

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-NYSEAMER-2025-35 and should be submitted on or before July 22, 2025.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁹

Sherry R. Haywood,
Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-103335; File No. SR-NYSEARCA-2025-44]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Sixth Amended and Restated Certificate of Incorporation of Intercontinental Exchange, Inc. and Ninth Amended and Restated Certificate of Incorporation of Intercontinental Exchange Holdings, Inc.

June 26, 2025.

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 June 16,

2025, 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 and II below, which Items have been prepared by the self-regulatory organization.⁴ 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 the Sixth Amended and Restated Certificate of Incorporation of Intercontinental Exchange, Inc. ("ICE") and Ninth Amended and Restated Certificate of Incorporation of Intercontinental Exchange Holdings, Inc. ("ICE Holdings") to reflect regulations relating to security-based swap execution facilities ("SBSEFs"), update the registered office in the State of Delaware, and make non-substantive and conforming changes. 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

The Exchange proposes to amend the ICE Current Certificate of Incorporation and ICE Holdings Current Certificate of Incorporation (together, the "Current Certificates") to reflect regulations relating to SBSEFs, update the registered office in the State of Delaware, and make non-substantive

and conforming changes.⁵ No change is proposed to the certificate of incorporation or bylaws of the Exchange.

The changes to the ICE Current Certificate of Incorporation described herein would become operative upon the proposed Seventh Amended and Restated Certificate of Incorporation ("ICE Proposed Certificate of Incorporation") becoming effective pursuant to its filing with the Secretary of State of the State of Delaware. The changes to the ICE Holdings Current Certificate of Incorporation described herein would become operative upon the proposed Tenth Amended and Restated Certificate of Incorporation ("ICE Holdings Proposed Certificate of Incorporation" and, together with the ICE Proposed Certificate of Incorporation, the "Proposed Certificates") becoming effective pursuant to its filing with the Secretary of State of the State of Delaware.

Changes Related to SBSEFs

Securities and Exchange Commission ("Commission") regulations extend limitations on stockholder voting and ownership to SBSEFs.⁶ Because ICE's subsidiary ICE Swap Trade, LLC ("IST") has registered with the Commission as an SBSEF, these Commission regulations apply.

IST has adopted Rule 410 (Ownership Limitation),⁷ which IST has advised the Exchange was designed to incorporate the requirements of 17 CFR 242.834 ("Rule 834") into the rules of the SBSEF. Additionally, ICE and ICE Holdings intend to amend their Current Certificates as described below.

ICE Proposed Certificate of Incorporation

The ICE Current Certificate of Incorporation would be amended as follows.

First, Article V (Limitations on Voting and Ownership) has limitations on stockholder voting and ownership that apply so long as ICE directly or indirectly controls a national securities exchange registered under the Act, such

⁵ ICE is the sole shareholder of ICE Holdings. ICE Holdings is the parent company of ICE Swap Trade, LLC. ICE Holdings is also the sole shareholder of NYSE Holdings LLC, which is the sole shareholder of NYSE Group, Inc., the parent company of the Exchange.

⁶ See 17 CFR 242.834. See also Securities Exchange Act Release No. 98845 (November 2, 2023), 88 FR 87156 (December 15, 2023) (Security-Based Swap Execution and Registration and Regulation of Security-Based Swap Execution Facilities) (adopting new Regulation SE, consisting of 17 CFR 242.800 through 17 CFR 242.835), effective February 13, 2024).

⁷ See ICE Swap Trade, LLC Submission No. 25-02 (SBSF-ICES-2025-002).

¹⁹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

⁴ For compliance with Federal Register publication requirements, the Commission slightly edited note 9, *infra*.

as the Exchange. These would be amended to also apply so long as ICE directly or indirectly controls a SBSEF registered under the Exchange Act, as follows:

- The first sentence of Article V(A)(1) (Voting Limitation), would be amended to add “or a security-based swap execution facility registered under Section 3D of the Exchange Act” immediately prior to (a).

- The end of Article V(A)(2) would be modified by adding “(and, with respect to a security-based swap execution facility registered under Section 3D of the Exchange Act, such resolution shall have been submitted to the SEC under Rule 242.806 or 242.807 under Regulation SE under the Exchange Act, shall have been approved by the SEC (if applicable) and shall have become effective thereunder)” to the existing (c).

- Article V(A)(3)(a) would be modified by adding text to the start of (i) as follows (proposed additions italicized):

(i) will not impair the ability of any national securities exchange registered under Section 6 of the Exchange Act *or any security-based swap execution facility registered under Section 3D of the Exchange Act, in any case that is directly or indirectly controlled by the Corporation (each such national securities exchange or security-based swap execution facility so controlled, an “Exchange”)*,

- The definition of “Member” in Article V(A)(8) would be modified as follows (proposed additions italicized): “Member” shall mean, *with respect to any national securities exchange, a Person that is a “member” of an Exchange within the meaning of Section 3(a)(3)(A) of the Exchange Act or, with respect to a security-based swap execution facility, a Person that is a “member” within the meaning of Rule 242.802 of Regulation SE under the Exchange Act.*

- The definition of “Related Persons” in Article V(A)(10) would be modified as follows (proposed additions italicized):

(d) in the case of a Person that is a Member, any Person that is associated with such Person (as determined using the definition of “person associated with a member” as defined under Section 3(a)(21) of the Exchange Act *(with references therein to a national securities exchange being deemed to include a security-based swap execution facility)*);

(e) in the case of a Person that is a natural person and is a Member, any broker or dealer that is also a Member with which such Person is associated (as determined using the definition of

“person associated with a member” as defined under Section 3(a)(21) of the Exchange Act *(with references therein to a national securities exchange being deemed to include a security-based swap execution facility)*);

- The end of the concentration limits in Article V(B)(2) (Ownership Concentration Limitation) would be modified by adding the following parenthetical to the existing (c): “(and, with respect to an Exchange that is a security-based swap execution facility, such resolution shall have been submitted to the SEC pursuant to Rule 242.806 or 242.807 of Regulation SE under the Exchange Act, shall have been approved by the SEC (if applicable) and shall have become effective thereunder)”.

Second, Article X (Amendments) of the ICE Current Certificate of Incorporation requires any amendment to, or repeal of any provision in, the ICE Current Certification of Incorporation to be filed with, or filed with and approved by, the Commission. These would be amended to also apply so long as ICE directly or indirectly controls a SBSEF registered under the Exchange Act.

To do so, the second sentence of Article X would be amended to add “(or, in the case of a security-based swap execution facility, Rule 242.806 or 242.807 under Regulation SE under the Exchange Act)” immediately following “the rules promulgated thereunder”. In this way, the ICE Proposed Certificate of Incorporation would provide that, if the board of directors of any controlled SBSEF determines that any amendment or repeal must be filed with or filed with and approved by the Commission under Rule 242.806 or 242.807 of Regulation SE before such amendment or repeal may be effectuated, then such amendment or repeal shall not be effectuated until so filed with or filed with and approved by the Commission.

ICE Holdings Proposed Certificate of Incorporation

The ICE Holdings Current Certificate of Incorporation would be amended as follows.

- A new paragraph would be added to Article V(A) (Voting Limitations) as follows (all text new):

4. In addition to the limitations in subsections 1–3 above of this Section A of Article V, for so long as the Corporation shall directly or indirectly control a security-based swap execution facility registered under Section 3D of the Exchange Act (each security-based swap execution facility so controlled, an “SBSEF”), no SBSEF Member (as defined below), either alone or together

with its Related Persons, shall be entitled directly or indirectly to vote, cause the voting of, or give any consent or proxy with respect to the voting of, any interest that exceeds 20% of the voting power of any class of securities or of other ownership interest in the Corporation (such threshold being hereinafter referred to as the “SBSEF Voting Limitation”), and the Corporation shall disregard any such votes purported to be cast in excess of the SBSEF Voting Limitation.

- The text after “enforced against such Record Owner” in current Article V(A)(5) (Article V(A)(6) of the ICE Holdings Proposed Certificate of Incorporation) would be amended as follows (proposed deletion in brackets, proposed additions italicized):

in a manner that will accomplish the Voting Limitation, [and] the Recalculated Voting Limitation *and the SBSEF Voting Limitation applicable to such Person and its Related Persons.*

- Paragraphs (d) and (e) of the definition of “Related Persons” in current Article V(A)(10) (Article V(A)(11) of the ICE Holdings Proposed Certificate of Incorporation) would be amended as follows (proposed additions italicized):

(d) in the case of a Person that is a Member *or SBSEF Member*, any Person that is associated with such Person (as determined using the definition of “person associated with a member” as defined under Section 3(a)(21) of the Exchange Act *(with references therein to a national securities exchange being deemed to include a security-based swap execution facility)*);

(e) in the case of a Person that is a natural person and is a Member *or SBSEF Member*, any broker or dealer that is also a Member *or SBSEF Member* with which such Person is associated (as determined using the definition of “person associated with a member” as defined under Section 3(a)(21) of the Exchange Act *(with references therein to a national securities exchange being deemed to include a security-based swap execution facility)*);

- The definition of “SBSEF Member” would be added as new Article V(A)(12), as follows (all text new):

12. “SBSEF Member” means, with respect to a security-based swap execution facility, a Person that is a “member” within the meaning of Rule 242.802 of Regulation SE under the Exchange Act.

- A new paragraph would be added to Article V(B) (Ownership Concentration Limitation) as follows (all text new):

5. In addition to the limitations in subsections 1–4 above of this Section B

of Article V, for so long as the Corporation shall directly or indirectly control any SBSEF, no SBSEF Member, either alone or together with its Related Persons, shall be permitted at any time to own, directly or indirectly, 20% or more of any class of voting securities or of other voting interest in the Corporation (the “*SBSEF Concentration Limitation*”). If any SBSEF Member, either alone or together with its Related Persons, at any time beneficially owns voting securities or other voting interest in the Corporation in excess of the SBSEF Concentration Limitation, such SBSEF Member and its Related Persons shall be obligated to sell promptly, and the Corporation shall be obligated to purchase promptly, at a price equal to the par value of such voting securities or other voting interest and to the extent funds are legally available therefor, that number of voting securities or other voting interest of the Corporation necessary so that such SBSEF Member, together with its Related Persons, shall beneficially own, directly or indirectly, less than 20% of any class of voting securities or of other voting interest in the Corporation, after taking into account that such repurchased voting securities or other voting interest shall become treasury shares and shall no longer be deemed to be outstanding.

- The second clause of current Article V(B)(5) (Article V(B)(6) of the ICE Holdings Proposed Certificate of Incorporation) would be amended as follows (proposed additions italicized): provided, however, that, if any Transfer of any shares of stock of the Corporation shall cause any Person, either alone or together with its Related Persons, at any time to beneficially own shares of stock of the Corporation in excess of the Concentration Limitation or *SBSEF Concentration Limitation*, such Person and its Related Persons shall be obligated to sell promptly, and the Corporation shall be obligated to purchase promptly, shares of stock of the Corporation as specified in Section B.4 or B.5, as applicable, of this ARTICLE V.

- The first sentence of current Article V(B)(6) (Article V(A)(7) of the ICE Holdings Proposed Certificate of Incorporation) would be amended as follows (proposed addition italicized):

If any share of Common Stock shall be represented by a certificate, a legend shall be placed on such certificate to the effect that such share of Common Stock is subject to the Concentration Limitations and *SBSEF Concentration Limitation* as set in Section B of this Article V.

- The final clause of Article V(C)(2) (Procedure for Repurchasing Stock)

would be amended to add “or SBSEF Concentration Limitation” after “Concentration Limitation”.

- Subclauses (i) and (ii) of the first sentence of Article V(D) (Right to Information; Determinations by the Board of Directors) would be amended as follows (proposed deletion in brackets, proposed additions italicized):

(i) to be subject to the Voting Limitation, [or] the Recalculated Voting Limitation or the *SBSEF Voting Limitation*, (ii) to own beneficially (within the meaning of Rules 13d–3 and 13d–5 under the Exchange Act) shares of stock of the Corporation entitled to vote on any matter in excess of the Concentration Limitation or *SBSEF Concentration Limitation*,

- The parenthetical in the first sentence of Article IX(B) (Quorum) would be amended as follows (proposed deletions in brackets, proposed additions italicized):

(it being understood that any shares in excess of the Voting Limitation, [or] the Recalculated Voting Limitation or the *SBSEF Voting Limitation* shall not be counted as present at the meeting and shall not be counted as outstanding shares of stock of the Corporation for purposes of determining whether there is a quorum, unless and only to the extent that the Voting Limitation or the Recalculated Voting Limitation, as applicable, shall have been duly waived pursuant to Section A or Section B of ARTICLE V).

Change in Registered Office

ICE and ICE Holdings are corporations organized under the laws of the State of Delaware. As such, they are both required to have and maintain a registered office and registered agent in the State of Delaware.⁸

The Exchange proposes to change the address of the registered office in both Proposed Certificates to reflect the move of the office of the registered agent. No change is proposed to the registered agent. Accordingly, Article II of both Proposed Certificates would be amended to provide that the address of the registered office in the State of Delaware, County of New Castle, is 1521 Concord Pike, Suite 201, Wilmington, Delaware 19803.

Other Changes

The Exchange proposes to make changes that are conforming or technical in nature. All are non-substantive.

⁸ See Del. Code tit 8, §§ 131 and 132.

ICE Proposed Certificate of Incorporation

References to the “Sixth Amended and Restated Certificate of Incorporation” and the “Fifth Amended and Restated Certificate of Incorporation” in the titles, introductory paragraphs, and signature lines would be changed to refer to the “Seventh Amended and Restated Certificate of Incorporation” and “Sixth Amended and Restated Certificate of Incorporation,” respectively.

The date of effectiveness and execution in the introductory certifications and signature line would be updated.

ICE Holdings Proposed Certificate of Incorporation

References to the “Ninth Amended and Restated Certificate of Incorporation” and the “Eighth Amended and Restated Certificate of Incorporation” in the titles, introductory paragraphs, and signature lines would be changed to refer to the “Tenth Amended and Restated Certificate of Incorporation” and “Ninth Amended and Restated Certificate of Incorporation,” respectively.

The date of effectiveness and execution in the introductory certifications and signature line would be updated.

To conform to one style, those terms that are not already underlined when defined would be underlined [sic].⁹ In addition to the definitions that would be added, the already existing definitions are in the introductory paragraph, the numbered certifications that immediately follow it, Article IV(A) (Classes and Series of Stock), Article IV(C) (Transfer Restrictions on Stock), and Article V(A)(1).

The word “commission” in Article IV(C) would be capitalized.

Paragraphs after proposed Article V(A)(4) and proposed Article V(B)(5) would be renumbered.

The cross reference in Article V(A)(6) would be renumbered from “Section A of ARTICLE VI” to “Section A of ARTICLE V”.

In Article X (Amendments), the parenthetical “(or the boards of directors of their successors)” would be deleted as unnecessary, because “Exchange” includes all ICE Holdings-

⁹ For example, “(the ‘Corporation’)” would become underlined [sic]. For compliance with Federal Register publication requirements, the Commission added the term “underlined” here in place of a depiction of the term “Corporation” becoming underlined [sic].

controlled national securities exchanges.¹⁰

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,¹¹ in general, and furthers the objectives of Section 6(b)(1)¹² in particular, in that it enables the Exchange to be so organized as to have the capacity to be able to carry out the purposes of the Act and to comply, and to enforce compliance by its exchange members and persons associated with its exchange members, with the provisions of the Act, the rules and regulations thereunder, and the rules of the Exchange.

Together, the Proposed Certificates and IST Rule 410¹³ are consistent with the Act and the rules promulgated under the Act.

The Exchange believes that the proposed rule change would contribute to the orderly operation of the Exchange and would enable the Exchange to continue to be so organized as to have the capacity to carry out the purposes of the Exchange Act and comply and enforce compliance with the provisions of the Exchange Act by its members and persons associated with its members because none of the proposed changes to the Proposed Certificates substantively would impact the Exchange. Rather the proposed changes are solely concerned with SBSEFs, updating the address of the registered office in Delaware of ICE and ICE Holdings and making conforming changes.

Additionally, IST has advised the Exchange that IST Rule 410 would, independently of these changes to the Proposed Certificates, provide the means to ensure that IST is in compliance with Rule 834(b).

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 any competitive issue but rather is concerned solely with ensuring that IST is in compliance with Regulation SE, updating the address of the registered office in Delaware of ICE and

ICE Holdings, and making non-substantive and conforming changes to the Current Certificates. No change is proposed to the certificate of incorporation or bylaws of 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.

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

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)(iii) of the Act¹⁴ and Rule 19b-4(f)(6) thereunder.¹⁵

A proposed rule change filed under Rule 19b-4(f)(6)¹⁶ normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),¹⁷ the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest.

At any time within 60 days of the filing of the 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)¹⁸ of the Act to determine 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-2025-44 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-2025-44. 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-2025-44 and should be submitted on or before July 22, 2025.

¹⁰ See the definition of "Exchange" in ICE Holdings Current Certificate of Incorporation, Article V(A)(1). No change to the definition is proposed.

¹¹ 15 U.S.C. 78f(b).

¹² 15 U.S.C. 78f(b)(1).

¹³ See ICE Swap Trade, LLC Submission No. 25-02 (SBSF-ICES-2025-002).

¹⁴ 15 U.S.C. 78s(b)(3)(A)(iii).

¹⁵ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission 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 filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

¹⁶ 17 CFR 240.19b-4(f)(6).

¹⁷ 17 CFR 240.19b-4(f)(6)(iii).

¹⁸ 15 U.S.C. 78s(b)(2)(B).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁹

Sherry R. Haywood,

Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-103334; File No. SR-FINRA-2025-001]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing of Partial Amendment No. 1 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Partial Amendment No. 1, To Exempt Certain Business Development Companies From FINRA Rules 5130 (Restrictions on the Purchase and Sale of Initial Equity Public Offerings) and 5131 (New Issue Allocations and Distributions)

June 26, 2025.

I. Introduction

On March 25, 2025, the Financial Industry Regulatory Authority, Inc. (“FINRA”) filed with the Securities Exchange Commission (“SEC” or “Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Exchange Act”) ¹ and Rule 19b-4 thereunder,² a proposed rule change (SR-FINRA-2025-001) to exempt certain business development companies, as that term is defined in Section 2(a)(48) of the Investment Company Act of 1940 (“Investment Company Act”), each a “BDC,” from FINRA Rule 5130 (Restrictions on the Purchase and Sale of Initial Equity Public Offerings) and from paragraph (b) (Spinning) of FINRA Rule 5131 (New Issue Allocations and Distributions).³ The proposed rule change was published for comment in the **Federal Register** on March 31, 2025.

On May 13, 2025, 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 approve or disapprove the

proposed rule change.⁵ On June 12, 2025, FINRA filed a partial amendment to the proposed rule change (“Partial Amendment No. 1”).⁶ The Commission received two comment letters in response to the publication of the Notice,⁷ as well as a response letter from FINRA.⁸ The Commission is publishing this Order to provide notice of the filing of, and to solicit from interested persons comments on, Partial Amendment No. 1, and is approving on an accelerated basis the proposed rule change, as modified by Partial Amendment No. 1 (“Amended Proposal”).

II. Description of the Proposed Rule Change

As described in more detail in the Notice,⁹ FINRA proposed to amend FINRA Rule 5130 by adding a categorical exemption for non-traded BDCs in new paragraph (c)(12) and, by reference, in FINRA Rule 5131(b)(2) (together, the “proposed exemption”). The proposed exemption, as originally included in the Notice, would have applied to a BDC, “the shares of which are registered under the Securities Act [of 1933].” ¹⁰ FINRA stated in the Notice that the proposed exemption would allow non-traded BDCs, and therefore investors in non-traded BDCs, to more easily obtain access to new issues in so much as they could be included in the allowable 30 percent of a non-traded BDC’s portfolio.¹¹ In addition, the proposed exemption would expand the pool of investors who can participate in initial public offerings (“IPOs”) through their investment in a non-traded BDC and would allow non-traded BDCs to

more easily diversify their portfolios with new issues to the extent that such investments are consistent with all other applicable regulations.¹²

III. Summary of Comments, FINRA’s Response, and Commission Findings

After reviewing the Notice, Partial Amendment No. 1, and comment letters received, the Commission finds that the Amended Proposal is consistent with the requirements of the Exchange Act and the rules and regulations thereunder applicable to a national securities association.¹³ In particular, the Commission finds that the Amended Proposal is consistent with Section 15A(b)(6) of the Exchange Act,¹⁴ which requires, among other things, that FINRA rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. The Commission also finds that the Amended Proposal, is consistent, in particular, with Section 15A(b)(9) of the Exchange Act,¹⁵ which requires that FINRA rules not impose any burdens on competition not necessary or appropriate in furtherance of the purposes of the Exchange Act.

The Amended Proposal will protect investors and the public interest by allowing non-traded and private BDCs,¹⁶ which are subject to the investor protections provided by the Investment Company Act and the applicable rules adopted thereunder, to more easily invest in new issues and to diversify their portfolios, without diminishing investor protection. It will promote capital formation by expanding access to IPOs through the entities of non-traded BDCs and private BDCs. The Amended Proposal is designed to prevent fraudulent and manipulative acts and practices by maintaining the integrity of the public offering process through the requirement that BDCs not be formed or maintained for the specific purpose of permitting restricted persons to invest in new issues.¹⁷

¹² See Notice, 90 FR 14286.

¹³ In approving this rule change, the Commission has considered the rule’s impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

¹⁴ 15 U.S.C. 78o-3(b)(6).

¹⁵ 15 U.S.C. 78o-3(b)(9).

¹⁶ FINRA stated that the term “private BDC” refers to a BDC that is offered in a private placement. See Partial Amendment No. 1, *supra* note 6, at 3 n.4.

¹⁷ See *Regulatory Notice* 23-09 (May 2023) (“FINRA promotes the capital raising process through appropriately tailored rules for its members that are designed to promote transparency and to establish important standards of conduct for the benefit of all market participants, including

Continued

¹⁹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 102723 (March 25, 2025), 90 FR 14284 (March 31, 2025) (“Notice”).

⁴ 15 U.S.C. 78s(b)(2).

⁵ See Securities Exchange Act Release No. 103033 (May 13, 2025), 90 FR 21377 (May 19, 2025). The Commission designated June 29, 2025, as the date by which the Commission shall approve or disapprove or institute proceedings to determine whether to approve or disapprove, the proposed rule change.

⁶ See Partial Amendment No. 1, available at https://www.finra.org/sites/default/files/2025-06/FINRA-2025-001_Partial_A-1.pdf. In Partial Amendment No. 1, FINRA requested that the Commission find good cause pursuant to Section 19(b)(2) of the Exchange Act for approving the proposed rule change, as modified by Partial Amendment No. 1, prior to the thirtieth day after its publication in the **Federal Register**.

⁷ Comments are available at: <https://www.sec.gov/comments/sr-finra-2025-001/srfinra2025001.htm>.

⁸ See Letter from Ilana Reid, Associate General Counsel, FINRA (June 12, 2025) (“FINRA Response”), available at <https://www.sec.gov/comments/sr-finra-2025-001/srfinra2025001.htm>.

⁹ See Notice, 90 FR 14284-88.

¹⁰ See Notice, 90 FR 14285. As discussed below, in Part III, Partial Amendment No. 1 changed this text to state “provided that the business development company was not formed or maintained for the specific purpose of permitting restricted persons to invest in new issues.” See Partial Amendment No. 1, *supra* note 6, at 5.

¹¹ See Notice, 90 FR 14286.