

Required fields are shown with yellow backgrounds and asterisks.

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SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549
Form 19b-4

File No. * SR 2024 - * 61

Amendment No. (req. for Amendments *)

Filing by NYSE Arca, Inc.

Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934

Initial * <input checked="" type="checkbox"/>	Amendment * <input type="checkbox"/>	Withdrawal <input type="checkbox"/>	Section 19(b)(2) * <input type="checkbox"/>	Section 19(b)(3)(A) * <input checked="" type="checkbox"/>	Section 19(b)(3)(B) * <input type="checkbox"/>
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Pilot <input type="checkbox"/>	Extension of Time Period for Commission Action * <input type="checkbox"/>	Date Expires * <input type="text"/>
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Rule

<input type="checkbox"/> 19b-4(f)(1)	<input type="checkbox"/> 19b-4(f)(4)
<input type="checkbox"/> 19b-4(f)(2)	<input type="checkbox"/> 19b-4(f)(5)
<input type="checkbox"/> 19b-4(f)(3)	<input checked="" type="checkbox"/> 19b-4(f)(6)

Notice of proposed change pursuant to the Payment, Clearing, and Settlement Act of 2010

Section 806(e)(1) *

Section 806(e)(2) *

Security-Based Swap Submission pursuant to the Securities Exchange Act of 1934

Section 3C(b)(2) *

Exhibit 2 Sent As Paper Document

Exhibit 3 Sent As Paper Document

Description

Provide a brief description of the action (limit 250 characters, required when Initial is checked *).

Proposal to Amend Rule 1.1 and Rule 5.2-E(j)(6)

Contact Information

Provide the name, telephone number, and e-mail address of the person on the staff of the self-regulatory organization prepared to respond to questions and comments on the action.

First Name * Le-Anh Last Name * Bui

Title * Senior Counsel, NYSE Group Inc.

E-mail * Le-Anh.Bui@ice.com

Telephone * (202) 661-8953 Fax (212) 656-8101

Signature

Pursuant to the requirements of the Securities Exchange of 1934, NYSE Arca, Inc. has duly caused this filing to be signed on its behalf by the undersigned thereunto duly authorized.

Date 07/15/2024

(Title *)

By Patrick Troy

Associate General Counsel

(Name *)

NOTE: Clicking the signature block at right will initiate digitally signing the form. A digital signature is as legally binding as a physical signature, and once signed, this form cannot be changed.

Patrick Troy Digitally signed by Patrick Troy
Date: 2024.07.15 13:41:09 -04'00'

Required fields are shown with yellow backgrounds and astericks.

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

For complete Form 19b-4 instructions please refer to the EFFS website.

Form 19b-4 Information *

Add Remove View

19b-4 - Amend NYSE Arca Rules 1.1 a

The self-regulatory organization must provide all required information, presented in a clear and comprehensible manner, to enable the public to provide meaningful comment on the proposal and for the Commission to determine whether the proposal is consistent with the Act and applicable rules and regulations under the Act.

Exhibit 1 - Notice of Proposed Rule Change *

Add Remove View

Ex. 1 Amend NYSE Arca Rules 1.1 a

The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

Exhibit 1A - Notice of Proposed Rule Change, Security-Based Swap Submission, or Advanced Notice by Clearing Agencies *

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The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

Exhibit 2- Notices, Written Comments, Transcripts, Other Communications

Add Remove View

Copies of notices, written comments, transcripts, other communications. If such documents cannot be filed electronically in accordance with Instruction F, they shall be filed in accordance with Instruction G.

Exhibit Sent As Paper Document

Exhibit 3 - Form, Report, or Questionnaire

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Copies of any form, report, or questionnaire that the self-regulatory organization proposes to use to help implement or operate the proposed rule change, or that is referred to by the proposed rule change.

Exhibit Sent As Paper Document

Exhibit 4 - Marked Copies

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The full text shall be marked, in any convenient manner, to indicate additions to and deletions from the immediately preceding filing. The purpose of Exhibit 4 is to permit the staff to identify immediately the changes made from the text of the rule with which it has been working.

Exhibit 5 - Proposed Rule Text

Add Remove View

Ex. 5 - Amend NYSE Arca Rules 1.1 a

The self-regulatory organization may choose to attach as Exhibit 5 proposed changes to rule text in place of providing it in Item I and which may otherwise be more easily readable if provided separately from Form 19b-4. Exhibit 5 shall be considered part of the proposed rule change

Partial Amendment

Add Remove View

If the self-regulatory organization is amending only part of the text of a lengthy proposed rule change, it may, with the Commission's permission, file only those portions of the text of the proposed rule change in which changes are being made if the filing (i.e. partial amendment) is clearly understandable on its face. Such partial amendment shall be clearly identified and marked to show deletions and additions.

1. Text of the Proposed Rule Change

- (a) Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² NYSE Arca, Inc. (“NYSE Arca” or the “Exchange”) proposes to (1) amend Rule 1.1 to include Exchange-Traded Fund Shares in the definition of “UTP Derivative Securities Product,” and (2) amend Rule 5.2-E(j)(6) to exclude Exchange-Traded Fund Shares when applying the quantitative generic listing criteria applicable to Equity Index-Linked Securities.

A notice of the proposed rule change for publication in the Federal Register is attached hereto as Exhibit 1, and the text of the proposed rule change is attached as Exhibit 5.

- (b) The Exchange does not believe that the proposed rule change will have any direct effect, or any significant indirect effect, on any other Exchange rule in effect at the time of this filing.
- (c) Not applicable.

2. Procedures of the Self-Regulatory Organization

Senior management has approved the proposed rule change pursuant to authority delegated to it by the Board of the Exchange. No further action by the Board of Directors or the membership of the Exchange is required. Therefore, the Exchange’s internal procedures with respect to the proposed change are complete.

The person on the Exchange staff prepared to respond to questions and comments on the proposed rule change is:

Le-Anh Bui
Senior Counsel
NYSE Group, Inc.
(202) 661-8953

3. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

- (a) Purpose

Rule 1.1

The Exchange proposes to amend Rule 1.1, which sets forth definitions of terms used in

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

Exchange rules, including the meanings of “Derivative Securities Product” and “UTP Derivative Securities Product.”

Specifically, the Exchange proposes to amend the definition of “UTP Derivative Securities Product” to include Exchange-Traded Fund Shares listed pursuant to NYSE Arca, Inc. (“NYSE Arca”) Rule 5.2-E(j)(8), Exchange-Traded Fund Shares listed pursuant to New York Stock Exchange LLC (“NYSE”) Rule 5.2(j)(8), Exchange-Traded Fund Shares listed pursuant to Cboe BZX Exchange, Inc. (“BZX”) Rule 14.11(l), and Exchange Traded Fund Shares listed pursuant to Nasdaq Stock Market LLC (“Nasdaq”) Rule 5704 as additional types of Exchange Traded Product (“ETPs”) that may trade on the Exchange pursuant to unlisted trading privileges (“UTP”).³

To effect this change, the Exchange proposes to add a bullet point listing “Exchange-Traded Fund Shares listed pursuant to NYSE Arca, Inc. Rule 5.2-E(j)(8), New York Stock Exchange LLC Rule 5.2(j)(8), or Cboe BZX Exchange, Inc. Rule 14.11(l) and Exchange Traded Fund Shares listed pursuant to Nasdaq Stock Market LLC Rule 5704” in Rule 1.1 to include them in the enumerated list of Derivative Securities Products that may trade on the Exchange on a UTP basis. The Exchange also proposes non-substantive changes to accommodate the addition of this bullet point as the final item in the bulleted list in Rule 1.1.

The Exchange believes that the proposed change would ensure that the definition of “UTP Derivative Securities Product” in Rule 1.1 reflects a complete list of Derivative Securities Products that may trade on the Exchange pursuant to UTP, thereby improving the clarity and transparency of Exchange Rules.

Rule 5.2-E(j)(6)

Rule 5.2-E(j)(6) sets forth criteria applicable to Exchange listing of equity index-linked securities (“Equity Index-Linked Securities”), commodity-linked securities, currency-linked securities, fixed income index-linked securities, futures-linked securities, and multifactor index-linked securities.

As defined in Rule 5.2-E(j)(6)(B)(I)(1), Equity Index-Linked Securities are securities that provide for the payment at maturity (or earlier redemption) based on the performance of an underlying index or indexes of equity securities, securities of closed-end management

³ Exchange-Traded Fund Shares and Exchange Traded Fund Shares are substantially similar products that generally refer to shares of exchange-traded funds eligible to operate in reliance on Rule 6c-11 under the Investment Company Act of 1940. See Securities Exchange Act Release Nos. 88625 (April 13, 2020), 85 FR 21479 (April 17, 2020) (SR-NYSEArca-2019-81) (order approving NYSE Arca Rule 5.2-E(j)(8) governing the listing and trading of Exchange-Traded Fund Shares); 91029 (February 1, 2021), 86 FR 8420 (February 5, 2021) (SR-NYSE-2020-86) (order approving NYSE Rule 5.2(j)(8) governing the listing and trading of Exchange-Traded Fund Shares); 88566 (April 6, 2020), 85 FR 20312 (April 10, 2020) (SR-CboeBZX-2019-097) (order approving BZX Rule 14.11(l) governing the listing and trading of Exchange-Traded Fund Shares); 88561 (April 3, 2020), 85 FR 19984 (April 9, 2020) (SR-NASDAQ-2019-090) (order approving Nasdaq Rule 5704 governing the listing and trading of Exchange Traded Fund Shares).

investment companies registered under the Investment Company Act of 1940,⁴ and/or Investment Company Units. In addition to certain other generic listing criteria, Equity Index-Linked Securities must satisfy the generic quantitative initial and continued listing criteria under Rule 5.2-E(j)(6)(B)(I) in order to become, and continue to be, listed and traded on the Exchange. Certain of the applicable quantitative criteria specify minimum or maximum thresholds that must be satisfied with respect to, for example, market value, trading volume, and dollar weight of an index represented by a single component or groups of components.

Currently, Rule 5.2-E(j)(6)(B)(I)(1)(a) provides that each underlying index of an Equity Index-Linked Security is required to have at least ten component securities, provided, however, that there shall be no minimum number of component securities if one or more issues of Derivative Securities Products (i.e., Investment Company Units (as described in Rule 5.2-E(j)(3)) and securities described in Section 2 of Rule 8) or Index-Linked Securities (as described in Rule 5.2-E(j)(6)), constitute, at least in part, component securities underlying an issue of Equity Index-Linked Securities. The Exchange proposes to amend Rule 5.2-E(j)(6)(B)(I)(1)(a) to include Exchange-Traded Fund Shares, as described in Rule 5.2-E(j)(8), in the group of Derivative Securities Products to which the ten component security minimum would not apply. The Exchange also proposes to exclude Derivative Securities Products, consistent with this proposed change to the description of Derivative Securities Products in Rule 5.2-E(j)(6)(B)(I)(1)(a), from consideration when determining whether the applicable quantitative generic thresholds have been satisfied under the initial listing standards specified in Rules 5.2-E(j)(6)(B)(I)(1)(b)(i) through (iv) and the continued listing standards specified in Rules 5.2-E(j)(6)(B)(I)(2)(a)(i) and (ii). Thus, for example, when determining compliance with Rule 5.2-E(j)(6)(B)(I)(1)(b)(ii), component stocks, excluding Derivative Securities Products (which would, as proposed, include Exchange-Traded Fund Shares) or Index-Linked Securities, that in the aggregate account for at least 90% of the remaining index weight, excluding any Derivative Securities Products (including, as proposed, Exchange-Traded Fund Shares) or Index-Linked Securities, would be required to have a minimum global monthly trading volume of 1,000,000 shares, or minimum global notional volume traded per month of \$25,000,000, averaged over the last six months.

In addition, Rule 5.2-E(j)(6)(B)(I)(1)(a) currently provides that the securities described in Rule 5.2-E(j)(3), Section 2 of Rule 8, and Rule 5.2-E(j)(6), as referenced in Rule 5.2-E(j)(6)(B)(I)(1)(b)(2) and Rule 5.2-E(j)(6)(B)(I)(2)(a), shall include securities listed on another national securities exchange pursuant to substantially equivalent listing rules. The Exchange proposes to update this list to include a reference to Rule 5.2-E(j)(8), consistent with the proposed change described above. The Exchange also proposes non-substantive changes in two places in Rule 5.2-E(j)(6)(B)(I)(1)(a) to refer to “Section 2 of Rule 8-E” (instead of “Section 2 of Rule 8”) to reflect the current NYSE Arca rule numbering convention. Finally, the Exchange proposes non-substantive changes to delete the extra spaces that appear in the term “Index-Linked Securities” in Rules 5.2-E(j)(6)(B)(I)(1)(b)(ii), 5.2-E(j)(6)(B)(I)(2)(a)(i), and 5.2-E(j)(6)(B)(I)(2)(a)(ii).

⁴

15 U.S.C. 80-1.

The Exchange notes that the inclusion of Exchange-Traded Fund Shares in the group of Derivative Securities Products that are excepted from the generic listing and continued listing criteria specified above for Equity Index-Linked Securities would align the Exchange's rules with the listing criteria for Equity Index-Linked Securities on at least one other equity exchange.⁵

(b) Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,⁶ in general, and furthers the objectives of Section 6(b)(5) of the Act,⁷ in particular, because it is designed to remove impediments to and perfect the mechanism of a free and open market, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest.

The proposed rule change with respect to the definition of "UTP Derivative Securities Products" in Rule 1.1 is designed to remove impediments to and perfect the mechanism of a free and open market, promote just and equitable principles of trade, and, in general, to protect investors and the public interest because it modifies Rule 1.1 to state the complete list of Derivative Securities Products that may trade on a UTP basis on the Exchange, providing specificity, clarity, and transparency in the Exchange's rules. Moreover, the proposed rule change would facilitate the trading of additional types of Derivative Securities Products on the Exchange pursuant to UTP, thereby enhancing competition among market participants for the benefit of investors and the marketplace.

The Exchange believes that the proposed change with respect to Rule 5.2-E(j)(6) is designed to remove impediments to and perfect the mechanism of a free and open market, promote just and equitable principles of trade, and, in general, to protect investors and the public interest because including Exchange-Traded Fund Shares as Derivative Securities Products excepted from certain generic listing and continued listing criteria for Equity Index-Linked Securities would facilitate the listing and trading of additional types of Equity Index-Linked Securities. The Exchange further believes the

⁵ See, e.g., BZX Rule 14.11(d)(2)(K)(i)(a) (describing listing criteria for Equity Index-Linked Securities, including that "each underlying index is required to have at least ten (10) component securities; provided, however, that there shall be no minimum number of component securities if one or more issues of Derivative Securities Products (which are defined in Rule 14.11(c)(3)(A)(i)(a))...constitute, at least in part, component securities underlying an issue of Equity Index-Linked Securities"); BZX Rule 14.11(c)(3)(A)(i)(a) (defining "Derivative Securities Products" to include Index Fund Shares, Portfolio Depository Receipts, Trust Issued Receipts, ETF Shares, and Managed Fund Shares); and BZX 14.11(l) (defining Exchange-Traded Fund Shares or ETF Shares). Cf. Nasdaq Rule 5705(b)(3)(A)(i)(a) (describing listing criteria for Index Fund Shares, including that "Component stocks (excluding "Derivative Securities Products" as defined in this subsection a.) that in the aggregate account for at least 90% of the weight of the U.S. Component Stocks portion of the index or portfolio (excluding Derivative Securities Products) each shall have a minimum market value of at least \$75 million" and defining "Derivative Securities Products" as including Exchange Traded Fund Shares listed under Nasdaq Rule 5704).

⁶ 15 U.S.C. 78f(b).

⁷ 15 U.S.C. 78f(b)(4) & (5).

proposed change would remove impediments to and perfect the mechanism of a free and open market and promote competition, to the benefit of investors and the marketplace, because the proposed change would amend the Exchange's rules to be consistent with the listing criteria for Equity Index-Linked Securities on at least one other equity exchange.⁸

4. 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 change would provide the public and investors with up-to-date information about the types of Derivative Securities Products that can trade on the Exchange on a UTP basis and would promote competition by providing for additional types of Derivative Securities Products that may trade on the Exchange pursuant to UTP. The Exchange also believes that the proposed change would encourage competition by enabling additional types of Equity Index-Linked Securities to be listed on the Exchange.

5. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

6. Extension of Time Period for Commission Action

Not applicable.

7. Basis for Summary Effectiveness Pursuant to Section 19(b)(3) or for Accelerated Effectiveness Pursuant to Section 19(b)(2)

The proposed rule change is effective upon filing pursuant to Section 19(b)(3)(A) of the Act⁹ and Rule 19b-4(f)(6) thereunder.¹⁰ The Exchange asserts that the proposed rule change (i) will not significantly affect the protection of investors or the public interest, (ii) will not impose any significant burden on competition, and (iii) by its terms, will not become operative for 30 days after the date of this filing, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest. Additionally, the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of the filing, or such shorter time as designated by the Commission.

The Exchange believes that the proposed rule change does not significantly affect the protection of investors or the public interest or impose a significant burden on

⁸ See note 5, *supra*.

⁹ 15 U.S.C. 78s(b)(3)(A).

¹⁰ 17 CFR 240.19b-4(f)(6).

competition because it expands the Derivative Securities Products to which the Exchange may extend UTP and provides clarity and specificity regarding the Derivative Securities Products that are permitted to trade pursuant to UTP on the Exchange. The Exchange further believes that the proposed change would not significantly affect the protection of investors or the public interest or impose a significant burden on competition, but would instead benefit investors and the marketplace by facilitating the listing and trading of additional types of Equity Index-Linked Securities. The proposed change could also encourage competition by streamlining the process to list Equity Index-Linked Securities on the Exchange and promote consistency with the listing criteria applied by another equities exchange for the same product.

The Exchange respectfully requests that the Commission waive the 30-day operative delay, so that the proposed rule change may become immediately operative pursuant to Section 19(b)(3)(A)¹¹ and Rule 19b-4(f)(6)¹² thereunder.

The Exchange believes that waiver of the operative delay of the proposed rule change would be consistent with the protection of investors and the public interest because Exchange-Traded Fund Shares and Exchange Traded Fund Shares are currently eligible for trading on NYSE Arca, NYSE, BZX, and Nasdaq, and such waiver would permit the Exchange to promptly clarify its rules regarding the types of ETPs that may trade on the Exchange pursuant to UTP. The Exchange similarly believes that waiver of the operative delay would promptly facilitate the listing of additional series of Equity Index-Linked Securities.

At any time within sixty (60) days of the filing of such proposed rule change, the Commission may summarily temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

8. Proposed Rule Change Based on Rules of Another Self-Regulatory Organization or of the Commission

The proposed rule change is not based on the rules of another self-regulatory organization or of the Commission.

9. Security-Based Swap Submissions Filed Pursuant to Section 3C of the Act

Not applicable.

¹¹ 15 U.S.C. 78s(b)(3)(A).

¹² 17 CFR 240.19b-4(f)(6).

10. Advance Notices Filed Pursuant to Section 806(e) of the Payment, Clearing and Settlement Supervision Act

Not applicable.

11. Exhibits

Exhibit 1 – Form of Notice of Proposed Rule Change for Federal Register

Exhibit 5 – Text of Proposed Rule Change

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34- ; File No. SR-NYSEARCA-2024-61)

[Date]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend Rule 1.1 and Rule 5.2-E(j)(6)

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 July 15, 2024, NYSE Arca, Inc. (“NYSE Arca” or the “Exchange”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to (1) amend Rule 1.1 to include Exchange-Traded Fund Shares in the definition of “UTP Derivative Securities Product,” and (2) amend Rule 5.2-E(j)(6) to exclude Exchange-Traded Fund Shares when applying the quantitative generic listing criteria applicable to Equity Index-Linked Securities. 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.

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization’s Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

Rule 1.1

The Exchange proposes to amend Rule 1.1, which sets forth definitions of terms used in Exchange rules, including the meanings of “Derivative Securities Product” and “UTP Derivative Securities Product.”

Specifically, the Exchange proposes to amend the definition of “UTP Derivative Securities Product” to include Exchange-Traded Fund Shares listed pursuant to NYSE Arca, Inc. (“NYSE Arca”) Rule 5.2-E(j)(8), Exchange-Traded Fund Shares listed pursuant to New York Stock Exchange LLC (“NYSE”) Rule 5.2(j)(8), Exchange-Traded Fund Shares listed pursuant to Cboe BZX Exchange, Inc. (“BZX”) Rule 14.11(l), and Exchange Traded Fund Shares listed pursuant to Nasdaq Stock Market LLC (“Nasdaq”) Rule 5704 as additional types of Exchange Traded Product (“ETPs”) that may trade on the Exchange pursuant to unlisted trading privileges (“UTP”).⁴

⁴ Exchange-Traded Fund Shares and Exchange Traded Fund Shares are substantially similar products that generally refer to shares of exchange-traded funds eligible to operate in reliance on Rule 6c-11 under the Investment Company Act of 1940. See Securities Exchange Act Release Nos. 88625 (April 13, 2020), 85 FR 21479 (April 17, 2020) (SR-NYSEArca-2019-81) (order approving NYSE Arca Rule 5.2-E(j)(8)

To effect this change, the Exchange proposes to add a bullet point listing “Exchange-Traded Fund Shares listed pursuant to NYSE Arca, Inc. Rule 5.2-E(j)(8), New York Stock Exchange LLC Rule 5.2(j)(8), or Cboe BZX Exchange, Inc. Rule 14.11(l) and Exchange Traded Fund Shares listed pursuant to Nasdaq Stock Market LLC Rule 5704” in Rule 1.1 to include them in the enumerated list of Derivative Securities Products that may trade on the Exchange on a UTP basis. The Exchange also proposes non-substantive changes to accommodate the addition of this bullet point as the final item in the bulleted list in Rule 1.1.

The Exchange believes that the proposed change would ensure that the definition of “UTP Derivative Securities Product” in Rule 1.1 reflects a complete list of Derivative Securities Products that may trade on the Exchange pursuant to UTP, thereby improving the clarity and transparency of Exchange Rules.

Rule 5.2-E(j)(6)

Rule 5.2-E(j)(6) sets forth criteria applicable to Exchange listing of equity index-linked securities (“Equity Index-Linked Securities”), commodity-linked securities, currency-linked securities, fixed income index-linked securities, futures-linked securities, and multifactor index-linked securities.

As defined in Rule 5.2-E(j)(6)(B)(I)(1), Equity Index-Linked Securities are securities that provide for the payment at maturity (or earlier redemption) based on the performance of an underlying index or indexes of equity securities, securities of closed-end management investment

governing the listing and trading of Exchange-Traded Fund Shares); 91029 (February 1, 2021), 86 FR 8420 (February 5, 2021) (SR-NYSE-2020-86) (order approving NYSE Rule 5.2(j)(8) governing the listing and trading of Exchange-Traded Fund Shares); 88566 (April 6, 2020), 85 FR 20312 (April 10, 2020) (SR-CboeBZX-2019-097) (order approving BZX Rule 14.11(l) governing the listing and trading of Exchange-Traded Fund Shares); 88561 (April 3, 2020), 85 FR 19984 (April 9, 2020) (SR-NASDAQ-2019-090) (order approving Nasdaq Rule 5704 governing the listing and trading of Exchange Traded Fund Shares).

companies registered under the Investment Company Act of 1940,⁵ and/or Investment Company Units. In addition to certain other generic listing criteria, Equity Index-Linked Securities must satisfy the generic quantitative initial and continued listing criteria under Rule 5.2-E(j)(6)(B)(I) in order to become, and continue to be, listed and traded on the Exchange. Certain of the applicable quantitative criteria specify minimum or maximum thresholds that must be satisfied with respect to, for example, market value, trading volume, and dollar weight of an index represented by a single component or groups of components.

Currently, Rule 5.2-E(j)(6)(B)(I)(1)(a) provides that each underlying index of an Equity Index-Linked Security is required to have at least ten component securities, provided, however, that there shall be no minimum number of component securities if one or more issues of Derivative Securities Products (i.e., Investment Company Units (as described in Rule 5.2-E(j)(3)) and securities described in Section 2 of Rule 8) or Index-Linked Securities (as described in Rule 5.2-E(j)(6)), constitute, at least in part, component securities underlying an issue of Equity Index-Linked Securities. The Exchange proposes to amend Rule 5.2-E(j)(6)(B)(I)(1)(a) to include Exchange-Traded Fund Shares, as described in Rule 5.2-E(j)(8), in the group of Derivative Securities Products to which the ten component security minimum would not apply. The Exchange also proposes to exclude Derivative Securities Products, consistent with this proposed change to the description of Derivative Securities Products in Rule 5.2-E(j)(6)(B)(I)(1)(a), from consideration when determining whether the applicable quantitative generic thresholds have been satisfied under the initial listing standards specified in Rules 5.2-E(j)(6)(B)(I)(1)(b)(i) through (iv) and the continued listing standards specified in Rules 5.2-E(j)(6)(B)(I)(2)(a)(i) and (ii). Thus, for example, when determining compliance with Rule 5.2-

⁵ 15 U.S.C. 80-1.

E(j)(6)(B)(I)(1)(b)(ii), component stocks, excluding Derivative Securities Products (which would, as proposed, include Exchange-Traded Fund Shares) or Index-Linked Securities, that in the aggregate account for at least 90% of the remaining index weight, excluding any Derivative Securities Products (including, as proposed, Exchange-Traded Fund Shares) or Index-Linked Securities, would be required to have a minimum global monthly trading volume of 1,000,000 shares, or minimum global notional volume traded per month of \$25,000,000, averaged over the last six months.

In addition, Rule 5.2-E(j)(6)(B)(I)(1)(a) currently provides that the securities described in Rule 5.2-E(j)(3), Section 2 of Rule 8, and Rule 5.2-E(j)(6), as referenced in Rule 5.2-E(j)(6)(B)(I)(1)(b)(2) and Rule 5.2-E(j)(6)(B)(I)(2)(a), shall include securities listed on another national securities exchange pursuant to substantially equivalent listing rules. The Exchange proposes to update this list to include a reference to Rule 5.2-E(j)(8), consistent with the proposed change described above. The Exchange also proposes non-substantive changes in two places in Rule 5.2-E(j)(6)(B)(I)(1)(a) to refer to “Section 2 of Rule 8-E” (instead of “Section 2 of Rule 8”) to reflect the current NYSE Arca rule numbering convention. Finally, the Exchange proposes non-substantive changes to delete the extra spaces that appear in the term “Index-Linked Securities” in Rules 5.2-E(j)(6)(B)(I)(1)(b)(ii), 5.2-E(j)(6)(B)(I)(2)(a)(i), and 5.2-E(j)(6)(B)(I)(2)(a)(ii).

The Exchange notes that the inclusion of Exchange-Traded Fund Shares in the group of Derivative Securities Products that are excepted from the generic listing and continued listing criteria specified above for Equity Index-Linked Securities would align the Exchange’s rules with the listing criteria for Equity Index-Linked Securities on at least one other equity exchange.⁶

⁶ See, e.g., BZX Rule 14.11(d)(2)(K)(i)(a) (describing listing criteria for Equity Index-Linked Securities, including that “each underlying index is required to have at least ten (10) component securities; provided,

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,⁷ in general, and furthers the objectives of Section 6(b)(5) of the Act,⁸ in particular, because it is designed to remove impediments to and perfect the mechanism of a free and open market, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest.

The proposed rule change with respect to the definition of “UTP Derivative Securities Products” in Rule 1.1 is designed to remove impediments to and perfect the mechanism of a free and open market, promote just and equitable principles of trade, and, in general, to protect investors and the public interest because it modifies Rule 1.1 to state the complete list of Derivative Securities Products that may trade on a UTP basis on the Exchange, providing specificity, clarity, and transparency in the Exchange’s rules. Moreover, the proposed rule change would facilitate the trading of additional types of Derivative Securities Products on the Exchange pursuant to UTP, thereby enhancing competition among market participants for the benefit of investors and the marketplace.

The Exchange believes that the proposed change with respect to Rule 5.2-E(j)(6) is

however, that there shall be no minimum number of component securities if one or more issues of Derivative Securities Products (which are defined in Rule 14.11(c)(3)(A)(i)(a)...constitute, at least in part, component securities underlying an issue of Equity Index-Linked Securities”); BZX Rule 14.11(c)(3)(A)(i)(a) (defining “Derivative Securities Products” to include Index Fund Shares, Portfolio Depository Receipts, Trust Issued Receipts, ETF Shares, and Managed Fund Shares); and BZX 14.11(l) (defining Exchange-Traded Fund Shares or ETF Shares). Cf. Nasdaq Rule 5705(b)(3)(A)(i)(a) (describing listing criteria for Index Fund Shares, including that “Component stocks (excluding “Derivative Securities Products” as defined in this subsection a.) that in the aggregate account for at least 90% of the weight of the U.S. Component Stocks portion of the index or portfolio (excluding Derivative Securities Products) each shall have a minimum market value of at least \$75 million” and defining “Derivative Securities Products” as including Exchange Traded Fund Shares listed under Nasdaq Rule 5704).

⁷ 15 U.S.C. 78f(b).

⁸ 15 U.S.C. 78f(b)(4) & (5).

designed to remove impediments to and perfect the mechanism of a free and open market, promote just and equitable principles of trade, and, in general, to protect investors and the public interest because including Exchange-Traded Fund Shares as Derivative Securities Products excepted from certain generic listing and continued listing criteria for Equity Index-Linked Securities would facilitate the listing and trading of additional types of Equity Index-Linked Securities. The Exchange further believes the proposed change would remove impediments to and perfect the mechanism of a free and open market and promote competition, to the benefit of investors and the marketplace, because the proposed change would amend the Exchange's rules to be consistent with the listing criteria for Equity Index-Linked Securities on at least one other equity exchange.⁹

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 change would provide the public and investors with up-to-date information about the types of Derivative Securities Products that can trade on the Exchange on a UTP basis and would promote competition by providing for additional types of Derivative Securities Products that may trade on the Exchange pursuant to UTP. The Exchange also believes that the proposed change would encourage competition by enabling additional types of Equity Index-Linked Securities to be listed on the Exchange.

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.

⁹ See note 6, supra.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act¹⁰ and Rule 19b-4(f)(6) thereunder.¹¹ Because the proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b-4(f)(6)(iii) thereunder.

A proposed rule change filed under Rule 19b-4(f)(6)¹² normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),¹³ the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)¹⁴ of the Act to determine

¹⁰ 15 U.S.C. 78s(b)(3)(A)(iii).

¹¹ 17 CFR 240.19b-4(f)(6).

¹² 17 CFR 240.19b-4(f)(6).

¹³ 17 CFR 240.19b-4(f)(6)(iii).

¹⁴ 15 U.S.C. 78s(b)(2)(B).

whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments:

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-NYSEARCA-2024-61 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-2024-61. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<https://www.sec.gov/rules/sro.shtml>).

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3

p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR-NYSEARCA-2024-61 and should be submitted on or before [INSERT DATE 21 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁵

Sherry R. Haywood,

Assistant Secretary.

¹⁵ 17 CFR 200.30-3(a)(12).

Additions: Underlined
Deletions: [Bracketed]

Rules of NYSE Arca, Inc.

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Rule 1 DEFINITIONS

Rule 1.1. Definitions

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Derivative Securities Product and UTP Derivative Securities Product

With respect to cash equity securities traded on the Exchange, the term “Derivative Securities Product” means a security that meets the definition of “derivative securities product” in Rule 19b-4(e) under the Securities Exchange Act of 1934 and a “UTP Derivative Securities Product” means one of the following Derivative Securities Products that trades on the Exchange pursuant to unlisted trading privileges:

- Equity Linked Notes,
- Investment Company Units listed pursuant to NYSE Arca, Inc. Rule 5.2-E(j)(3) and Index Fund Shares listed pursuant to Cboe BZX Exchange, Inc. Rule 14.11(c) or Nasdaq Stock Exchange LLC Rule 5705(b),
- Index-Linked Exchangeable Notes,
- Equity Gold Shares,
- Equity Index-Linked Securities,
- Commodity-Linked Securities,
- Currency-Linked Securities,
- Fixed-Income Index-Linked Securities,
- Futures-Linked Securities,
- Multifactor-Index-Linked Securities,
- Trust Certificates,

- Currency and Index Warrants,
- Portfolio Depository Receipts,
- Trust Issued Receipts,
- Commodity-Based Trust Shares,
- Currency Trust Shares,
- Commodity Index Trust Shares,
- Commodity Futures Trust Shares,
- Partnership Units,
- Paired Trust Shares,
- Trust Units,
- Managed Fund Shares,
- Managed Trust Securities,
- Managed Portfolio Shares, [and]
- Active Proxy Portfolio Shares listed pursuant to NYSE Arca, Inc. Rule 8.601-E, Tracking Fund Shares listed pursuant to Cboe BZX Exchange, Inc. Rule 14.11(m), and Proxy Portfolio Shares listed pursuant to Nasdaq Stock Market LLC Rule 5750[.], and
- Exchange-Traded Fund Shares listed pursuant to NYSE Arca, Inc. Rule 5.2-E(j)(8), New York Stock Exchange LLC Rule 5.2(j)(8), or Cboe BZX Exchange, Inc. Rule 14.11(l) and Exchange Traded Fund Shares listed pursuant to Nasdaq Stock Market LLC Rule 5704.

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Rule 5-E EQUITIES LISTINGS

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Rule 5.2-E(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

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(B) Requirements Specific to Equity Index-Linked Securities, Commodity-Linked Securities, Currency-Linked Securities, Fixed Income Index-Linked Securities, Futures-Linked Securities and Multifactor Index-Linked Securities.

The issue must meet one of the criteria set forth below.

I. Equity Index-Linked Securities Listing Standards

(1) The Exchange will consider listing Equity Index-Linked Securities that meet the requirements of this subparagraph (B)(I), where the payment at maturity or earlier redemption is based on an index or indexes of equity securities, securities of closed-end management investment companies registered under the Investment Company Act of 1940 (the “1940 Act”) and/or Investment Company Units. The issue must meet the following initial listing criteria:

- (a) Each underlying index is required to have at least ten (10) component securities; provided, however, that there shall be no minimum number of component securities if one or more issues of Derivative Securities Products (i.e., Investment Company Units (as described in Rule 5.2-E(j)(3)), Exchange-Traded Fund Shares (as described in Rule 5.2-E(j)(8)), and securities described in Section 2 of Rule 8-E) or Index-Linked Securities (as described in Rule 5.2-E(j)(6)), constitute, at least in part, component securities underlying an issue of Equity Index-Linked Securities. The securities described in Rule 5.2-E(j)(3), 5.2-E(j)(8), Section 2 of Rule 8-E, and Rule 5.2-E(j)(6), as referenced below in Rule 5.2-E(j)(6)(B)(I)(1)(b)(2) and Rule 5.2-E(j)(6)(B)(I)(2)(a) below, shall include securities listed on another national securities exchange pursuant to substantially equivalent listing rules.
- (b) The index or indexes to which the security is linked shall either (1) have been reviewed and approved for the trading of Investment Company Units or options or other derivatives by the Commission under Section 19(b)(2) of the Act and rules thereunder and the conditions set forth in the Commission’s approval order, including comprehensive surveillance sharing agreements for non-U.S. stocks, continue to be satisfied, or (2) the index or indexes meet the following criteria:
 - (i) Each component security (excluding Derivative Securities Products and Index-Linked Securities) has a minimum market value of at least \$75 million, except that for each of the lowest

dollar weighted component securities in the index that in the aggregate account for no more than 10% of the dollar weight of the index (excluding Derivative Securities Products and Index-Linked Securities), the market value can be at least \$50 million;

- (ii) Component stocks (excluding Derivative Securities Products and Index-Linked Securities) that in the aggregate account for at least 90% of the weight of the index (excluding Derivative Securities Products and Index-Linked Securities) each shall have a minimum global monthly trading volume of 1,000,000 shares, or minimum global notional volume traded per month of \$25,000,000, averaged over the last six months;
- (iii) No underlying component security (excluding Derivative Securities Products and Index-Linked Securities) will represent more than 25% of the dollar weight of the index, and, to the extent applicable, the five highest dollar weighted component securities in the index (excluding Derivative Securities Products and Index-Linked Securities) do not in the aggregate account for more than 50% of the dollar weight of the index (60% for an index consisting of fewer than 25 component securities); and
- (iv) 90% of the index's numerical value (excluding Derivative Securities Products and Index-Linked Securities) and at least 80% of the total number of component securities (excluding Derivative Securities Products and Index-Linked Securities) will meet the then current criteria for standardized option trading set forth in NYSE Arca Rule 5.3-O; an index will not be subject to this requirement if (a) no underlying component security represents more than 10% of the dollar weight of the index (excluding Derivative Securities Products and Index-Linked Securities) and (b) the index has a minimum of 20 components (excluding Derivative Securities Products and Index-Linked Securities); and
- (v) All component securities shall be either:
 - (A) Securities (other than foreign country securities and American Depositary Receipts ("ADRs")) that are (x) issued by a 1934 Act reporting company or by an investment company registered under the 1940 Act, which in each case is listed on a national securities exchange, and (y) an "NMS stock" (as defined in Rule 600 of SEC Regulation NMS); or
 - (B) Foreign country securities or ADRs, provided that foreign country securities or foreign country securities underlying

ADRs having their primary trading market outside the United States on foreign trading markets that are not members of the Intermarket Surveillance Group (“ISG”) or parties to comprehensive surveillance sharing agreements with the Exchange will not in the aggregate represent more than 50% of the dollar weight of the index, and provided further that:

- (i) the securities of any one such market do not represent more than 20% of the dollar weight of the index, and
- (ii) the securities of any two such markets do not represent more than 33% of the dollar weight of the index.

(2) Continued Listing Criteria—(a) The Exchange will maintain surveillance procedures for securities listed under this Rule 5.2-E(j)(6) and may halt trading in such securities and will initiate delisting proceedings pursuant to Rule 5.5-E(m) (unless the Commission has approved the continued trading of the subject Index-Linked Security), if any of the standards set forth above in paragraphs 1(a) and (b)(2) are not continuously maintained, except that:

- (i) the criteria that no single component represent more than 25% of the dollar weight of the index (excluding Derivative Securities Products and Index-Linked Securities) and, to the extent applicable, the five highest dollar weighted components in the index (excluding Derivative Securities Products and Index-Linked Securities) cannot represent more than 50% (or 60% for indexes with less than 25 components) of the dollar weight of the index, need only be satisfied at the time the index is rebalanced;
- (ii) Component stocks (excluding Derivative Securities Products and Index-Linked Securities) that in the aggregate account for at least 90% of the weight of the index (excluding Derivative Securities Products and Index-Linked Securities) each shall have a minimum global monthly trading volume of 500,000 shares, or minimum global notional volume traded per month of \$12,500,000, averaged over the last six months.

* * * * *