

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-85716; File No. SR-NYSECHX-2019-07]

Self-Regulatory Organizations; NYSE Chicago, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Regarding New Rules on Hours of Business, Holidays and Trading Halts and Suspensions, and Amendment of Article 20, Rule 1

April 25, 2019.

Pursuant to Section 19(b)(1)¹ of the Securities Exchange Act of 1934 (the “Act”)² and Rule 19b-4 thereunder,³ notice is hereby given that, on April 23, 2019, NYSE Chicago, Inc. (“NYSE Chicago” or the “Exchange”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. 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 new rules on hours of business, holidays and trading halts and suspensions, and amend Article 20, Rule 1. The proposed rule change is available on the Exchange’s website at www.nyse.com, at the principal office of the Exchange, and at the Commission’s Public Reference Room.

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

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

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

1. Purpose

The Exchange proposes new rules on hours of business, holidays and trading suspensions, and amend Article 20, Rule 1.

In July 2018, the Exchange and its direct parent company were acquired by NYSE Group, Inc.⁴ As a result, the Exchange became part of a corporate family that now includes five separate registered national securities exchanges.⁵

To simplify operations and allow for consistent action across the Exchange and its Affiliate SROs, the Exchange believes it is important that its rules regarding hours of business, holidays and trading halts and suspensions be consistent with those of its Affiliate SROs.⁶ Accordingly, the Exchange proposes to harmonize its rules with respect to those matters with those of the Affiliate SROs by adopting new Rules 7.1 (Hours of Business), 7.2 (Holidays) and 7.13 (Trading Suspensions) and amend Article 20, Rule 1 (Trading Sessions).

Proposed Rules 7.1, 7.2 and 7.13

The Exchange recently adopted a rule numbering framework in connection with the migration of the Exchange to the NYSE Pillar platform (“Pillar”).⁷ Proposed Rules 7.1, 7.2 and 7.13 would fall within that framework.⁸

Proposed Rule 7.1: The proposed rule is substantially the same as NYSE Rule 7.1, NYSE American Rule 7.1E, NYSE Arca Rule 7.1-E and NYSE National Rule 7.1, with the exception of certain defined terms.⁹

Proposed Rule 7.1(a) and (b) would specify that the Exchange would be

⁴ See Exchange Act Release No. 83635 (July 13, 2018), 83 FR 34182 (July 19, 2018) (SR-CHX-2018-004); see also Exchange Act Release No. 83303 (May 22, 2018), 83 FR 24517 (May 29, 2018) (SR-CHX-2018-004).

⁵ The Exchange has four registered national securities exchange affiliates: New York Stock Exchange LLC (“NYSE”), NYSE American LLC (“NYSE American”), NYSE Arca, Inc. (“NYSE Arca”), and NYSE National, Inc. (“NYSE National” and collectively, the “Affiliate SROs”).

⁶ See 83 FR 34182, 34187.

⁷ See Exchange Act Release No. 85297 (March 12, 2019), 84 FR 9854 (March 18, 2019) (SR-CHX-2018-03).

⁸ Because there would be a gap in the numbering between proposed Rules 7.2 and 7.13, the Exchange proposes to add new Rules 7.3-7.12, which would be marked “Reserved.”

⁹ NYSE Arca Rule 7.1-E and NYSE National Rule 7.1 use “President” instead of “CEO.” Proposed Rule 7.1(b) would use “Participant” instead of “member organization” or “ETP Holder.” See Article 1, Rule 1(s) (definition of “Participant”).

open for the transaction of business on every business day, and the hours at which trading sessions open and close would be specified by Exchange rule or established by its Board of Directors (“Board”).

Proposed Rule 7.1(c) would provide that, except as may be otherwise determined by the Board, the Chief Executive Officer (“CEO”) or his or her designee may halt or suspend trading in some or all securities; extend the hours for the transaction of business; close some or all Exchange facilities; determine the duration of any such halt, suspension or closing; or determine to trade securities on the Exchange’s disaster recovery facility.¹⁰ Proposed Rule 7.1(d) would provide that the CEO or his or her designee shall take such actions only when they deem it to be necessary or appropriate for the maintenance of a fair and orderly market, or the protection of investors or otherwise in the public interest, due to extraordinary circumstances.

Finally, proposed Rule 7.1(e) would require that the CEO or his or her designee notify the Board of actions taken pursuant to the rule, except for a period of mourning or recognition for a person or event, as soon thereafter as is feasible.

Proposed Rule 7.2: Proposed Rule 7.2, which would establish the list of Exchange holidays, is substantially the same as NYSE Rule 7.2, NYSE American Rule 7.2E, and NYSE National Rule 7.2.¹¹ It is also similar to NYSE Arca Rule 7.2-E, with the exception that the NYSE Arca rule does not include language regarding when that Affiliate SRO would be open for business if a holiday falls on a Sunday.¹²

Proposed Rule 7.13: Proposed Rule 7.13 is the same as NYSE American Rule 7.13E and substantially similar to NYSE Arca Rule 7.13-E and NYSE

¹⁰ As part of its business continuity and disaster recovery plans, NYSE Chicago maintains disaster recovery facilities in geographically diverse locations, as required by Regulation SCI. More specifically, currently NYSE Chicago maintains two geographically diverse data centers. For each symbol, one of the data centers is the primary site and the other the disaster recovery site. Which data center serves as the primary site, and which as the disaster recovery site, depends on the symbol. See 17 CFR 242.1001(a)(2)(v) (requiring policies and procedures for business continuity and disaster recovery plans that include maintaining backup and recovery capabilities sufficiently resilient and geographically diverse and that are reasonably designed to achieve next business day resumption of trading and two-hour resumption of critical SCI systems following a wide-scale disruption).

¹¹ The proposed rule would use “Washington’s Birthday” instead of “President’s Day.” See 5 U.S.C. 6103(a).

¹² NYSE Arca Rule 7.2-E also uses “President’s Day.”

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

National Rule 7.13.¹³ Proposed Rule 7.13 would authorize the Chair of the Board or the CEO (or their officer designee) to suspend trading in any and all securities if such suspension would be in the public interest. The suspension may not continue longer than two days, or as soon thereafter as a quorum of directors can be assembled, unless the Board approves the continuation.

Proposed Amendments to Article 20, Rule 1

Consistent with the proposed rules, the Exchange proposes to amend Article 20, Rule 1(a), (c) and (d).¹⁴

Rule 1(a): Current paragraph (a) provides that, unless otherwise determined by the Board, the Exchange shall be open for trading daily, except on Saturdays and Sundays, and that the Board shall determine the hours during which the Exchange is open for the transaction of business. The Exchange proposes to delete current paragraph (a) of Rule 1, as it would be redundant of proposed Rule 7.1(a). Under proposed Rule 7.1(a), the hours could also be specified by Exchange rule.

Rule 1(c): Current paragraph (c) limits trading on the Exchange to the days and hours during which it is open for the transaction of business. It further states that no Participant shall make any bid, offer or transaction on the Exchange before or after these hours, except that loans of money or securities may be made outside of those hours. The Exchange proposes to delete current paragraph (c) of Rule 1, as it would be redundant of proposed Rule 7.1(b). Proposed Rule 7.1(b) would not make an exception for loans of money or securities, however, as such loans are not dealings upon the Exchange and therefore not covered by the rule.

Rule 1(d): The first two sentences of Rule 1(d) provide that two officers appointed by the CEO may suspend or halt trading in one or more securities if they believe it in the public interest, but that the Board must approve halts or suspensions that extend past the trading day. The Exchange proposes to delete the first two sentences of Rule 1(d), as they would be covered by proposed Rule 7.13, which addresses suspensions in trading, and 7.1(c)–(e), which covers suspensions, trading halts, and other events.¹⁵

¹³ NYSE Arca Rule 7.13–E and NYSE National Rule 7.13 include cross references to other rules and use the term “President” instead of “CEO.”

¹⁴ The remaining paragraphs would be reordered in accordance with the proposed changes.

¹⁵ The final sentence of current paragraph (d) states that “[t]rading may also be halted, paused or suspended on the Exchange, and resumed

Proposed Rule 7.13 would allow the CEO, or their officer designee, to act, rather than requiring two officers appointed by the CEO, and would extend the authority to the Chair of the Board or his or her officer designee, as well. No suspension would continue longer than a period of two days, or as soon thereafter as a quorum of Directors can be assembled, unless the Board approved it.

Proposed Rule 7.1(c) and (e) would, unless otherwise determined by the Board, provide the CEO or his or her designee the authority to act. The requirements would be more comprehensive than in current Rule 1(d): The CEO or his or her designee would only take the described actions, including suspensions and halts,

when he or she deems such action to be necessary or appropriate for the maintenance of a fair and orderly market, or the protection of investors or otherwise in the public interest, due to extraordinary circumstances such as (i) actual or threatened physical danger, severe climatic conditions, civil unrest, terrorism, acts of war, or loss or interruption of facilities utilized by the Exchange, (ii) a request by a governmental agency or official, or (iii) a period of mourning or recognition for a person or event.¹⁶

The proposed Rule 7.1(e) would require the CEO or his or her designee to notify the Board of suspensions or halts, as well as other actions, as soon thereafter as feasible.

The Exchange notes that the trading rules of Cboe BZX Exchange, Inc., Cboe BYX Exchange, Inc., Cboe EDGX Exchange, Inc., and Cboe EDGA Exchange, Inc. also provide that the CEO of the relevant exchange may halt, suspend trading in any and all securities traded on the exchange, close some or all exchange facilities, and determine the duration of any such halt, suspension, or closing, when they deem such action necessary for the maintenance of fair and orderly markets, the protection of investors, or otherwise in the public interest.¹⁷ Such rules also provide that no such action shall continue longer than two days, or as soon thereafter as a quorum of directors can be assembled, unless the relevant

thereafter, pursuant to other Rules.” Because the revised Rule 1 would no longer address halts, pauses or suspensions, the Exchange proposes to delete “also.”

¹⁶ Proposed Rule 7.1(d).

¹⁷ See Cboe BZX Exchange, Inc. Rule 11.1(c) (Hours of Trading and Trading Days); Cboe BYX Exchange, Inc. Rule 11.1(c) (Hours of Trading and Trading Days); Cboe EDGX Exchange, Inc. Rule 11.1(c) (Hours of Trading and Trading Days); and Cboe EDGA Exchange, Inc. Rule 11.1(c) (Hours of Trading and Trading Days).

board of directors approves the continuation.¹⁸

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Exchange Act¹⁹ in general, and with Section 6(b)(5) in particular,²⁰ because the proposed rule change would be consistent with and facilitate a governance and regulatory structure that 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.

The Exchange believes that the proposed change would remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, protect investors and the public interest because it would allow the Exchange and its Affiliate SROs to follow consistent rules regarding hours of business, holidays and trading halts and suspensions and to take similar actions in case of extraordinary circumstances. The changes would thereby reduce complexity and promote consistency and predictability. The proposed change does not raise any new or novel issues.

The Exchange believes that proposed Rules 7.1, 7.2 and 7.13 would remove impediments to and perfect the mechanism of a free and open market and a national market system because they would establish rules relating to trading on the Exchange that would support the re-launch of trading on the Exchange on the Pillar trading platform. By basing its rules on those of its affiliated exchanges, the Exchange will provide its Participants that are also members on one or more Affiliate SRO with consistency across affiliated exchanges, thereby enabling the Exchange to compete with unaffiliated exchange competitors that similarly operate multiple exchanges on the same trading platforms. The Exchange further believes that the proposed amendments to Article 20, Rule 1 would remove impediments to and perfect the mechanism of a free and open market and a national market system because proposed Rules 7.1, 7.2 and 7.13 would provide for the same Exchange

¹⁸ *Id.*

¹⁹ 15 U.S.C. 78f(b).

²⁰ 15 U.S.C. 78f(b)(5).

authority, with differences described above that are designed to harmonize the Exchange's operations with those of its Affiliate SROs.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Exchange Act. The proposed rule change is not designed to address any competitive issue but rather to establish Exchange rules regarding hours of business, holidays and trading halts and suspensions that are consistent with the rules of the Affiliate SROs. By basing its rules on those of its affiliated exchanges, the Exchange will provide Participants with consistency across affiliated exchanges and will allow the Exchange and its Affiliate SROs to take similar actions in case of an issue, thus promoting consistency.

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

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act²¹ and Rule 19b-4(f)(6) thereunder.²² Because the proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b-4(f)(6)(iii) thereunder.²³

A proposed rule change filed under Rule 19b-4(f)(6)²⁴ normally does not

become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b4(f)(6)(iii),²⁵ the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because it would allow Participants that are also members of one or more Affiliate SROs to have the immediate benefit of harmonized rules regarding hours of business, holidays and trading halts and suspensions being with the rules of the Affiliate SROs. Accordingly, the Commission waives the 30-day operative delay and designates the proposed rule change operative upon filing.²⁶

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)²⁷ of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

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

Electronic Comments

- Use the Commission's internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include File Number SR-NYSECHX-2019-07 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-NYSECHX-2019-07. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NYSECHX-2019-07 and should be submitted on or before May 22, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁸

Eduardo A. Aleman,
Deputy Secretary.

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²¹ 15 U.S.C. 78s(b)(3)(A)(iii).

²² 17 CFR 240.19b-4(f)(6).

²³ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

²⁴ 17 CFR 240.19b-4(f)(6).

²⁵ 17 CFR 240.19b-4(f)(6)(iii).

²⁶ For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

²⁷ 15 U.S.C. 78s(b)(2)(B).

²⁸ 17 CFR 200.30-3(a)(12).