

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-92876; File No. SR-NYSE-2021-45)

September 3, 2021

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing of Proposed Rule Change Proposing to Adopt Listing Standards for Subscription Warrants Issued by a Company Organized Solely for the Purpose of Identifying an Acquisition Target

Pursuant to Section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934 (“Act”)<sup>2</sup> and Rule 19b-4 thereunder,<sup>3</sup> notice is hereby given that, on August 24, 2021, New York Stock Exchange LLC (“NYSE” or “Exchange”) filed with the Securities and Exchange Commission (“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 amend the NYSE Listed Company Manual (“Manual”) to adopt a new listing standard for the listing of Subscription Warrants. The proposed rule change is available on the Exchange’s website at [www.nyse.com](http://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

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<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 15 U.S.C. 78a.

<sup>3</sup> 17 CFR 240.19b-4.

specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

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

1. Purpose

The Exchange proposes to adopt a new subsection of Section 102 of the Manual (to be designated Section 102.09) to permit the listing of Subscription Warrants. For purposes of proposed Section 102.09 a Subscription Warrant is a warrant issued by a company organized solely for the purpose of identifying an acquisition target and exercisable into the common stock of such company upon entry into a binding agreement with respect to such acquisition.

Initial Listing Standards for Subscription Warrants

The Exchange will list Subscription Warrants subject to the following requirements:

(i) The issuer of the Subscription Warrants must be a company formed solely for the purpose of issuing the Subscription Warrants and consummating the acquisition of one or more operating businesses or assets with a value (calculated at the time of entry into the acquisition agreement) equal to at least 80% of the aggregate exercise price of the Subscription Warrants (an "Acquisition").

(ii) For a transaction to qualify as an Acquisition, the resultant entity must qualify for initial listing on the Exchange and the acquisition agreement must provide that the transaction will be consummated only if the resultant entity will be listed on the Exchange or another national securities exchange.

(iii) At the time of initial listing, the Subscription Warrants must: (A) have an aggregate exercise price of at least \$250 million; (B) have at least 1,100,000 publicly held Subscription Warrants outstanding, with an aggregate exercise price of at least \$200 million; (C) have at least

400 holders of round lots; (D) have an exercise price per share of common stock of at least \$10.00; and (D) expire in no more than 10 years. For purposes of proposed Section 102.09, public holders of Subscription Warrants do not include those held by directors, officers, or their immediate families and other concentrated holdings of 10 percent.

(iv) The Subscription Warrants may not be fully exercisable for common stock of a company until after such company enters into a binding agreement with respect to the Acquisition and may not limit the ability of holders to exercise such warrants in full prior to the closing of such Acquisition.

(v) The proceeds of the exercise of the Subscription Warrants will be held in an interest-bearing custody account controlled by an independent custodian, pending the closing of such Acquisition.

(vi) The shares of common stock issued upon exercise of the Subscription Warrants will promptly be redeemed by the issuer of such Subscription Warrants for cash (A) upon termination of the acquisition agreement; or (B) if the Acquisition does not close within twelve months from the date of exercise of the Subscription Warrants, or such earlier time as is specified in the operative agreements. If the shares issuable upon exercise of the Subscription Warrants are redeemed, the holders will receive cash payments equal to their proportional share of the funds in the custody account, including any interest earned on those funds.

(vii) The sale of the Subscription Warrants and the issuance of the common stock of the issuer in exchange for the Subscription Warrants must both be registered under the Securities Act.

(viii) The issuer of the Subscription Warrants will be subject to the same corporate governance requirements under Section 303A hereof as an issuer of listed common stock.

(ix) the Acquisition must be approved by a majority of the independent directors of the issuer of the Subscription Warrants.

Continued Listing Standards for Subscription Warrants

The Exchange will immediately initiate suspension and delisting procedures of an issuer's Subscription Warrants if:

- the number of publicly-held Subscription Warrants is fewer than 100,000;
- the number of public holders of such Subscription Warrants is fewer than 100; or
- the total market capitalization of such Subscription Warrants is below \$15 million

over 30 consecutive trading days.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b)(5) of the Act,<sup>4</sup> in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

Furthermore, the Exchange believes that the proposed listing standard is consistent with Section 6(b)(5) of the Act in that it contains requirements in relation to the listing of Subscription Warrants that provide adequate protections for investors and the public interest. In particular:

- The Subscription Warrants may not be fully exercisable for common stock of a company until after such company enters into a binding agreement with respect to

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<sup>4</sup> 15 U.S.C. 78f(b)(5).

the Acquisition and may not limit the ability of holders to exercise such warrants in full prior to the closing of such Acquisition.

- The proceeds of the exercise of the Subscription Warrants will be held in an interest-bearing custody account controlled by an independent custodian, pending the closing of such Acquisition.
- The shares of common stock issued upon exercise of the Subscription Warrants will promptly be redeemed by the issuer of such Subscription Warrants for cash (A) upon termination of the acquisition agreement; or (B) if the Acquisition does not close within twelve months from the date of exercise of the Subscription Warrants, or such earlier time as is specified in the operative agreements. If the shares issuable upon exercise of the Subscription Warrants are redeemed, the holders will receive cash payments equal to their proportional share of the funds in the custody account, including any interest earned on those funds.

The proposed rule change is designed to perfect the mechanism of a free and open market and, in general, to protect investors and the public interest in that it will facilitate the listing and trading of an additional type of security and that will enhance competition among market participants, to the benefit of investors and the marketplace.

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 not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule would be available in a non-discriminatory way to any company satisfying its requirements, as well as all other applicable NYSE listing requirements. In addition, the Exchange faces competition for listings but the proposed rule change does not impose any burden on the

competition with other exchanges; any competing exchange could similarly adopt rules to allow the listing of Subscription Warrants.

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

No written comments were solicited or received with respect to the proposed rule change.

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

Within 45 days of the date of publication of this notice in the Federal Register or up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve or disapprove the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

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

Electronic comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-NYSE-2021-45 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-NYSE-2021-45. 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 the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to

make available publicly. All submissions should refer to File Number SR-NYSE-2021-45, and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>5</sup>

J. Matthew DeLesDernier  
Assistant Secretary

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<sup>5</sup> 17 CFR 200.30-3(a)(12).