indexes or portfolios would require a minimum of 13 non-affiliated issuers, the Exchange proposes to change NYSE Arca Equities Rule 5.2(j)(3), Commentary .02(a)(5)²⁹ so that municipal securities could not be among the exempted securities in an index or portfolio underlying a Unit that is not subject to the minimum 13 non-affiliated issuer requirement.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b)³⁰ of the Act, in general, and furthers the objectives of Section 6(b)(5),³¹ 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

portfolio shall not in the aggregate account for more than 65% of the weight of the index or portfolio”.

²⁹ NYSE Arca Equities Rule 5.2(j)(3), Commentary .02(a)(5) provides that an underlying index or portfolio (excluding one consisting entirely of exempted securities) must include a minimum of 13 non-affiliated issuers. Municipal securities are exempted securities under Section 3(a)(12)(A) of the Act.

³⁰ 15 U.S.C. 78f(b).

³¹ 15 U.S.C. 78f(b)(5).

applicable to trading in the securities covered by the proposed rules, serve to foster investor protection. The proposed rule change would 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.³² With respect to proposed Commentary .02(a)(2)(B)(i), 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 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 represented by another that shares similar characteristics for purposes of developing an investment strategy.³³ 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

³² See note 19, supra.

³³ See iShares 2018 Notice, iShares 2020 Notice and iShares 2021/2022 Notice, note 19, supra.

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 would 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) would 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 compliance with NYSE Arca Equities Rule 5.2(j)(3), Commentary .02(a)(2), for an index or portfolio of municipal bond components that does not meet the requirement that components that in the aggregate account for least 75% of the weight of the index or portfolio each shall have a minimum original principal amount outstanding of \$100 million or more, 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 would help ensure that a substantial percentage of the applicable index components are liquid. The proposed requirement that the average dollar amount outstanding of components be at least \$10 million is comparable to the average dollar amount

outstanding for index components of municipal bond indexes underlying funds previously approved by the Commission for Exchange trading.³⁴

The proposed requirement that that [sic] each component have a minimum principal amount outstanding of at least \$2 million, combined with the 75% Requirement, would assure that individual maturities within an index or portfolio be of substantial size. The proposed requirement that an index or portfolio include at least 1,000 components is comparable to the number of index components of municipal bond indexes underlying funds previously approved by the Commission for Exchange trading.³⁵ Such requirement would effectively require that index or portfolio components have a total dollar amount outstanding of at least \$10 billion, which would facilitate listing of Units based on underlying indexes of substantial size. The proposed requirement that an index or portfolio include a minimum of 13 non-affiliated issuers, which is based on the existing requirement in Commentary .02(a)(5), would facilitate generic listing of Units that are diversified and broad-based.

Finally, the proposed amendment to NYSE Arca Equities Rule 5.2(j)(3), Commentary .02(a)(5) to exclude municipal securities from the types of exempted securities in an index or portfolio that is excepted from the requirement that an index or portfolio underlying a Unit have at least 13 non-affiliated issuers would require that the index or portfolio include a minimum of 13 non-affiliated issuers as set forth in proposed Commentary .02(a)(2)(B)(v)

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

³⁴ See, e.g., 2021/2022 Order and PowerShares Order, note 19, supra.

³⁵ See, e.g., PowerShares Order, note 19, supra.

public interest in that it would 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 would 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 current Rule 5.2(j)(3), Commentary .02(a)(2). 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). In addition, the Exchange believes that the proposed criteria in proposed Commentary .02(a)(2)(B)(ii) through (v) would facilitate generic listing of funds based on municipal bond index components that are sufficiently broad-based and liquid to deter potential manipulation.

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

The Exchange does not believe that the proposed rule change would 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. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as modified by Amendment No. 1, 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 10 days from publication in the Federal Register].³⁶

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.³⁷

Robert W. Errett
Deputy Secretary

³⁶ The Commission believes that a 10-day comment period is reasonable, given the requirement that the Commission act on the proposed rule change by October 2, 2015. A 10-day period will provide adequate time for comment. See supra notes 7 and 8.

³⁷ 17 CFR 200.30-3(a)(12).