1. The Commission establishes Docket No. MC2016–118 to consider the matters raised in the Request.

2. Pursuant to 39 U.S.C. 505, Katalin K. Clendenin is appointed to serve as an officer of the Commission to represent the interests of the general public in this proceeding (Public Representative).

3. Comments are due no later than April 15, 2016.

4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Stacy L. Ruble,

Secretary.

[FR Doc. 2016–08522 Filed 4–12–16; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL SERVICE

Temporary Emergency Committee of the Board of Governors; Sunshine Act Meeting

DATES AND TIMES: Tuesday, April 19, 2016, at 11:00 a.m.

PLACE: Los Angeles, California.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Tuesday, April 19, 2016, at 11:00 a.m.

1. Strategic Issues.
2. Financial Matters.
3. Executive Session—Discussion of prior agenda items and Board governance.

GENERAL COUNSEL CERTIFICATION: The General Counsel of the United States Postal Service has certified that the meeting may be closed under the Government in the Sunshine Act.

CONTACT PERSON FOR MORE INFORMATION: Requests for information about the meeting should be addressed to the Secretary of the Board, Julie S. Moore, at 202–268–4800.

Julie S. Moore.

Secretary, Board of Governors.

[FR Doc. 2016–08581 Filed 4–11–16; 11:15 am]

BILLING CODE 7710–12–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–77558; File No. PCAOB–2007–04]

Public Company Accounting Oversight Board; Notice of Filing of Proposed Amendments to Board Rules Relating to Inspections

April 7, 2016.

Pursuant to Section 107(b) of the Sarbanes-Oxley Act of 2002 (the ''Act'' or the ''Sarbanes-Oxley Act''),[1] notice is hereby given that on March 24, 2016, the Public Company Accounting Oversight Board (the ''Board'' or the ''PCAOB'') filed with the Securities and Exchange Commission (the ''SEC'' or ''Commission'') the proposed rule changes described in Items I, II, and III below, which items have been prepared by the Board. The Commission is publishing this notice to solicit comments on the proposed rule from interested persons.

I. Board's Statement of the Terms of Substance of the Proposed Rule

On October 16, 2007, the Board adopted amendments to its rules related to inspections. The proposed amendments included a new paragraph (e) added to existing Rule 4003 and amendments to paragraphs (b) and (d) of Rule 4003. On October 22, 2007, the Board filed the amendments with the Commission and requested Commission approval (''the original rule filing''). On February 26, 2016 the Board adopted revisions to those proposed amendments and, on March 24, 2016 amended the rule filing to reflect those revisions. The text of the revised proposed amendments is set out below. Language added to the Board's currently effective rules by these amendments is italicized. Language deleted from the Board's currently effective rules is in brackets. Other text in Section 4 of the Board's Rules, including notes to the Rules, remains unchanged and is indicated by '' * * * '' in the text below.

SECTION 4. INSPECTIONS

* * *

Rule 4003. Frequency of Inspections

* * *

(b) At least once in every three calendar years, beginning with the three-year period following the calendar year in which its application for registration with the Board is approved, a registered public accounting firm that, during any of the three prior calendar years, issued an audit report, *other than by consenting to an issuer's use of a previously issued audit report,* with respect to at least one *issuer,* but no more than 100[,] issuers, [or that played a substantial role in the preparation or furnishing of an audit report with respect to at least one issuer,] shall be subject to a regular inspection.

* * *

(d) Notwithstanding paragraph (b) of this Rule, with respect to any registered public accounting firm that became registered in 2003 or 2004—

(1) this Rule does not require the first inspection of the firm sooner than the fourth calendar year following the first calendar year in which the firm, while registered, issued an audit report *with respect to an issuer* [or played a substantial role in the preparation or furnishing of an audit report]; and

(2) this Rule does not require the second inspection of the firm sooner than the fifth calendar year following the first calendar year in which the firm, while registered, issued an audit report *with respect to an issuer* [or played a substantial role in the preparation or furnishing of an audit report].

(e) Notwithstanding any other provision of this Rule, if, in two consecutive calendar years, a registered public accounting firm issues no audit reports with respect to an issuer other than by consenting to an issuer's use of a previously issued audit report, the Board shall have the discretion to forego any inspection of that firm that would otherwise be required because of any audit report that the firm had issued with respect to an issuer prior to such calendar years.

* * *

(h) In each calendar year, the Board shall conduct regular inspections of some registered public accounting firms that reported on an annual report on Form 2 having played a substantial role in the preparation or furnishing of an audit report with respect to an issuer in any of the four most recent annual reporting periods through March 31 of that calendar year without having reported on an annual report on Form 2 having issued an audit report with respect to an issuer in any of those reporting periods. The number of such registered public accounting firms that the Board shall inspect in any particular calendar year shall be at least five percent of the number of registered public accounting firms that, by June 30 of the preceding calendar year, reported on an annual report on Form 2 for the reporting period ending on March 31 of the preceding calendar year having played a substantial role in the preparation or furnishing of an audit report with respect to an issuer without having issued an audit report with respect to an issuer in that reporting period.

II. Board's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule

In its amended filing with the Commission, the Board included statements concerning the purpose of, and basis for, the proposed rule. The

[1] 15 U.S.C. 7217(b).

text of these statements may be examined at the places specified in Item IV below. The purpose of, and basis for, the proposed rule are also described in sections A, B, and C below.

A. Board's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule

(a) Purpose

The Sarbanes-Oxley Act requires the Board to conduct a continuing program of inspections to assess the degree of compliance with certain requirements by registered public accounting firms and their associated persons in connection with the performance of audits, issuance of audit reports, and related matters involving issuers. In 2003, the Board adopted PCAOB Rule 4003, ''Frequency of Inspections.'' Rule 4003(b) provides that at least once every three years, any firm that, during any of the three prior calendar years, issues an audit report with respect to at least one issuer but no more than 100 issuers, or plays a substantial role in the preparation or furnishing of an audit report with respect to an issuer, shall be subject to a regular inspection. The Board has adopted amendments relating to Rule 4003(b) that are intended to facilitate the Board's ability to allocate its inspection resources in ways that better serve the public interest and protect investors.

1. Rules 4003(b) and (h)

The Board has adopted amendments to eliminate Rule 4003(b)'s provision for triennial inspections of firms that play a substantial role in audits but do not issue audit reports and to provide instead that the Board will, every year, inspect at least five percent of such firms. The Board has also adopted an amendment to provide that no inspection requirement arises under Rule 4003(b) solely because a firm consents to an issuer's use of a previously issued audit report.

The Board's experience in the inspection program has affected the Board's view on the appropriateness of devoting Board resources to inspecting one-third of all ''substantial role only'' firms every year.[2] In 2007, the Board concluded that it would be better to direct a larger share of those resources toward addressing the policies, practices, and procedures of the firms that are ultimately responsible for the audit report on the issuer's financial statements, and that the Board's rules should not require the Board to devote so large a portion of its resources to inspections of ''substantial role only'' firms. This was consistent with the risk-based focus that the Board generally brings to bear in considering the most prudent allocation of its inspection resources. Accordingly, the Board adopted, and included in the original rule filing, an amendment to Rule 4003(b) to eliminate the requirement for triennial inspections of ''substantial role only'' firms.

In annual reports on PCAOB Form 2 filed by registered firms for the 12-month reporting period ended March 31, 2015, 571 firms reported having issued audit reports for one to 100 issuers, and 103 firms reported having played a substantial role in at least one issuer audit without having issued audit reports for any issuers. The Board continues to be of the view that it is appropriate to allocate the largest share of its inspection resources toward addressing the policies, practices, and procedures of the firms that are ultimately responsible for the audit report on the issuer's financial statements, and that the Board's rules should not require triennial inspections of ''substantial role only'' firms. The Board therefore continues to propose eliminating Rule 4003(b)'s requirement for triennial inspections of ''substantial role only'' firms.

In addition, however, having considered views expressed by SEC staff and taking into account that the Board's inspection staff has over time identified auditing deficiencies in some inspections of ''substantial role only'' firms,[3] the Board has determined to revise slightly the substance of its previously adopted approach to such firms. With the revision, the amendment to Rule 4003 would still eliminate the requirement to inspect all ''substantial role only'' firms, and it would still eliminate the requirement to inspect any such firm with a prescribed frequency.

Unlike the amendment in the original rule filing, however, the revised proposed amendment provides that the Board will, in each year, select some ''substantial role only'' firms for inspection, with the number of firms to be a number that is at least five percent of the number of firms that reported being ''substantial role only'' firms in their annual reports on PCAOB Form 2 filed with the Board in the preceding year. Board rules require that all registered firms file an annual report. A firm that does not issue an audit report for an issuer during the period covered by an annual report must identify in that annual report any audit in which it played a substantial role in that period. Through its other processes, the Board may identify firms that fail to comply with this reporting requirement (and may impose sanctions for those failures), or the Board may identify that a firm has reported playing a substantial role when its role in fact fell below that level. But for purposes of identifying ''substantial role only'' firms, the required annual reports on Form 2 provide the most reasonable reference point.

Based on the history of reporting on Form 2, the Board anticipates that the five percent threshold will translate to four to six firms each year, though it could fall above or below that range in a particular year, and the number actually inspected could exceed that threshold in any year as a result of risk-based judgments about how to allocate inspection resources. The revised proposed amendment provides that the firms to be inspected will be selected from among those that have reported playing a substantial role in audits in one of the four most recent Form 2 reporting periods without having reported issuing an audit report for an issuer in any of those periods. With that revision, Rule 4003's provision concerning ''substantial role only'' firms is now designated as paragraph (h).

In adopting the amendment included in the original rule filing related to ''substantial role only'' firms, the Board noted that it had not up to that time inspected a ''substantial role only'' firm but also noted that it would retain discretion under the amended rule to inspect ''substantial role only'' firms at any time. The Board's practice, since first inspecting ''substantial role only'' firms in 2009, has in fact been

[2] The Board uses the phrase ''substantial role only'' to identify the relevant category of firms and to emphasize the distinction between this category of firms (which play a substantial role but do not issue audit reports with respect to issuers) and the separate category of firms that play a substantial role in some audits, but separately perform other audits in which they issue the audit report for the issuer (for example, a non-U.S. firm that plays a substantial role in the audit of a U.S. issuer by auditing a foreign subsidiary, but that separately has a foreign private issuer audit client for which it regularly provides audit reports). Even as amended, Rule 4003 will continue to provide for at least triennial inspections of all firms in the latter category by virtue of their regularly issuing audit reports. In any such inspection, the Board could review, among other things, the firm's work and its system of quality control in relation to audits of issuers in which the firm played a role, including a substantial role.

[3] As of February 1, 2016, the Board had issued reports on inspections of 38 ''substantial role only'' firms. In addition to identifying concerns about aspects of some of those firms' systems of quality control, the Board's inspection staff has, in 11 of those inspections, identified that the inspected firm had failed to perform sufficient procedures to fulfill the objectives of its role in an audit. While such failures by an auditor in a substantial role do not necessarily mean that the principal auditor's opinion on the issuer's consolidated financial statements was insufficiently supported, they present some risk of that result.

essentially the practice described by proposed Rule 4003(h). The Board now sees value, however, in formally committing that at least a small portion of its inspection resources will regularly be directed toward ''substantial role only'' firms and that the Board will maintain an active focus on whether it would be appropriate to direct a larger portion of its resources to those inspections. At present, the Board believes that the five percent threshold, with selections made on a risk basis, would involve review of ''substantial role only'' work that is appropriate and sufficient to provide for a useful, ongoing focus on that segment of the population of registered firms. The Board can always inspect a larger portion of that population in a given year without a rule. The Board has determined to commit to a minimum of five percent through a rule.

By using the four most recent Form 2 reporting periods as the reference point, the Board would, for any given inspection year, be selecting ''substantial role only'' firms from a universe that includes firms that have reported playing a substantial role as recently as the year in which the inspection would occur and as far back as three previous years. This will allow the Board to select from among the most relevant universe, without limiting that universe to firms reporting in one specific year. In addition, by limiting that universe to firms that, in addition to playing a substantial role, have not issued an audit report in any of those years, the rule would exclude any possibility of counting, toward satisfaction of the ''substantial role only'' inspection requirement, firms that otherwise would be inspected, or recently have been inspected, because of the firm's relatively recent issuance of an audit report.

The proposed rule also adds a provision to existing paragraph (b) specifying that no inspection requirement arises solely on the basis of the firm issuing an audit report by consenting to an issuer's use of a previously issued audit report. Since the act of originally issuing the audit report would have given rise to an inspection requirement, and the related audit would have been a candidate for review in that required inspection, it would be redundant to subject the registered firm to a separate, later inspection relating to the same audits in circumstances where the firm is no longer issuing audit reports other than by consenting to issuers' use of previously issued audit reports.

The original rule filing also included a technical amendment that was intended to clarify an aspect of Rule 4003(b) without making any substantive change. The Board subsequently realized that the technical amendment could have provided the Board with flexibility that the Board did not intend regarding inspection frequency, and the Board has therefore revised its proposal to eliminate that technical amendment and retain the relevant existing wording. Specifically, the Board had revised the wording of Rule 4003(b) to provide that the Board must conduct at least one inspection of a firm in the three calendar-year period following any calendar year in which the firm issues an audit report with respect to an issuer. That wording would have given the Board flexibility that the Board did not intend. For example, if a firm issued an audit report in years 1, 2, 4, and 5, but not in year 3, a Board inspection of the firm in year 3 would satisfy the inspection requirement created by the audit reports in years 1 and 2, but the next inspection would not technically be required until year 7 (the third calendar year after the report issued in year 4), rather than within three years after the previous inspection, *i.e.,* year 6.

2. Rule 4003(d)

Existing Rule 4003(d) extends the Rule 4003(b) time period in which the Board must conduct the first and second inspections of firms that registered with the Board in 2003 or 2004. The Board has adopted an amendment to conform Rule 4003(d) to the Rule 4003(b) amendment concerning ''substantial role only'' firms. Consistent with the amendment to Rule 4003(b), the Board is amending Rule 4003(d) to eliminate from Rule 4003(d) the references to ''substantial role only'' firms.

Separately, a development in the law since the original rule filing has led the Board to make a technical revision to Rule 4003(d). Rule 4003(d) uses the term ''audit report'' in two places. When Rule 4003(d) took effect in 2006, ''audit report'' was, by definition, limited to reports with respect to issuers, and this was still the case at the time of the original rule filing proposing amendments to Rule 4003(d). That definition has since been broadened to include reports with respect to registered brokers and dealers and, as broadened, the unqualified use of the term ''audit report'' in Rule 4003(d) would change the meaning of the rule from what the Board originally intended and still intends. For that reason, the Board has added the language ''with respect to an issuer'' to qualify ''audit report'' where that term appears in proposed Rule 4003(d).

The original rule filing included an amendment that conformed Rule 4003(d) to the Rule 4003(b) amendment that provides that no inspection requirement arises solely on the basis of a firm issuing an audit report by consenting to an issuer's use of a previously issued audit report. The operation of Rule 4003(d) is limited to firms that became registered in 2003 or 2004. At the time of the original rule filing in 2007, it was possible for circumstances to arise that would have triggered the application of this amendment with respect to such firms. With the passage of time, however, those circumstances should no longer arise, and the Board has therefore made a technical revision to eliminate this amendment to Rule 4003(d).

3. Rule 4003(e)

The Board's experience in the inspection program to date has affected the Board's view on the appropriateness of devoting Board resources to inspecting every firm that has issued an audit report, including firms that have not recently done so. This was another respect in which the Board observed that the existing rule sometimes requires the Board to deploy inspection resources in ways that do not represent the most effective use of those resources in furtherance of the public interest and the protection of investors. In particular, it sometimes happens that (1) a firm issues an audit report in year 1, opining on financial statements for the preceding year; (2) consistent with existing Rule 4003(b), the Board's long-range inspection planning sets that firm for inspection in year 4; and (3) the firm issues no audit reports in years 2 or 3. Under the current rule, the Board must then inspect the firm in year 4, even though the most recent audit report issued by the firm is three years old on financial statements that are four years old.

In 2007, the Board concluded that it could better fulfill its public interest and investor protection mandates if it had the flexibility in that circumstance to focus its year 4 inspection resources on firms that are more regularly and recently engaged in preparing audit reports. Accordingly, the Board adopted a new paragraph (e) to Rule 4003 that would give the Board discretion to forego the otherwise required inspection in the scenario described above in determining how to deploy its inspection resources.

The Board continues to view Rule 4003(e) as providing useful flexibility with respect to the allocation of inspection resources. The number of otherwise required inspections that the

Board would have discretion to forego under Rule 4003(e) would vary from year to year, but, had Rule 4003(e) been in effect, the number of otherwise required inspections that would have met its criteria would have been 10 in 2015, 10 in 2014 and eight in 2013. In addition, because of delays caused by obstacles to Board inspections of registered firms in certain countries, the current rule's deadline for the initial inspections of firms in those countries, on the basis of their having issued audit reports for issuers, has long since passed, and some of those firms have long since stopped issuing audit reports for issuers. Nineteen such firms have not issued audit reports since before 2012, and 13 of those firms have not issued audit reports since before 2010.

Under proposed Rule 4003(e), the Board would have the flexibility to deploy its inspection resources in ways other than by inspecting such firms. Rule 4003(e) would allow the Board to forego an otherwise required inspection of a firm that issued an audit report if, in two consecutive years, the firm does not issue any audit reports. The rule would not require the Board to inspect such a firm unless and until the firm engaged in conduct that triggered the operation of Rule 4003(b) anew.[4] This will give the Board useful and clearly defined flexibility to focus its inspection resources on firms more recently involved in issuing audit reports, rather than on relatively old audit work performed by firms that may not be currently engaged in issuing audit reports.

Rule 4003(e) would not, however, prohibit the Board from inspecting any of those firms or in any way entitle those firms not to be inspected. There may be circumstances in which the Board would choose to inspect a firm even where Rule 4003(e) gave the Board the discretion to forego the inspection.

The Board has made a technical amendment to proposed Rule 4003(e) since the original rule filing. Proposed Rule 4003(e) uses the term ''audit report'' in two places. At the time of the original rule filing, ''audit report'' was, by definition, limited to reports with respect to issuers. That definition has since been broadened to include reports with respect to registered brokers and dealers and, as broadened, the unqualified use of the term ''audit report'' in Rule 4003(e) would change the meaning of the rule from what the Board originally intended and still intends. For that reason, the Board has added the language ''with respect to an issuer'' to qualify ''audit report'' where that term appears in proposed Rule 4003(e).

B. Board's Statement on Burden on Competition

Not applicable. The Board's consideration of the economic impacts of the proposed rule changes is discussed in Section D below.

C. Board's Statement on Comments on the Proposed Rule Received From Members, Participants or Others

The Board solicited public comment before adopting the amendments to Rule 4003 that were included in the original rule filing. The Board received three comment letters, all of which were supportive of those amendments and, more generally, supportive of the Board's effort to increase its discretion to bring risk-based judgments to bear in allocating its inspection resources.[5]

The revised proposed amendments reflect certain technical corrections or updates described above, including undoing a non-substantive amendment that was discovered to have an unintended substantive effect, qualifying the term ''audit report'' to remain consistent with the original meaning following intervening legislation that expanded the definition, and eliminating references to the effect of consenting to the use of a previously issued audit report where the passage of time had negated the potential applicability of those references. The Board made these revisions without seeking public comment.

In addition, since the original rule filing, which included the amendment eliminating any periodic inspection requirement for all ''substantial role only'' firms, the Board has determined to commit to a practice of conducting some inspections of such firms and to establish by rule a lower limit on the number of such inspections it will conduct each year. Such a practice is consistent with the Board's authority even in the absence of a rule, is consistent with the Board's description of its possible exercise of that authority in soliciting public comment on the amendments,[6] and is consistent with the discretion and authority that the commenters recognized the Board retained.[7] From the perspective of rights and obligations of registered firms and associated persons, there is no meaningful difference between the rule originally proposed for comment and the Board's current practice. The Board has committed itself by rule to that practice without seeking public comment specific to doing so.

D. Economic Considerations and Application to Audits of Emerging Growth Companies

In the Board's view, the proposed amendments to Rule 4003 are consistent with the purposes of the Act, the public interest, and the protection of investors.[8] In reaching that conclusion, the Board has taken economic considerations into account.[9]

1. Rules 4003(b) and 4003(h)

It is anticipated that the proposed amendments to Rule 4003(b) and the addition of Rule 4003(h) will impose no new costs on the universe of registered firms relative to current practice.[10] Those proposed amendments do not require registered public accounting firms to take any particular actions as part of their audits or otherwise. Rather, they merely conform the Board's rules to current practice.[11] Accordingly, the

[4] Rule 4003(e) also makes clear that a firm's issuance of an audit report solely by consenting to an issuer's use of a previously issued audit report would not preclude the operation of paragraph (e) in circumstances where paragraph (e) would otherwise apply.

[5] *See* Letter from Deloitte Touche Tohmatsu (July 20, 2007) (''DTT letter''), Letter from PricewaterhouseCoopers LLP (July 23, 2007) (''PwC letter''), and Letter from the New York State Society of Certified Public Accountants (July 24, 2007) (''NYSSCPA letter''), available at *www.pcaobus.org/Rules/Docket_024.*

[6] *See* Proposed Amendments to Limit Board Rule 4003's Fixed Periodic Inspection Requirement to Firms that Regularly Issue Audit Reports, PCAOB Release No. 2007–007 (May 24, 2007), at 4 (noting that information that comes to the Board in various ways ''could lead the Board to exercise its discretion to inspect a particular 'substantial role only' firm''), available at *www.pcaobus.org/Rules/Docket_024.*

[7] *See* DTT letter at 1, PwC letter at 1, NYSSCPA letter at 3.

[8] Section 104(b)(2) of the Act provides that the Board may, by rule, adjust the inspection schedules set by section 104(b)(1) if the Board finds that different inspection schedules are consistent with the purposes of the Act, the public interest, and the protection of investors. To the extent the Commission views any of the proposed amendments as constituting a change to an inspection schedule set by section 104(b)(1), the statement in the text reflects the Board's finding for purposes of section 104(b)(2).

[9] Section A, above, describes the need for the proposed amendments and the Board's key decisions in selecting this course of action. This section does not repeat the earlier discussion, but focuses on the costs and benefits, relative to an appropriate baseline, of the Board's proposal.

[10] To assist the Commission's consideration of this proposal, this section discusses costs and benefits relative to current practice. It does not discuss costs and benefits relative to existing Rule 4003(b), under which, absent the proposed amendments discussed here, the PCAOB would in each year inspect approximately 33 percent of ''substantial role only'' firms. The resulting analysis of costs and benefits here, however, should not be understood to suggest that a rule change conforming a rule to existing practice would in every case necessarily involve no costs or benefits.

[11] The Board's practice, since first inspecting ''substantial role only'' firms in 2009, has been to

proposed amendments to Rule 4003(b) and the addition of Rule 4003(h) do not increase the costs imposed on the group of those registered firms that are subject to inspection because of playing a substantial role in an audit.

The Board has considered whether the proposed amendments might decrease audit quality in the work of the ''substantial role only'' firms by appearing to those firms to reduce the likelihood of their being inspected. On that question, the Board has considered that the proposed rules would not change those firms' perception of the fact that they might be inspected. The Board has also considered whether the proposed rules would be likely to change, in any meaningful way, those firms' current perception of the likelihood of being inspected. There is no direct evidence concerning what those firms' current perceptions are on that point, but it is reasonable to assume that firms in the ''substantial role only'' category currently perceive the likelihood of their being inspected as something that is less than the existing rule.[12] Because it appears most likely that the typical such firm's perception of the chance of inspection would be less than the current rule, and because the proposed rule would not change those firms' perception of the fact that they might be inspected, the Board does not anticipate that the proposed amendments would cause any significant change in the extent to which the potential for inspection currently provides an incentive for registered firms to perform audit work in compliance with PCAOB standards. Nor do the proposed amendments provide any incremental benefit relative to the current practice.

2. Rule 4003(e)

Proposed Rule 4003(e) will potentially reduce costs imposed on the universe of registered firms relative to current practice.[13] Proposed Rule 4003(e) poses the possibility of fewer firms incurring inspection related costs because it provides the Board with discretion to forgo an otherwise required inspection of a firm if, after issuing an audit report in one year, the firm does not issue audit reports in the two succeeding years. To the extent that proposed Rule 4003(e) results in the Board forgoing any inspections, the firms that would otherwise have been inspected would not incur the inspection related costs.[14]

The Board has considered whether the benefit of potentially avoiding imposing regulatory burdens on those firms that might, under proposed Rule 4003(e), be less likely to be inspected than would be the case under current practice could reduce audit quality in the work of those firms. On that question, the Board has considered that firms that the Board could choose to forgo inspecting under proposed Rule 4003(e) typically would not be expected to realize, at the time they perform an audit, that future developments will make Rule 4003(e) applicable. Moreover, Rule 4003(e) would not, even if applicable, provide the firm with any assurance that it would not be inspected. For those reasons, the Board does not anticipate that proposed Rule 4003(e) would cause any significant change in the extent to which the potential for inspection provides an incentive for registered firms to perform audit work in compliance with PCAOB standards.

3. Emerging Growth Companies

Before rules adopted by the Board can take effect, they must be approved by the Commission. Under Section 103(a)(3)(C) of the Act,[15] any rules adopted by the Board after April 5, 2012, shall not apply ''to an audit of'' any emerging growth company (''EGC'') (as defined in section 3(a)(80) of the Securities Exchange Act of 1934 [16] (the ''Exchange Act'')) unless the Commission ''determines that the application of such additional requirements is necessary or appropriate in the public interest, after considering the protection of investors and whether the action will promote efficiency, competition, and capital formation.''

The proposed amendments do not change or add to the requirements that apply ''to an audit of'' an EGC or to any other audits. They do not affect requirements governing how a firm conducts or reports on audits under PCAOB standards, including audits of EGCs. In addition to not imposing any requirements that apply to an audit, the proposed amendments do not appear likely to significantly affect EGCs in other ways. Specifically, the Board does not anticipate that the proposed amendments will affect an auditor's perception, during the audit of an EGC, of the possibility of that audit eventually being reviewed in any inspection or the nature of any such review. Many factors affect the selection of audits that the Board reviews in the inspection of any particular firm, and the proposed rules would not affect the likelihood that any particular audit of an EGC will be reviewed in an inspection of the EGC's auditor. In addition, as noted above, firms that the Board could choose to forgo inspecting under proposed Rule 4003(e) typically would not be expected to realize, at the time they perform an audit, that future developments will make Rule 4003(e) applicable, and in any event they would have no assurance that the Board would forgo the inspection. Moreover, to the extent audits of EGCs are selected for review in an inspection, the proposed rules would have no effect on how that review is conducted, and they provide no reason for an auditor, at the time of the audit, to anticipate any different treatment of that audit in an inspection.

It does not appear that the proposed amendments would have an effect on efficiency, competition, and capital formation with respect to EGCs. The Board defers to the Commission on the applicability of Section 103(a)(3)(C) to the proposed amendments. If the Commission determines that Section 103(a)(3)(C) applies to these amendments, the Board requests that the Commission determine that it is necessary or appropriate in the public interest, after considering the protection of investors and whether the action will promote efficiency, competition, and capital formation, to apply the amendments to audits of EGCs. The Board stands ready to assist the Commission with any additional analysis that may become necessary.

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inspect each year approximately five percent of those firms and to reflect that allocation of inspection resources in its budget materials.

[12] The Board inspected no ''substantial role only'' firms before 2009 and, as noted above, from 2009 on has inspected in each year approximately five percent of those firms. In addition, since 2010 the Board's Web site has provided an overview of the Board's inspection practices that, among other things, contrasts the Board's practice of conducting triennial inspections of firms that issue audit reports for one to 100 issuers with the practice of inspecting, in each year, ''some'' firms that are not in that category but that play a role in issuer audits. *See http://pcaobus.org/Inspections/Pages/InspectedFirms.aspx.*

[13] Current practice is consistent with existing Rule 4003's inspection frequency requirements for firms that issue audit reports. Of the 28 otherwise required inspections in 2013, 2014, and 2015 that would have met the criteria of proposed Rule 4003(e), 16 were in the U.S. or in non-U.S. jurisdictions where the Board was not blocked from conducting inspections, and the Board conducted all of those inspections within the period prescribed by current Rule 4003.

[14] The number of otherwise required inspections that the Board would have discretion to forego under Rule 4003(e) would vary from year to year, but, as noted above, had Rule 4003(e) been in effect, the number of otherwise required inspections that would have met its criteria would have been 10 in 2015, 10 in 2014, and eight in 2013.

[15] 15 U.S.C. 7213(a)(3)(C).

[16] 15 U.S.C. 78c(a)(80).

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

Pursuant to Section 19(b)(2)(A)(ii) of the Exchange Act,[17] and based on its determination that an extension of the period set forth in Section 19(b)(2)(A)(i) of the Exchange Act [18] is appropriate in light of the Commission's consideration of Section 103(a)(3)(C) of the Sarbanes-Oxley Act with respect to applicability of the proposed rules to audits of emerging growth companies, as defined in Section 3(a)(80) of the Exchange Act, the Commission has determined to extend to July 12, 2016 the date by which the Commission should take action on the proposed rules.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rules are consistent with the requirements of Title I of the Sarbanes-Oxley 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/pcaob.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number PCAOB–2007–04 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number PCAOB–2007–04. 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 Web site (*http://www.sec.gov/rules/pcaob.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rules that are filed with the Commission, and all written communications relating to the proposed rules 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 Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549–1090, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing will also be available for inspection and copying at the principal office of the PCAOB. All comments received will be posted without change; we do not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. PCAOB–2007–04 and should be submittedon or before May 4, 2016.

For the Commission, by the Office of the Chief Accountant, by delegated authority.[19]

Brent J. Fields,

Secretary.

[FR Doc. 2016–08444 Filed 4–12–16; 8:45 am]

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[17] 15 U.S.C. 78s(b)(2)(A)(ii).

[18] 15 U.S.C. 78s(b)(2)(A)(i).

[19] 17 CFR 200.30–11(b)(2).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–77551; File No. SR–FINRA–2016–007]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Order Approving a Proposed Rule Change To Require Registration as Securities Traders of Associated Persons Primarily Responsible for the Design, Development, Significant Modification of Algorithmic Trading Strategies or Responsible for the Day-to-Day Supervision of Such Activities

April 7, 2016.

I. Introduction

On February 11, 2016, the Financial Industry Regulatory Authority, Inc. (''FINRA'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend NASD Rule 1032 (Categories of Representative Registration) to require registration as Securities Traders of associated persons primarily responsible for the design, development or significant modification of algorithmic trading strategies, or who are responsible for the day-to-day supervision or direction of such activities. The proposed rule change was published for comment in the **Federal Register** on February 24, 2016.[3] The Commission received one comment on the proposal.[4] This order approves the proposed rule change.

II. Description of the Proposed Rule Change

FINRA's rules generally require each person associated with a member included within the definition of a representative to register with FINRA as a Securities Trader if, with respect to transactions in equity, preferred or convertible debt securities effected otherwise than on a securities exchange, such person is engaged in proprietary trading, the execution of transactions on an agency basis, or the direct supervision of such activities.[5] FINRA proposes to expand the registration requirement so that associated persons who are (i) primarily responsible for the design, development or significant modification [6] of algorithmic trading strategies, or (ii) responsible for the day-to-day supervision or direction of such activities, be required to register as Securities Traders with FINRA.[7]

For purposes of the proposal, FINRA defines an ''algorithmic trading strategy'' as an automated system that generates or routes orders or order-related messages—such as routes or cancellations—but does not include an automated system that solely routes orders received in their entirety to a market center. The proposed registration requirement applies to orders and order related messages whether ultimately routed or sent to be routed to an exchange or over the counter.[8] An order router alone would not constitute an algorithmic trading strategy. However, an order router that performs any additional functions would be considered an algorithmic trading strategy.[9] An algorithm that solely

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 77175 (February 18, 2016), 81 FR 9235 (''Notice''). The Notice contains a detailed description of the proposal.

[4] *See* Letter from Michele Van Tassel, President, Association of Registration Management, to Marcia E. Asquith, Office of the Corporate Secretary, Financial Industry Regulatory Authority, dated March 15, 2016 (''ARM Letter'').

[5] NASD Rule 1032(f).

[6] FINRA notes that a ''significant modification'' to an algorithmic trading strategy generally would be any change to the code of the algorithm that affects the logic and functioning of the trading strategy employed by the algorithm. Therefore, for example, a data feed/data vendor change generally would not be considered a ''significant modification,'' whereas a change to a benchmark (such as an index) used by the strategy generally would be considered a ''significant modification.'' *See* Notice, *supra* note 3, at 9237 n. 5.

[7] *Id.* at 9237. FINRA notes, for example, while an equity trader involved in the design of an algorithmic trading strategy would currently be required to register pursuant to NASD Rule 1032(f), the developer with which the trader collaborates to create an algorithmic trading strategy, however, may not be. *Id.*

[8] *Id.*

[9] *See* Notice, *supra* note 3, at 9236–37.