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Page 1 of \* 38

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

File No. \* SR 2023 - \* 01

Amendment No. (req. for Amendments \*)

Filing by Long-Term Stock Exchange, Inc.

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

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

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Date Expires \*

Rule

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19b-4(f)(1)

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19b-4(f)(4)

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19b-4(f)(2)

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19b-4(f)(5)

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19b-4(f)(3)

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19b-4(f)(6)

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

Section 806(e)(1) \*

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Section 806(e)(2) \*

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

Section 3C(b)(2) \*

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Exhibit 2 Sent As Paper Document

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Exhibit 3 Sent As Paper Document

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## Description

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

A proposal to establish listing standards related to recovery of erroneously awarded executive compensation as required by SEC Rule 10D-1.

## Contact Information

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

First Name \* James

Last Name \* Buckley

Title \* Chief Regulatory Officer

E-mail \* james.buckley@longtermstockexchange.com

Telephone \* (929) 837-1125

Fax

## Signature

Pursuant to the requirements of the Securities Exchange of 1934, Long-Term Stock Exchange, Inc. has duty caused this filing to be signed on its behalf by the undersigned thereunto duty authorized.

Date 02/27/2023

(Title \*)

By James G. Buckley

(Name \*)

Chief Regulatory Officer

James Buckley

Digitally signed by James  
Buckley  
Date: 2023.02.27 16:36:56  
-05'00'

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

Required fields are shown with yellow backgrounds and astericks.

SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

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

**Form 19b-4 Information \***

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Part 1 19b-4 - Clawback Rule Amendr

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

**Exhibit 1 - Notice of Proposed Rule Change \***

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Part 2 Exhibit 1 - Clawback Rule Ame

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

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

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

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

Add Remove View

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

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Exhibit Sent As Paper Document

**Exhibit 3 - Form, Report, or Questionnaire**

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

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Exhibit Sent As Paper Document

**Exhibit 4 - Marked Copies**

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

**Exhibit 5 - Proposed Rule Text**

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Part 3 Exhibit 5 - Clawback Rule Amer

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

**Partial Amendment**

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

1. Text of Proposed Rule Change

(a) Pursuant to the provisions of Section 19(b)(1) under the Securities Exchange Act of 1934 (“Act”),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> Long-Term Stock Exchange, Inc. (“LTSE” or the “Exchange”) is filing with the Securities and Exchange Commission (“Commission”) a proposal to amend LTSE Rule 14.207 (Obligations for Companies Listed on the Exchange), paragraph (f), to adopt Listing Standards for the Recovery of Erroneously Awarded Compensation and Supplementary Material .04. The current text of paragraph (f) of Rule 14.207 will be repositioned into a new paragraph (g).

The proposed rule changes are intended to establish in the Exchange’s listing standards the requirements of Section 10D of the Act<sup>3</sup> and Rule 10D-1 (Listing Standards for Recovery of Erroneously Awarded Compensation) promulgated by the Commission thereunder.<sup>4</sup> Rule 10D-1 directs national securities exchanges and the national securities associations to prohibit the listing of an issuer not in compliance with Section 10D(b) of the Act.<sup>5</sup> The Exchange is proposing rule amendments to establish the listing standards requiring disclosure of an issuer’s policy on incentive-based compensation that is based on financial information required to be reported under the securities laws and, in the event of material non-compliance by the issuer with any financial reporting requirements, to recover from current or former executive officers incentive-based compensation received during a three-year period preceding the date the issuer is required to prepare an accounting restatement based on erroneous information.

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

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> 15 U.S.C 78j-4.

<sup>4</sup> 17 CFR 240-10D-1.

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

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

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

(c) Not applicable.

2. Procedures of the Self-Regulatory Organization

Senior management has approved the proposed rule change pursuant to resolution of the Board of Directors of the Exchange dated February 2, 2023. No further action is required under the Exchange's governing documents. Therefore, the Exchange's internal procedures with respect to the proposed rule change are complete.

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

James G. Buckley  
Chief Regulatory Officer  
Long-Term Stock Exchange, Inc.  
929-837-1125

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

(a) Purpose

The Exchange is proposing to amend LTSE Rule 14.207 (Obligations for Companies Listed on the Exchange), paragraph (f), to adopt "Listing Standards for the Recovery of Erroneously Awarded Compensation" and Supplementary Material .04, which describes certain exemptions from the requirements of amended Rule 14.207(f). The current text of paragraph (f) of Rule 14.207 will be repositioned into a new paragraph (g).

The Exchange is proposing these amendment in order to establish in its listing standards the requirements of Section 10D of the Act<sup>6</sup> and Rule 10D-1 thereunder. On October 22, 2022, the Commission adopted a new rule and rule amendments<sup>7</sup> to implement Section 954 of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (the “Dodd Frank Act”),<sup>8</sup> which added Section 10D of the Act. The final rules adopted by the Commission under Section 10D direct national securities exchanges and associations that list securities to establish listing standards that require each issuer to develop and implement a policy providing for the reasonably prompt recovery, in the event of required accounting restatement, of incentive-based compensation received by current or former executive officers where that compensation is based on erroneously reported financial information. The listing standards must require disclosure of the policy and also require that issuers file the policy as an exhibit to the annual report and require other disclosures in the event a recovery analysis is triggered under the policy.

Specifically, listing exchanges are required to adopt listing standards requiring each listed issuer to file their written recovery policies as exhibits to their annual reports; indicate, by check boxes on their annual reports, whether the financial statements included in the filing contain a correction of an error in previously-issued financial statements and whether any of the reported error corrections constitute restatements that required a recovery analysis under the issuer’s recovery policies; and finally, to disclose any actions taken through the application of the recovery policies.

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<sup>6</sup> See, fn. 3, supra.

<sup>7</sup> See, Release Nos. 33-11126; 34-96159; IC-34732; File No. S-7-12-15; 87 FR 73076 (November 28, 2022).

<sup>8</sup> 2 Pub. L. No 111-203, 124 Stat. 1900 (2010).

Rule 10D-1 requires that issuers recover reasonably promptly the amount of erroneously-awarded executive compensation. Compliance by an issuer with this obligation will be reviewed in the context of each accounting restatement prepared by the issuer, and will include the means used to seek recovery and whether such means are appropriate based on the discrete circumstances of each executive officer who is determined to be subject to recovery of erroneously awarded compensation.

Rule 10D-1 became effective on January 23, 2023; exchanges are required to file proposed listing standards no later than February 27, 2023 and such listing standards must be effective no later than November 28, 2023. Issuers subject to the Exchange's listing standards will have 60 days following the effective date of such standards to adopt a recovery policy.

#### New Definitions.

The Exchange is proposing to adopt the specific definitions of certain terms as contained in Rule 10D-1. In new subparagraph (A) of Rule 14.207(f)(1), the Exchange defines "Executive Officer" as the Company's<sup>9</sup> president, principal financial officer, principal accounting officer (or the controller in the event there is no principal accounting officer), and vice-president in charge of a principal business unit, division, or function (such as sales, administration, or finance), any other officer who performs a policy-making function, or any other person who performs similar policy-making functions for the Company. Executive officers of the Company's parent(s) or subsidiaries are deemed executive officers of the Company if they perform such policy making functions for the issuer.

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<sup>9</sup> The Exchange notes that, throughout the proposed rule text, it uses the term "Company" rather than "issuer" to apply consistent terminology that is used throughout the Exchange's Listing Rules. Rule 14.002(a)(5) defines "Company" to mean the issuer of a security listed or applying to list on the Exchange. For purposes of the Exchange's listing rules, the term "Company" includes an issuer that is not incorporated, such as, for example, a limited partnership.

Proposed subparagraph (B) defines “Financial Reporting Measures” as those that are determined and presented in accordance with the accounting principles used in preparing the Company’s financial statements, and any measures that are derived wholly or in part from such measures. Stock price and total shareholder return are also financial reporting measures. A financial reporting measure need not be presented within the financial statements or included in a filing with the Exchange of the Commission.

In proposed subparagraph (C), the Exchange defines “Incentive-based Compensation” as any compensation that is granted, earned, or vested based wholly or in part upon the attainment of a financial reporting measure. Finally, proposed subparagraph (D) provides that the term “Received” with respect to incentive-based compensation as meaning that such compensation is deemed received in the Company’s fiscal period during which the financial reporting measure specified in the incentive-based compensation award is attained, even if the payment or grant of the incentive-based compensation occurs after the end of that period. The provision is intended to provide clarification and avoid doubt when determining when incentive based compensation that is subject to the rule was received.

Requirement to Adopt and Implement a Recovery Policy for Incentive-Based Executive Compensation

Proposed Rule 14.207(f)(2) requires that every Company that lists its securities on the Exchange shall, no later than 60 days of the effective date of this rule, adopt and comply with a written policy requiring such issuer to recover reasonably promptly the amount of erroneously awarded incentive-based compensation to any executive officer (“Recovery Policy”) if:

(A) the Company is required to prepare an accounting restatement due to material non-compliance of the Company with any financial reporting requirement under the securities

laws, including any required accounting restatement to correct a material error in previously issued financial statements; or (B) a material misstatement would occur if an error was corrected in the current period or left uncorrected in the current period, i.e., the error was not material to a previously issued financial statement but would result in a material misstatement if errors were left uncorrected in the current report or the error correction was recognized in the current period. This provision is intended to align with the requirements of Rule 10D-1 and embed in the Exchange's listing rules the requirement to establish and enforce a written Recovery Policy as a listing requirement on LTSE. In proposed Rule 14.207(f)(2)(C), the Exchange requires that every Company listed on the Exchange shall disclose its written Recovery Policy as part of its reporting obligations to the Commission, as an exhibit to its Annual Report, and to the Exchange. Companies applying for initial listing shall include its written Recovery Policy as part of its listing application. The Exchange will not act on any new listing application unless the Recovery Policy is included with the initial listing application.

In proposed Rule 14.207(f)(3), Application of the Recovery Policy to Executive Officers, the Exchange states that the Recovery Policy shall apply to all incentive-based compensation received by a person: (A) after such person began serving as an executive officer of the Company; (B) such person served as an executive officer at any time during the performance period for that incentive-based compensation; (C) while the Company had a class of securities listed on the Exchange; and (D), during the three completed fiscal years immediately preceding the date that the Company is required to issue an accounting restatement as described in paragraph (f)(2). In addition to the last three completed fiscal years, the Recovery Policy shall apply to any transition period that resulted from the Company's fiscal year within or immediately following the three completed fiscal years.



For purposes of determining the relevant recovery period, the Exchange proposes in Rule 14.207(f)(4)(A) that the date that a Company is required to prepare an accounting restatement as described in paragraph (f)(2) of the rule is the earlier of: (A) the date the Company's board of directors, a committee of the board of directors, or the officer or officers of the Company authorized to take such action if board action is not required, concludes, or reasonably should have concluded, that the Company is required to prepare an accounting restatement as described in paragraph (f)(2) of this rule; or (B) the date a court, regulator, or other legally authorized body directs the issuer to prepare an accounting restatement as described in paragraph (f)(2) of this rule.

Determining Amount of Incentive Compensation Subject to the Company's Recovery Policy.

Proposed Rule 14.207(f)(5)(A) states that the amount of incentive-based compensation that must be subject to the Company's Recovery Policy ("erroneously awarded compensation") is the amount of incentive-based compensation received that exceeds the amount of incentive-based compensation that otherwise would have been received had it been determined based on the restated amounts, and must be computed without regard to any taxes paid. Proposed subparagraph (B) states that, for incentive-based compensation based on stock price or total shareholder return, where the amount of erroneously awarded compensation is not subject to mathematical recalculation directly from the information in an accounting restatement:

(i) The amount must be based on a reasonable estimate of the effect of the accounting restatement on the stock price or total shareholder return upon which the incentive-based compensation was received; and (ii) the Company must maintain documentation of the determination of that reasonable estimate and provide such documentation to the Exchange.

These provisions are intended to address and clarify how erroneously awarded compensation

calculations will be treated when it involves factors not readily obtained through an analysis of the accounting restatement.

Rule 10D-1 requires that a listed Company recover the amount of erroneously-awarded incentive-based compensation reasonably promptly<sup>10</sup> but does not specify the time by which the Company must complete the recovery of excess incentive-based compensation. LTSE will determine whether the steps that a Company is taking constitutes compliance with its compensation recovery policy. The Company's obligation to recover erroneously-awarded incentive based compensation reasonably promptly will be assessed on a holistic basis with respect to each such accounting restatement prepared by the Company. In evaluating whether the Company recovering erroneously-awarded executive compensation reasonably promptly, the Exchange will consider whether the Company is pursuing the appropriate balance of cost and speed in determining the appropriate means to seek recovery, and whether the Company is securing recovery through means that are appropriate based on the particular facts and circumstances of each executive officer that owes a recoverable amount.

In proposed Rule 14.207(f)(6), "Indemnification Of Executive Officers by the Company Prohibited," the Exchange makes clear that a Company is prohibited from indemnifying any executive officer or former executive officer against the loss of erroneously awarded compensation. This provision is intended to assure that executive officers who otherwise would be subject to the recovery rule do not avoid a financial consequence by having the Company

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<sup>10</sup> The Commission stated that it: "recognize(s) that what is reasonable may depend on the additional cost incident to the recovery efforts. [The Commission] expects[s] that issuers and their directors and officers, in the exercise of their fiduciary duty to safeguard the assets of the issuer (including the time value of any of any potentially recoverable compensation), will pursue the most appropriate balance of cost and speed in determining the appropriate means to seek recovery." See, Rule 10D-1 adopting release at 73104.

indemnify them. Absent this provision, the recovery rule would lose substantial impact and would not be as effective in influencing executive management actions.

Proposed Rule 14.207(f)(7) reinforces the disclosure requirements and provides that Companies are required to file all disclosures with respect to its Recovery Policy in accordance with the requirements of the Federal securities laws, applicable Commission filings, and the Rules of the Exchange.

The Exchange further proposes in Rule 14.207(f)(8) that the requirements of Rule 14.207(f) shall not apply to the listing of any security issued by a unit investment trust, as defined in 15 U.S.C 80a-4(2) and any security issued by a management company as defined in 15 U.S.C. 80(a)-4(3) that is registered under Section 8 of the Investment Company Act of 1940 (15 U.S.C. 80a-8, if such management company has not awarded incentive-based compensation to any executive officer of the Company in any of the last three years, or in the case of a Company that has been listed less than three fiscal years, since the listing of the Company. These exemptions are proposed to align with the exemptions provided in Rule 10D-1.

Finally, Rule 14.207(f)(9) provides that the provisions of Rule 14.207(f) shall (i) become effective no later than 60 days after the effective date of the rule, which is the date that this rule filing SR-LTSE-2023-01 is approved by the Commission. A Company listed on LTSE shall: (i) adopt a Recovery Policy; and (ii) provide the disclosures required by this rule and the applicable Commission filings on or after such effective date. Notwithstanding the look-back requirements in Rule 14.207(f), a Company is only required to apply the recovery policy to incentive-based executive compensation received after the effective date of this rule. Any Company that has failed to meet the requirements of the Rule will not be allowed to list on LTSE or, if listed, will be subject to provisions of LTSE Rule 14.500 (Failure to Meet Listing Standards) and the

procedures set forth in Rules 14.501, 14.502 and 14.503. The Exchange is proposing to amend Rule 14.501(d)(3) to provide that a Company that has failed to comply with the requirements of Rule 14.207(f) is required to submit to LTSE a plan to regain compliance. The Exchange proposes to utilize its existing administrative process for addressing corporate governance deficiencies for violations of 10D-1, subject to certain amendments described below. The Exchange believes that using the existing process is appropriate in that it applies a consistent process for rectifying corporate governance deficiencies to which listed Companies are already subject.

However, the Exchange is proposing amendments to Rule 14.500(a)(5), which defines a Public Reprimand Letter, and Rule 14.501, Notification of Deficiency by LTSE Regulation, to exclude a violation of Rule 10D-1 from the deficiencies in listing standards for which a Public Reprimand Letter is appropriate under Rule 14.500 and state that Public Reprimand Letters may not be issued for violations of the listing standards required by SEC Rule 10D-a and Exchange Rule 14.207(f). A conforming amendment to is proposed for Rule 14.502, Review of Staff Determination by the Listings Review Committee, to clarify that the the current rule text in Rule 14.502(1)(C) that states that the Exchange's Listing Review Committee may, where it deems appropriate: "issue a decision that serves as a Public Reprimand letter in cases where the Company has violated an Exchange corporate governance or notification Listing standard (other than one required by Rule 10A-3 of the Act) and the Listing Review Committee determines that delisting is an inappropriate sanction...." The Exchange proposes to include Section 10D-1 as a governance and notification listing standard that is ineligible for the disposition by a Public Reprimand Letter upon a review or a delisting proceeding by the Listings Review Committee.

The Exchange is proposing these amendments because it does not believe that issuance of a Public Reprimand Letter in situations where a listed Company has failed to meet its obligations regarding the recovery of erroneously awarded executive compensation is consistent with the provisions of Rule 10D-1.

(b) Statutory Basis

The Exchange believe that the proposed rule change is consistent with the provisions of Section 6 of the Act,<sup>11</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act,<sup>12</sup> in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, 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. Further, the Exchange believes that the proposal is not designed to permit unfair discrimination between issuers or to regulate by virtue of any authority conferred by the Act matters not related to the purposes of the Act or the administration of the Exchange, for the reasons set forth below.

First, and importantly, the Exchange is proposing to adopt these rules as required under Section 10D of the Act and Rule 10D-1. The requirement that national securities exchanges that list equity securities, such as LTSE, embed the requirements of the statute and the regulation into its listing rules is intended to effectuate compliance and ensure consistency across the rules of every exchange. The Exchange believes that these proposals protect investors and the public interest by requiring Companies, with certain exemptions, that in the event the Company is

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<sup>11</sup> Id.

<sup>12</sup> 15 U.S.C. 78f(b)(5).

required to prepare an accounting restatement, to recover reasonably promptly erroneously awarded incentive-based compensation paid to current or former executive officers based on any misstated financial measure. These proposed amendments will also help to foster effective oversight of executive compensation and provide increased accountability and transparency to investors by not allowing executive officers to retain compensation that they were awarded erroneously. The Exchange believes that the recovery requirement will operate to provide executive officers with an increased incentive to take steps to reduce the likelihood of inadvertent misreporting and will reduce the financial benefits to executive officers who pursue impermissible accounting methods, which the Commission expects will further reduce such behavior.<sup>13</sup>

LTSE further believes that the proposal to provide that a Company that had failed to comply with the requirements of Rule 14.207(f) is required to submit to the Exchange a plan to regain compliance is consistent with the investor protection objectives of Section 6(b)(5) of the Act<sup>14</sup> because the Exchange's process for addressing such deficiencies will follow the established pattern used for similar corporate governance deficiencies, to which listed Companies are already subject and are familiar with.

The Exchange believes that its proposed rule change is fair and not unfairly discriminatory. As stated in the Adopting Release, “[t]o assure that issuers listed on different exchanges are subject to the same disclosure requirements regarding erroneously awarded compensation recovery, amendments to the Commission’s disclosure rules require all issuers listed on any exchange to file their written compensation policies as an exhibit to their annual

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<sup>13</sup> See, Rule 10D-1 Adopting Release at 87 FR 73077.

<sup>14</sup> 15 U.S.C 78(b)(5).

reports....”<sup>15</sup> Additionally, because issuers listed on different exchanges will be subject to the same disclosure requirements regarding erroneously awarded compensation it alleviates any additional compliance burdens that could result, absent uniform treatment across all exchanges. The Exchange further believes that the proposed amendments are consistent with the protection of investors and the public interest by imparting uniformity of the exchanges’ rules on erroneously awarded executive compensation, as required by Rule 10D-1.

4. Self-Regulatory Organization’s Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. In fact, as discussed in the Statutory Basis section, LTSE believes that the proposed amendments will impose no burden on competition in that every publicly traded company will be required to comply with the Rule 10D-1, and every national securities exchange that lists securities will be required to adopt essentially the same rules regarding erroneously awarded compensation as part of their original and continued listing requirements. Given these factors, the Exchange does not believe that there will be any burden on competition.

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

Written comments were neither solicited nor received.

6. Extension of Time Period for Commission Action

Not applicable.

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<sup>15</sup> See, 87 FR at 73078.

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

Not applicable.

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

As noted in the Purpose and Statutory Basis sections, the proposed rule change is based on, and required by, Section 10D of the Act<sup>16</sup> and Rule 10D-1 promulgated by the Commission thereunder.

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

Not applicable.

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

Not applicable.

11. Exhibits

Exhibit 1 – Form of Notice of the Proposed Rule Change for Publication in the Federal Register.

Exhibit 5 – Text of the Proposed Rule Change.

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<sup>16</sup> See, 15 U.S.C. 78j-4.



## EXHIBIT 1

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34- ; File No. SR-LTSE-2023-01]

[Date]

Self-Regulatory Organizations; Long-Term Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to amend LTSE Rule 14.207 (Obligations for Companies Listed on the Exchange), paragraph (f), to adopt Listing Standards for the Recovery of Erroneously Awarded Compensation

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Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on February 27, 2023, Long-Term Stock Exchange, Inc. (“LTSE” or the “Exchange”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

LTSE proposes to amend LTSE Rule 14.207 (Obligations for Companies Listed on the Exchange), paragraph (f), to adopt Listing Standards for the Recovery of Erroneously Awarded Compensation. The text of the proposed rule change is available at the Exchange’s website, at <https://longtermstockexchange.com>, at the principal office of the Exchange, and at the Commission’s public reference room.

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

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

<sup>2</sup> 17 CFR 240.19b-4.

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 these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

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

1. Purpose

The Exchange is proposing to amend LTSE Rule 14.207 (Obligations for Companies Listed on the Exchange), paragraph (f), to adopt “Listing Standards for the Recovery of Erroneously Awarded Compensation” and Supplementary Material .04, which describes certain exemptions from the requirements of amended Rule 14.207(f). The current text of paragraph (f) of Rule 14.207 will be repositioned into a new paragraph (g).

The Exchange is proposing these amendment in order to establish in its listing standards the requirements of Section 10D of the Act<sup>3</sup> and Rule 10D-1 thereunder. On October 22, 2022, the Commission adopted a new rule and rule amendments<sup>4</sup> to implement Section 954 of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (the “Dodd Frank Act”),<sup>5</sup> which added Section 10D of the Act. The final rules adopted by the Commission under Section 10D direct national securities exchanges and associations that list securities to establish listing standards that require each issuer to develop and implement a policy providing for the reasonably

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<sup>3</sup> 15 U.S.C. 78j-4

<sup>4</sup> See, Release Nos. 33-11126; 34-96159; IC-34732; File No. S-7-12-15; 87 FR 73076 (November 28, 2022).

<sup>5</sup> 2 Pub. L. No 111-203, 124 Stat. 1900 (2010).

prompt recovery, in the event of required accounting restatement, of incentive-based compensation received by current or former executive officers where that compensation is based on erroneously reported financial information. The listing standards must require disclosure of the policy and also require that issuers file the policy as an exhibit to the annual report and require other disclosures in the event a recovery analysis is triggered under the policy.

Specifically, listing exchanges are required to adopt listing standards requiring each listed issuer to file their written recovery policies as exhibits to their annual reports; indicate, by check boxes on their annual reports, whether the financial statements included in the filing contain a correction of an error in previously-issued financial statements and whether any of the reported error corrections constitute restatements that required a recovery analysis under the issuer's recovery policies; and finally, to disclose any actions taken through the application of the recovery policies.

Rule 10D-1 requires that issuers recover reasonably promptly the amount of erroneously-awarded executive compensation. Compliance by an issuer with this obligation will be reviewed in the context of each accounting restatement prepared by the issuer, and will include the means used to seek recovery and whether such means are appropriate based on the discrete circumstances of each executive officer who is determined to be subject to recovery of erroneously awarded compensation.

Rule 10D-1 became effective on January 23, 2023; exchanges are required to file proposed listing standards no later than February 27, 2023 and such listing standards must be effective no later than November 28, 2023. Issuers subject to the Exchange's listing standards will have 60 days following the effective date of such standards to adopt a recovery policy.

New Definitions.

The Exchange is proposing to adopt the specific definitions of certain terms as contained in Rule 10D-1. In new subparagraph (A) of Rule 14.207(f)(1), the Exchange defines “Executive Officer” as the Company’s<sup>6</sup> president, principal financial officer, principal accounting officer (or the controller in the event there is no principal accounting officer), and vice-president in charge of a principal business unit, division, or function (such as sales, administration, or finance), any other officer who performs a policy-making function, or any other person who performs similar policy-making functions for the Company. Executive officers of the Company’s parent(s) or subsidiaries are deemed executive officers of the Company if they perform such policy making functions for the issuer.

Proposed subparagraph (B) defines “Financial Reporting Measures” as those that are determined and presented in accordance with the accounting principles used in preparing the Company’s financial statements, and any measures that are derived wholly or in part from such measures. Stock price and total shareholder return are also financial reporting measures. A financial reporting measure need not be presented within the financial statements or included in a filing with the Exchange of the Commission.

In proposed subparagraph (C), the Exchange defines “Incentive-based Compensation” as any compensation that is granted, earned, or vested based wholly or in part upon the attainment of a financial reporting measure. Finally, proposed subparagraph (D) provides that the term “Received” with respect to incentive-based compensation as meaning that such compensation is

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<sup>6</sup> The Exchange notes that, throughout the proposed rule text, it uses the term “Company” rather than “issuer” to apply consistent terminology that is used throughout the Exchange’s Listing Rules. Rule 14.002(a)(5) defines “Company” to mean the issuer of a security listed or applying to list on the Exchange. For purposes of the Exchange’s listing rules, the term “Company” includes an issuer that is not incorporated, such as, for example, a limited partnership.

deemed received in the Company's fiscal period during which the financial reporting measure specified in the incentive-based compensation award is attained, even if the payment or grant of the incentive-based compensation occurs after the end of that period. The provision is intended to provide clarification and avoid doubt when determining when incentive based compensation that is subject to the rule was received.

Requirement to Adopt and Implement a Recovery Policy for Incentive-Based Executive Compensation

Proposed Rule 14.207(f)(2) requires that every Company that lists its securities on the Exchange shall, no later than 60 days of the effective date of this rule, adopt and comply with a written policy requiring such issuer to recover reasonably promptly the amount of erroneously awarded incentive-based compensation to any executive officer ("Recovery Policy") if:

(A) the Company is required to prepare an accounting restatement due to material non-compliance of the Company with any financial reporting requirement under the securities laws, including any required accounting restatement to correct a material error in previously issued financial statements; or (B) a material misstatement would occur if an error was corrected in the current period or left uncorrected in the current period, i.e., the error was not material to a previously issued financial statement but would result in a material misstatement if errors were left uncorrected in the current report or the error correction was recognized in the current period.

This provision is intended to align with the requirements of Rule 10D-1 and embed in the Exchange's listing rules the requirement to establish and enforce a written Recovery Policy as a listing requirement on LTSE. In proposed Rule 14.207(f)(2)(C), the Exchange requires that every Company listed on the Exchange shall disclose its written Recovery Policy as part of its reporting obligations to the Commission, as an exhibit to its Annual Report, and to the Exchange.

Companies applying for initial listing shall include its written Recovery Policy as part of its listing application. The Exchange will not act on any new listing application unless the Recovery Policy is included with the initial listing application.

In proposed Rule 14.207(f)(3), Application of the Recovery Policy to Executive Officers, the Exchange states that the Recovery Policy shall apply to all incentive-based compensation received by a person: (A) after such person began serving as an executive officer of the Company; (B) such person served as an executive officer at any time during the performance period for that incentive-based compensation; (C) while the Company had a class of securities listed or listed on the Exchange; and (D), during the three completed fiscal years immediately preceding the date that the Company is required to issue an accounting restatement as described in paragraph (f)(2). In addition to the last three completed fiscal years, the Recovery Policy shall apply to any transition period that resulted from the Company's fiscal year within or immediately following the three completed fiscal years.

For purposes of determining the relevant recovery period, the Exchange proposes in Rule 14.207(f)(4)(A) that the date that a Company is required to prepare an accounting restatement as described in paragraph (f)(2) of the rule is the earlier of: (A) the date the Company's board of directors, a committee of the board of directors, or the officer or officers of the Company authorized to take such action if board action is not required, concludes, or reasonably should have concluded, that the Company is required to prepare an accounting restatement as described in paragraph (f)(2) of this rule; or (B) the date a court, regulator, or other legally authorized body directs the issuer to prepare an accounting restatement as described in paragraph (f)(2) of this rule.

Determining Amount of Incentive Compensation Subject to the Company's Recovery Policy.

Proposed Rule 14.207(f)(5)(A) states that the amount of incentive-based compensation that must be subject to the Company's Recovery Policy ("erroneously awarded compensation") is the amount of incentive-based compensation received that exceeds the amount of incentive-based compensation that otherwise would have been received had it been determined based on the restated amounts, and must be computed without regard to any taxes paid. Proposed subparagraph (B) states that, for incentive-based compensation based on stock price or total shareholder return, where the amount of erroneously awarded compensation is not subject to mathematical recalculation directly from the information in an accounting restatement:

(i) The amount must be based on a reasonable estimate of the effect of the accounting restatement on the stock price or total shareholder return upon which the incentive-based compensation was received; and (ii) the Company must maintain documentation of the determination of that reasonable estimate and provide such documentation to the Exchange.

These provisions are intended to address and clarify how erroneously awarded compensation calculations will be treated when it involves factors not readily obtained through an analysis of the accounting restatement.

Rule 10D-1 requires that a listed Company recover the amount of erroneously-awarded incentive-based compensation reasonably promptly<sup>7</sup> but does not specify the time by which the Company must complete the recovery of excess incentive-based compensation. LTSE will

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<sup>7</sup> The Commission stated that it: "recognize(s) that what is reasonable may depend on the additional cost incident to the recovery efforts. [The Commission] expects[s] that issuers and their directors and officers, in the exercise of their fiduciary duty to safeguard the assets of the issuer (including the time value of any of any potentially recoverable compensation), will pursue the most appropriate balance of cost and speed in determining the appropriate means to seek recovery." See, Rule 10D-1 adopting release at 73104.

determine whether the steps that a Company is taking constitutes compliance with its compensation recovery policy. The Company's obligation to recover erroneously-awarded incentive based compensation reasonably promptly will be assessed on a holistic basis with respect to each such accounting restatement prepared by the Company. In evaluating whether the Company recovering erroneously-awarded executive compensation reasonably promptly, the Exchange will consider whether the Company is pursuing the appropriate balance of cost and speed in determining the appropriate means to seek recovery, and whether the Company is securing recovery through means that are appropriate based on the particular facts and circumstances of each executive officer that owes a recoverable amount.

In proposed Rule 14.207(f)(6), "Indemnification Of Executive Officers by the Company Prohibited," the Exchange makes clear that a Company is prohibited from indemnifying any executive officer or former executive officer against the loss of erroneously awarded compensation. This provision is intended to assure that executive officers who otherwise would be subject to the recovery rule do not avoid a financial consequence by having the Company indemnify them. Absent this provision, the recovery rule would lose substantial impact and would not be as effective in influencing executive management actions.

Proposed Rule 14.207(f)(7) reinforces the disclosure requirements and provides that Companies are required to file all disclosures with respect to its Recovery Policy in accordance with the requirements of the Federal securities laws, applicable Commission filings, and the Rules of the Exchange.

The Exchange further proposes in Rule 14.207(f)(8) that the requirements of Rule 14.207(f) shall not apply to the listing of any security issued by a unit investment trust, as defined in 15 U.S.C 80a-4(2) and any security issued by a management company as defined in



15 U.S.C. 80(a)-4(3) that is registered under Section 8 of the Investment Company Act of 1940 (15 U.S.C. 80a-8, if such management company has not awarded incentive-based compensation to any executive officer of the Company in any of the last three years, or in the case of a Company that has been listed less than three fiscal years, since the listing of the Company. These exemptions are proposed to align with the exemptions provided in Rule 10D-1.

Finally, Rule 14.207(f)(9) provides that the provisions of Rule 14.207(f) shall (i) become effective no later than 60 days after the effective date of the rule, which is the date that this rule filing SR-LTSE-2023-01 is approved by the Commission. A Company listed on LTSE shall: (i) adopt a Recovery Policy; and (ii) provide the disclosures required by this rule and the applicable Commission filings on or after such effective date. Notwithstanding the look-back requirements in Rule 14.207(f), a Company is only required to apply the recovery policy to incentive-based executive compensation received after the effective date of this rule. Any Company that has failed to meet the requirements of the Rule will not be allowed to list on LTSE or, if listed, will be subject to provisions of Rule 14.500 (Failure to Meet Listing Standards) and the procedures set forth in Rules 14.501, 14.502 and 14.503. The Exchange is proposing to amend Rule 14.501(d)(3) to provide that a Company that has failed to comply with the requirements of Rule 14.207(f) is required to submit to LTSE a plan to regain compliance. The Exchange proposes to utilize its existing administrative process for addressing corporate governance deficiencies for violations of 10D-1, subject to certain amendments described below. The Exchange believes that using the existing process is appropriate in that it applies a consistent process for rectifying corporate governance deficiencies to which listed Companies are already subject.

However, the Exchange is proposing amendments to Rule 14.500(a)(5), which defines a Public Reprimand Letter, and Rule 14.501, Notification of Deficiency by LTSE Regulation, to

exclude a violation of Rule 10D-1 from the deficiencies in listing standards for which a Public Reprimand Letter is appropriate under Rule 14.500 and state that Public Reprimand Letters may not be issued for violations of the listing standards required by SEC Rule 10D-1 and Exchange Rule 14.207(f). A conforming amendment to is proposed for Rule 14.502, Review of Staff Determination by the Listings Review Committee, to clarify that the the current rule text in Rule 14.502(1)(C) that states that the Exchange’s Listing Review Committee may, where it deems appropriate: “issue a decision that serves as a Public Reprimand letter in cases where the Company has violated an Exchange corporate governance or notification Listing standard (other than one required by Rule 10A-3 of the Act) and the Listing Review Committee determines that delisting is an inappropriate sanction....” The Exchange proposes to include Section 10D-1 as a governance and notification listing standard that is ineligible for the disposition by a Public Reprimand Letter upon a review or a delisting proceeding by the Listings Review Committee.

The Exchange is proposing these amendments because it does not believe that issuance of a Public Reprimand Letter in situations where a listed Company has failed to meet its obligations regarding the recovery of erroneously awarded executive compensation is consistent with the provisions of Rule 10D-1.

## 2. Statutory Basis

The Exchange believe that the proposed rule change is consistent with the provisions of Section 6 of the Act,<sup>8</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act,<sup>9</sup> in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with

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<sup>8</sup> 15 U.S.C. 78f(b).

<sup>9</sup> 15 U.S.C. 78f(b)(5).

persons engaged in 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. Further, the Exchange believes that the proposal is not designed to permit unfair discrimination between issuers or to regulate by virtue of any authority conferred by the Act matters not related to the purposes of the Act or the administration of the Exchange, for the reasons set forth below.

First, and importantly, the Exchange is proposing to adopt these rules as required under Section 10D of the Act and Rule 10D-1. The requirement that national securities exchanges that list equity securities, such as LTSE, embed the requirements of the statute and the regulation into its listing rules is intended to effectuate compliance and ensure consistency across the rules of every exchange. The Exchange believes that these proposals protect investors and the public interest by requiring Companies, with certain exemptions, that in the event the Company is required to prepare an accounting restatement, to recover reasonably promptly erroneously awarded incentive-based compensation paid to current or former executive officers based on any misstated financial measure. These proposed amendments will also help to foster effective oversight of executive compensation and provide increased accountability and transparency to investors by not allowing executive officers to retain compensation that they were awarded erroneously. The Exchange believes that the recovery requirement will operate to provide executive officers with an increased incentive to take steps to reduce the likelihood of inadvertent misreporting and will reduce the financial benefits to executive officers who pursue impermissible accounting methods, which the Commission expects will further reduce such behavior.<sup>10</sup>

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<sup>10</sup> See, Rule 10D-1 Adopting Release at 87 FR 73077.

LTSE further believes that the proposal to provide that a Company that had failed to comply with the requirements of Rule 14.207(f) is required to submit to the Exchange a plan to regain compliance is consistent with the investor protection objectives of Section 6(b)(5) of the Act<sup>11</sup> because the Exchange's process for addressing such deficiencies will follow the established pattern used for similar corporate governance deficiencies, to which listed Companies are already subject and are familiar with.

The Exchange believes that its proposed rule change is fair and not unfairly discriminatory. As stated in the Adopting Release, “[t]o assure that issuers listed on different exchanges are subject to the same disclosure requirements regarding erroneously awarded compensation recovery, amendments to the Commission’s disclosure rules require all issuers listed on any exchange to file their written compensation policies as an exhibit to their annual reports....”<sup>12</sup> Additionally, because issuers listed on different exchanges will be subject to the same disclosure requirements regarding erroneously awarded compensation it alleviates any additional compliance burdens that could result, absent uniform treatment across all exchanges. The Exchange further believes that the proposed amendments are consistent with the protection of investors and the public interest by imparting uniformity of the exchanges’ rules on erroneously awarded executive compensation, as required by Rule 10D-1.

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

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. In fact, as discussed in the Statutory Basis section, LTSE believes that the proposed amendments

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<sup>11</sup> 15 U.S.C 78(b)(5).

<sup>12</sup> See, 87 FR at 73078.

will impose no burden on competition in that every publicly traded company will be required to comply with the Rule 10D-1, and every national securities exchange that lists securities will be required to adopt essentially the same rules regarding erroneously awarded compensation as part of their original and continued listing requirements. Given these factors, the Exchange does not believe that there will be any burden on competition.

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

Written comments were neither solicited nor received.

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 within such longer period 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-LTSE-2023-01 on the subject line.

Paper Comments:

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

All submissions should refer to File Number SR-LTSE-2023-01. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE, Washington, DC 20549 on official business days between the hours of 10:00 am and 3:00 pm. Copies of the filing also will be available for inspection and copying at the principal office of LTSE and on its Internet website at <https://longtermstockexchange.com/>.

All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-LTSE-2023-01 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>13</sup>

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<sup>13</sup> 17 CFR 200.30-3(a)(12).

J. Matthew DeLesDernier,  
Deputy Secretary

Exhibit 5 - TEXT OF PROPOSED RULE CHANGE

Proposed new language is underlined; proposed deletions are in [brackets]

**Long-Term Stock Exchange Rule Book**

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**Rule 14.207 Obligations for Companies Listed on the Exchange**

(a) - (e) No Changes

(f) [Obligation to Pay Fees. The Company is required to pay all applicable fees as described in the Rule 14.600 Series.] Recovery of Erroneously Awarded Compensation to Executive Officers.  
As required by SEC Rule 10D-1, any Company listed on LTSE must adopt a compensation recovery policy, comply with that policy, and provide the compensation recovery policy disclosures required by this rule and in all applicable filings with the Commission.

(1) Definitions

The following definitions apply to this Rule 14.207(f):

- (A) Executive Officer: An Executive Officer is the Company's president, principal financial officer, principal accounting officer (or the controller in the event there is no principal accounting officer), and vice-president in charge of a principal business unit, division, or function (such as sales, administration, or finance), any other officer who performs a policy-making function, or any other person who performs similar policy-making functions for the Company.
- (B) Financial reporting measures: Financial reporting measures are those that are determined and presented in accordance with the accounting principles used in preparing the Company's financial statements, and any measures that are derived wholly or in part from such measures. Stock price and total shareholder return are also financial reporting measures. A financial reporting measure need not be presented within the financial statements or included in a filing with the Commission.



- (C) Incentive-based compensation: Incentive-based compensation is any compensation that is granted, earned, or vested based wholly or in part upon the attainment of a financial reporting measure.
  - (D) Received: Incentive-based compensation is deemed received in the Company's fiscal period during which the financial reporting measure specified in the incentive-based compensation award is attained, even if the payment or grant of the incentive-based compensation occurs after the end of that period.
- (2) Requirement to Adopt, Implement and Disclose a Recovery Policy for Incentive-Based Executive Compensation.

Each Company that lists its securities on the Exchange shall adopt and comply with a written policy requiring the Company to recover reasonably promptly the amount of erroneously awarded incentive-based compensation to any executive officer ("Recovery Policy") if:

- (A) The Company is required to prepare an accounting restatement due to material non-compliance of the Company with any financial reporting requirement under the securities laws, including any required accounting restatement to correct a material error in previously issued financial statements; or
  - (B) The Company is required to prepare an accounting restatement to correct an error in previously issued financial statements that is material to the previously issued financial statements, or that would result in a material misstatement if the error were corrected in the current period or left uncorrected in the current period.
  - (C) Every Company listed on the Exchange shall disclose its written policy related to the recovery of erroneously awarded compensation as part of its reporting obligations to the Commission, as an exhibit to its Annual Report, and to the Exchange. Companies applying for initial listing shall include its written policy as part of its listing application.
- (3) Application of the Recovery Policy to Executive Officers.

The Recovery Policy shall apply to all incentive-based compensation received by a person:

- (A) After such person began serving as an executive officer of the Company;
- (B) Such person served as an executive officer at any time during the performance period for that incentive-based compensation;
- (C) While the Company had a class of securities listed on the Exchange; and

- (D) During the three completed fiscal years immediately preceding the date that the Company is required to issue an accounting restatement as described in paragraph (f)(2) above. In addition to the last three completed fiscal years, the Recovery Policy shall apply to any transition period that resulted from the Company's fiscal year within or immediately following the three completed fiscal years. However, a transition period between the last day of the Company's previous fiscal year-end and the first day of a new fiscal year that comprises a period of 9 to 12 months would be deemed a completed fiscal year. A Company's obligation to recover erroneously awarded compensation is not dependent on if or when the restated financial statements are filed.

(4) Determination of the Relevant Recovery Period.

For purposes of determining the relevant recovery period, the date that a Company is required to prepare an accounting restatement as described in paragraph (f)(2) of this rule is the earlier of:

(A) The date the Company's board of directors, a committee of the board of directors, or the officer or officers of the Company authorized to take such action if board action is not required, concludes, or reasonably should have concluded, that the Company is required to prepare an accounting restatement as described in paragraph (f)(2) of this rule; or

(B) The date a court, regulator, or other legally authorized body directs the issuer to prepare an accounting restatement as described in paragraph (f)(2) of this rule.

(5) Determining Amount of Incentive Compensation Subject to the Company's Recovery Policy.

(A) The amount of incentive-based compensation that must be subject to the Company's recovery policy ("erroneously awarded compensation") is the amount of incentive-based compensation received that exceeds the amount of incentive-based compensation that otherwise would have been received had it been determined based on the restated amounts, and must be computed without regard to any taxes paid.

(B) For incentive-based compensation based on stock price or total shareholder return, where the amount of erroneously awarded compensation is not subject to mathematical recalculation directly from the information in an accounting restatement:

(i) The amount must be based on a reasonable estimate of the effect of the accounting restatement on the stock price or total shareholder return upon which the incentive-based compensation was received; and

(ii) The Company must maintain documentation of the determination of that reasonable estimate and provide such documentation to the Exchange.

(6) Indemnification Of Executive Officers by the Company Prohibited. The Company is prohibited from indemnifying any executive officer or former executive officer against the loss of erroneously awarded compensation.

(7) Companies are required to file all disclosures with respect to its Recovery Policy in accordance with the requirements of the Federal securities laws, including the disclosure required by applicable Commission filings, and the Rules of the Exchange.

(8) The requirements of this Rule 14.207(f) shall not apply to the listing of any security issued by a unit investment trust, as defined in 15 U.S.C 80a-4(2) and any security issued by a management company as defined in 15 U.S.C. 80(a)-4(3) that is registered under Section 8 of the Investment Company Act of 1940 (15 U.S.C. 80a-8, if such management company has not awarded incentive-based compensation to any executive officer of the Company in any of the last three years, or in the case of a Company that has been listed less than three fiscal years, since the listing of the Company.

(9) Effective Date: Each Company is required to (i) adopt a policy governing the recovery of erroneously awarded compensation as required by this rule no later 60 days following the effective date of this rule, which is {insert date of the Commission's approval of SR-LTSE-2023-01}; and (ii) provide the disclosures required by this rule and the applicable Commission filings on or after such effective date. Notwithstanding the look-back requirements in Rule 14.207(f), a Company is only required to apply the recovery policy to incentive-based executive compensation received after the effective date of this rule. Any Company that has failed to meet the requirements of the Rule on or after the effective date of this rule will not be allowed to list on LTSE or, if listed, will be subject to provisions of Rule 14.500 (Failure to Meet Listing Standards) and the procedures set forth in Rules 14.501, 14.502 and 14.503.

(g) Obligation to Pay Fees. The Company is required to pay all applicable fees as described in the Rule 14.600 Series.

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Supplementary Material

.01 through .03 – No changes.

#### 04. Exceptions to Requirement to Recover Erroneously Awarded Compensation.

Companies must recover erroneously awarded compensation in compliance with its recovery policy except to the extent that the conditions of paragraphs (A), (B), or (C) below are met and the Company's committee of independent directors responsible for executive compensation decisions, or in the absence of such a committee, a majority of the independent directors serving

on the board, has made a determination that recovery would be impracticable in consideration of those conditions.

(A) The direct expense paid to a third party to assist in enforcing the policy would exceed the amount to be recovered. Before concluding that it would be impracticable to recover any amount of erroneously awarded compensation based on expense of enforcement, the issuer must make a reasonable attempt to recover such erroneously awarded compensation, document such reasonable attempt(s) to recover, and provide that documentation to the exchange or association.

(B) Recovery would violate home country law where that law was adopted prior to November 28, 2022. Before concluding that it would be impracticable to recover any amount of erroneously awarded compensation based on violation of home country law, the issuer must obtain an opinion of home country counsel, acceptable to the applicable national securities exchange or association, that recovery would result in such a violation, and must provide such opinion to the exchange or association.

(C) Recovery would likely cause an otherwise tax-qualified retirement plan, under which benefits are broadly available to employees of the registrant, to fail to meet the requirements of 26 U.S.C. 401(a)(13) or 26 U.S.C. 411(a) and regulations thereunder.

#### **Rule 14.500 Failure to Meet Listing Standards**

(a)(1) - (a)(4) – No changes.

(a)(5) "Public Reprimand Letter" means a letter issued by Staff or a Decision of the Listings Review Committee in cases where the Company has violated an Exchange corporate governance or notification listing standard (other than one required by Rule 10A-3 or Rule 10D-1 under[of] the Act) and Staff or the Listings Review Committee determines that delisting is an inappropriate sanction. In determining whether to issue a Public Reprimand Letter, Staff or the Listings Review Committee will consider whether the violation was inadvertent, whether the violation materially adversely affected shareholders' interests, whether the violation has been

cured, whether the Company reasonably relied on an independent advisor and whether the Company has demonstrated a pattern of violations.

**Rule 14.501 Notification of Deficiency by LTSE Regulation**

(a)(1) - (a)(3) - No changes.

(a)(4) Public Reprimand Letters, except such notification type is not available for unresolved deficiencies from the standards of Rules 14.207(c) (Obligation to File Periodic Financial Reports), 14.207(f) (Recovery of Erroneously Awarded Compensation to Executive Officers), 14.407(a)(4)(D) (Partner Meetings of Limited Partnerships) and 14.408(a) (Meetings of Shareholders).

(b)-(c) – No changes.

(d)(2)(A)(i) - (ii) – No changes

(d)(3) deficiencies from the standards of LTSE Rules 14.408(a) {Meetings of Shareholders}, 14.408(c) {Quorum}, 14.411 {Review of Related Party Transactions}, 14.412 {Shareholder Approval}, 14.207(c)(3) {Auditor Registration}, 14.208(a) {Direct Registration Program}, 14.207(f) Recovery of Erroneously Awarded Compensation, 14.406 {Code of Conduct}, 14.407(a)(4)(D) {Partner Meetings of Limited Partners}, 14.407(a)(4)(E) {Quorum of Limited Partnerships}, 14.407(a)(4)(G) {Related Party Transactions of Limited Partnerships}, 14.413 {Voting Rights}, 14.414 {Internal Audit Function}, or 14.425 {Long-Term Policies}; or

**Rule 14.502 Review of Staff Determination by the Listings Review Committee**

(a) Scope of Listing Committee's Discretion.

(1)(A) - (1)(B) – No changes.

(1)(C) issue a Decision that serves as a Public Reprimand Letter in cases where the Company has violated an Exchange corporate governance or notification listing standard

(other than one required by Rules 10A-3 and 10D-1 under[of] the Act) and the Listings Review Committee determines that delisting is an inappropriate sanction. In determining whether to issue a Public Reprimand Letter, the Listings Review Committee will consider whether the violation was inadvertent, whether the violation materially adversely affected shareholders' interests, whether the violation has been cured, whether the Company reasonably relied on an independent advisor and whether the Company has demonstrated a pattern of violations;

(D) - (F) – No changes.

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