

*Electronic Comments*

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-ISE-2017-54 on the subject line.

*Paper Comments*

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

All submissions should refer to File Number SR-ISE-2017-54. 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/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 Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; 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-ISE-2017-54 and should be submitted on or before July 21, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>21</sup>

**Robert W. Errett,**

*Deputy Secretary.*

[FR Doc. 2017-13709 Filed 6-29-17; 8:45 am]

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**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-81021; File No. SR-NYSE-2017-17]

**Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing of Proposed Rule Change To Require Listed Companies To Provide Advance Notice of Dividend Announcements to the Exchange**

June 26, 2017.

Pursuant to Section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934 (the "Act"),<sup>2</sup> and Rule 19b-4 thereunder,<sup>3</sup> notice is hereby given that, on June 13, 2017, New York Stock Exchange LLC ("NYSE" or the "Exchange") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange proposes to amend the NYSE Listed Company Manual (the "Manual") to require listed companies to provide notice to the Exchange at least 10 minutes before making any public announcement with respect to a dividend or stock distribution in all cases, including outside of the hours in which the Exchange's immediate release policy is in operation. The proposed rule change is available on the Exchange's Web site at [www.nyse.com](http://www.nyse.com), at the principal office of the Exchange, and at the Commission's Public Reference Room.

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

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

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

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

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

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

1. Purpose

The Exchange proposes to amend the Manual to require listed companies to provide notice to the Exchange at least 10 minutes before making any public announcement with respect to a dividend or stock distribution in all cases, including outside of the hours in which the Exchange's immediate release policy is in operation.

The Exchange's immediate release policy, set forth in Sections 202.05 and 202.06 of the Manual, already requires companies releasing material news between 7.00 a.m. ET and the NYSE close (generally 4.00 p.m. ET) to call the Exchange's Market Watch team at least 10 minutes before issuing their announcement to discuss the content of the announcement and also email a copy of the proposed announcement to Market Watch at least 10 minutes before its release. Listed companies announcing dividends during these hours are required to comply with the immediate release policy in connection with such announcement.

Section 204.12 of the Manual requires listed companies to give prompt notice to the Exchange as to any dividend action or action relating to a stock distribution in respect of a listed stock (including the omission or postponement of a dividend action at the customary time as well as the declaration of a dividend). This notice must be given at least ten days in advance of the record date and is in addition to the requirement to publicly disclose the information pursuant to the immediate release policy. The dividend notice must be given to the Exchange in accordance with Section 204.00.<sup>4</sup> Notice must be given as soon as possible after declaration and in any event, no later than simultaneously with the announcement to the news media.

In addition, Section 204.21 of the Manual requires listed companies to give prompt notice to the Exchange of the fixing of a date for the taking of a record of shareholders, or for the closing of transfer books (in respect of a listed security), for any purpose. The notice must state the purpose or purposes for which the record date has been fixed. This notice must be provided to the

<sup>4</sup> Section 204.00 requires that such notice must be provided via a web portal or email address specified by the Exchange on its Web site, except in emergency situations, when notification may instead be provided by telephone and confirmed by facsimile as specified by the Exchange on its Web site.

<sup>21</sup> 17 CFR 200.30-3(a)(12).

Exchange in accordance with Section 204.00.

The Exchange proposes to amend each of Sections 204.12 and 204.21 to specify that notice of any dividend or stock distribution required by Section 204.12 must be provided to the Exchange at least 10 minutes before any public announcement, including when such announcement is being made outside of Exchange trading hours. The principal effect of this amendment would be to require listed companies to provide 10 minutes advance notice to the Exchange with respect to a dividend announcement made at any time, rather than just during the hours of operation of the immediate release policy as is currently the case.

The Exchange also proposes to amend Section 202.06(B) to emphasize the Exchange's consistent interpretation of that rule as requiring listed companies to comply with the immediate release policy with respect to all announcements relating to a dividend or stock distribution.

The Exchange believes there are significant benefits to requiring listed companies to provide all announcements of dividends and stock distributions to the Exchange prior to their public dissemination. In particular, if the Exchange is provided dividend information prior to its public availability, Exchange staff will be able to address any issues that may arise in relation to any announcement of a dividend or stock distribution. The proposed advance notice requirement would enable Exchange staff to ensure that a listed company's proposed dividend schedule complied with applicable Exchange requirements, including the requirement to provide 10 days advanced notice of the record date, and that the company's disclosure of the application of the Exchange's "ex"-dividend trading policy was accurate. The Exchange intends to have staff available at all times to review dividend notifications immediately upon receipt, regardless of what time or day of the week they are provided. The staff will contact a listed company immediately if there is a problem with its notification. Addressing problems with dividend notifications before they are issued publicly will avoid any confusion in the marketplace resulting from the dissemination of inaccurate information.

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b)<sup>5</sup> of the Act, in general, and

further the objectives of Section 6(b)(5) of the Act,<sup>6</sup> in particular in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The proposed amendment is consistent with the protection of investors and the public interest because it will ensure that Exchange staff is able to address any rule compliance problems with a listed company's dividend schedule before it is publicly announced.

### B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the proposed rule change is consistent with Section 6(b)<sup>7</sup> of the Act, in general, and furthers the objectives of Section 6(b)(5) of the Act,<sup>8</sup> in particular in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The proposed amendment is consistent with the protection of investors and the public interest because it will ensure that Exchange staff is able to address any rule compliance problems with a listed company's dividend schedule before it is publicly announced.

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

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

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

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

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

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

## IV. Solicitation of Comments

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

### Electronic Comments

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-NYSE-2017-17 on the subject line.

### Paper Comments

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

All submissions should refer to File Number SR-NYSE-2017-17. 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/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 Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for

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

<sup>7</sup> 15 U.S.C. 78f(b).

<sup>8</sup> 15 U.S.C. 78f(b)(5).

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

inspection and copying at the principal office of the Exchange. 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-NYSE-2017-17 and should be submitted on or before July 21, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>9</sup>

**Robert W. Errett,**

*Deputy Secretary.*

[FR Doc. 2017-13706 Filed 6-29-17; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-81023; File No. SR-GEMX-2017-25]

### Self-Regulatory Organizations; Nasdaq GEMX, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the Non-Priority Customer License Surcharge

June 26, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on June 12, 2017, Nasdaq GEMX, LLC (“GEMX” or “Exchange”) filed with the Securities and Exchange Commission (“SEC” or “Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange proposes to apply the Non-Priority Customer license surcharge set forth in Section I of the Schedule of Fees to orders that are routed to away markets.

The text of the proposed rule change is available on the Exchange’s Web site at [www.ise.com](http://www.ise.com), at the principal office of the Exchange, and at the Commission’s Public Reference Room.

<sup>9</sup> 17 CFR 200.30-3(a)(12).

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

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

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

In its filing with the Commission, the Exchange 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 Exchange 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 of the Purpose of, and Statutory Basis for, the Proposed Rule Change

###### 1. Purpose

The purpose of the proposed rule change is to apply the Non-Priority Customer (*i.e.*, Market Maker,<sup>3</sup> Non-Nasdaq GEMX Market Maker,<sup>4</sup> Firm Proprietary<sup>5</sup>/Broker-Dealer,<sup>6</sup> and Professional Customer<sup>7</sup>) license surcharge set forth in Section I of the Schedule of Fees to NDX<sup>8</sup> orders that are routed to one or more exchanges in connection with the Options Order Protection and Locked/Crossed Market Plan (the “Plan”). The Exchange initially filed the proposed pricing changes on June 1, 2017 (SR-GEMX-2017-22). On June 12, 2017, the Exchange withdrew that filing and submitted this filing.

Today, the Exchange charges Non-Priority Customers route-out fees for orders in Non-Penny Symbols<sup>9</sup> that are routed to away markets in connection with the Plan. Specifically as set forth in Section II.A of the Schedule of Fees,

<sup>3</sup> The term “Market Makers” refers to “Competitive Market Makers” and “Primary Market Makers” collectively. See Rule 100(a)(25).

<sup>4</sup> A “Non-Nasdaq GEMX Market Maker” is a market maker as defined in Section 3(a)(38) of the Securities Exchange Act of 1934, as amended, registered in the same options class on another options exchange.

<sup>5</sup> A “Firm Proprietary” order is an order submitted by a member for its own proprietary account.

<sup>6</sup> A “Broker-Dealer” order is an order submitted by a member for a broker-dealer account that is not its own proprietary account.

<sup>7</sup> A “Professional Customer” is a person or entity that is not a broker/dealer and is not a Priority Customer. A “Priority Customer” is a person or entity that is not a broker/dealer in securities, and does not place more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s), as defined in Nasdaq GEMX Rule 100(a)(37A).

<sup>8</sup> NDX represents options on the Nasdaq-100 Index traded under the symbol NDX (“NDX”).

<sup>9</sup> “Non-Penny Symbols” are options overlying all symbols that are not in the Penny Pilot Program. NDX is a Non-Penny Symbol.

Non-Priority Customer orders pay a route-out fee of \$0.95 per contract in Non-Penny Symbols. The route-out fees offset costs incurred by the Exchange in connection with using unaffiliated broker-dealers to access other exchanges for linkage executions. Also as set forth in Section I of the Schedule of Fees, the Exchange presently charges a \$0.25 license surcharge for all Non-Priority Customer orders in NDX (“NDX Surcharge”). The NDX Surcharge currently applies to all NDX orders executed on the Exchange, but is not applied when those orders are routed to away markets in connection with the Plan. The Exchange therefore proposes to apply the NDX Surcharge to such orders by adding language in note 9 of Section I of the Schedule of Fees to state that the NDX Surcharge applies to all NDX executions, including executions of NDX orders that are routed to one or more exchanges in connection with the Plan. As such, all Non-Priority Customer orders in NDX that are routed to away markets would be assessed a \$0.25 per contract NDX Surcharge and a \$0.95 per contract route-out fee.

###### 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,<sup>10</sup> in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,<sup>11</sup> in particular, in that it provides for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using any facility, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Commission and the courts have repeatedly expressed their preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, while adopting a series of steps to improve the current market model, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system “has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.”<sup>12</sup>

Likewise, in *NetCoalition v. Securities and Exchange Commission*<sup>13</sup> (“NetCoalition”) the D.C. Circuit upheld

<sup>10</sup> 15 U.S.C. 78f(b).

<sup>11</sup> 15 U.S.C. 78f(b)(4) and (5).

<sup>12</sup> Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (“Regulation NMS Adopting Release”).

<sup>13</sup> *NetCoalition v. SEC*, 615 F.3d 525 (D.C. Cir. 2010).