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–CboeEDGA–2019–016 and should be submitted on or before November 13, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2019–23054 Filed 10–22–19; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–87330; File No. SR–NYSE–2019–53]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Its Price List To Add an Additional Step Up Credit Tier

October 17, 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 October 1, 2019, 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.

[15] 17 CFR 200.30–3(a)(12).

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

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

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

The Exchange proposes to amend its Price List to adopt a new pricing tier, the Step Up Tier 2 Adding Credit, in Tape A securities. 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 Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its Price List to adopt a new pricing tier, the Step Up Tier 2 Adding Credit, in Tape A securities.

The proposed changes respond to the current competitive environment where order flow providers have a choice of where to direct liquidity-providing orders by offering further incentives for member organizations to send additional displayed liquidity to the Exchange.

The Exchange proposes to implement the fee changes effective October 1, 2019.

Competitive Environment

The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, 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.''[4]

As the Commission itself recognized, the market for trading services in NMS stocks has become ''more fragmented and competitive.''[5] Indeed, equity trading is currently dispersed across 13 exchanges,[6] 31 alternative trading systems,[7] and numerous broker-dealer internalizers and wholesalers, all competing for order flow. Based on publicly-available information, no single exchange has more than 18% market share (whether including or excluding auction volume).[8] Therefore, no exchange possesses significant pricing power in the execution of equity order flow. More specifically, for the month of August 2019, the Exchange's market share of intraday trading (*i.e.,* excluding auctions) in Tapes A, B and C securities was only 9.3%.[9]

The Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can move order flow, or discontinue or reduce use of certain categories of products, in response to fee changes. With respect to non-marketable order flow that would provide displayed liquidity on an Exchange, member organizations can choose from any one of the 13 currently operating registered exchanges to route such order flow. Accordingly, competitive forces constrain exchange transaction fees that relate to orders that would provide liquidity on an exchange.

In response to this competitive environment, the Exchange has established incentives for its member organizations who submit orders that provide liquidity on the Exchange. The proposed fee change is designed to attract additional order flow to the Exchange by offering a new pricing tier to incentivize member organizations to step up their liquidity-providing orders on the Exchange on all tapes.

[4] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37495, 37499 (June 29, 2005) (S7–10–04) (Final Rule) (''Regulation NMS'').

[5] *See* Securities Exchange Act Release No. 51808, 84 FR 5202, 5253 (February 20, 2019) (File No. S7–05–18) (Transaction Fee Pilot for NMS Stocks Final Rule) (''Transaction Fee Pilot'').

[6] *See* Cboe Global Markets, U.S. Equities Market Volume Summary, available at *http://markets.cboe.com/us/equities/market_share/. See generally https://www.sec.gov/fast-answers/divisionsmarketregmrexchangesshtml.html.*

[7] *See* FINRA ATS Transparency Data, *available at https://otctransparency.finra.org/otctransparency/AtsIssueData.* A list of alternative trading systems registered with the Commission is *available at https://www.sec.gov/foia/docs/atslist.htm.*

[8] *See* Cboe Global Markets U.S. Equities Market Volume Summary, available at *http://markets.cboe.com/us/equities/market_share/.*

[9] *See id.*

Proposed Rule Change

The Exchange proposes to adopt a ''Step Up Tier 2 Adding Credit'' that would offer a higher credit to member organizations that qualify for the tier. The proposed tier would also offer an additional credit for member organizations providing displayed liquidity in Tapes B and C securities.[10]

As proposed, a member organization that sends orders, except Mid-Point Liquidity Orders (''MPL'') and Non-Displayed Limit Orders, that add liquidity (''Adding ADV'') in Tape A securities would receive a credit of $0.0029 if:

- The member organization quotes at least 15% of the National Best Bid or Offer (''NBBO'') [11] in 300 or more Tape A securities on a monthly basis, and
- The member organization's Adding ADV as a percentage of NYSE consolidated average daily volume (''CADV''),[12] excluding any orders by a Designated Market Maker (''DMM''), is at least two times more than the member organization's July 2019 Adding ADV as a percentage of NYSE CADV, and
- the member organization's Adding ADV as a percentage of NYSE CADV, excluding any liquidity added by a DMM, exceeds that member organization's Adding ADV in July 2019 taken as a percentage of NYSE CADV as follows:
- For the billing month of October 2019, an Adding ADV, excluding any liquidity added by a DMM, that is at least 0.35% of NYSE CADV over that member organization's July 2019 Adding ADV taken as a percentage of NYSE CADV.
- For the billing month of November 2019, an Adding ADV, excluding any liquidity added by a DMM, that is at least 0.70% of NYSE CADV over that member organization's July 2019 Adding ADV taken as a percentage of NYSE CADV.
- For the billing month of December 2019 and for every month thereafter, an Adding ADV, excluding any liquidity added by a DMM, that is at least 1.05% of NYSE CADV over that member organization's July 2019 Adding ADV taken as a percentage of NYSE CADV.

In addition, a member organization that meets these requirements, and thus qualifies for the $0.0029 credit in Tape A securities, would be eligible to receive an additional $0.00005 per share if trades in Tapes B and C securities against the member organization's orders that add liquidity, excluding orders as a Supplemental Liquidity Provider (''SLP''), equal to at least 0.20% of Tape B and Tape C CADV combined. The proposed additional credit mirrors the additional credits offered in current Tier 1, Tier 2, Tier 3 and Tier 4 for trades in Tapes B and C securities against a member organization's orders that add liquidity, excluding orders as an SLP, equal to at least a specified percentage of Tape B and Tape C CADV combined.

For example, member organization A has an Adding ADV of 12 million shares when NYSE CADV (Tape A) was 3.0 billion, or 0.40% of NYSE CADV in all Tape A securities, in the baseline month of July 2019 (the ''Baseline Month''). Member organization A also has an Adding ADV of 0.75% of US CADV in Tape A securities in October 2019.

Based on the foregoing, member organization A would meet the 0.35% step up requirement for October 2019 but fall short of the two times Adding ADV as a percentage of NYSE CADV requirement in order to qualify for the proposed tier. In order to qualify for the proposed rate in October 2019, member organization A would need two times its 0.40% of NYSE CADV in the Baseline Month or at least 0.80% of NYSE CADV. In order to qualify for the proposed rate in November 2019, member organization A would need at least 1.10% share of NYSE CADV. In order to qualify for December 2019 and subsequent months, member organization A would need at least 1.45% share.

If member organization B had an Adding ADV of 0.05% of NYSE CADV in the Baseline Month, that firm would need an Adding ADV share of NYSE CADV of at least 0.40% in October 2019, 0.75% in November 2019, and 1.10% in December 2019 and onward in order to qualify for the proposed rate. By meeting the percentage CADV step up requirement in the respective billing months, member organization B with a smaller Adding ADV would also meet the two times Adding ADV as a percent of NYSE requirement.

The purpose of this proposed change is to incentivize member organizations to increase the liquidity-providing orders in Tape A securities they send to the Exchange, which would support the quality of price discovery on the Exchange and provide additional price improvement opportunities for incoming orders. The Exchange believes that by correlating the amount of the credit to the level of orders sent by a member organization that add liquidity, the Exchange's fee structure would incentivize member organizations to submit more orders that add liquidity to the Exchange, thereby increasing the potential for price improvement to incoming marketable orders submitted to the Exchange.

The Exchange proposes a higher credit under the proposed Step Up Tier 2 compared with the current Step Up Tier to provide an incentive for member organizations to send more orders because they would then qualify for the credit. As noted above, the Exchange operates in a competitive environment, particularly as it relates to attracting non-marketable orders, which add liquidity to the Exchange. Because, as proposed, the tier requires a member organization to increase the volume of its trades against orders that add liquidity over that member organization's July 2019 baseline at increasing levels in October 2019, November 2019, December 2019 and thereafter at the December 2019 level, the Exchange believes that the proposed higher credit would provide an incentive for member organizations to route additional liquidity to the Exchange in order to qualify for it.

The Exchange does not know how much order flow member organizations choose to route to other exchanges or to off-exchange venues. There are currently no firms that could qualify for the proposed higher Step Up Tier 2 Adding Credit based on their current trading profile on the Exchange, but believes that at least 8 member organizations could qualify for the tier if they so choose. However, without having a view of member organization's activity on other exchanges and off-exchange venues, the Exchange has no way of knowing whether this proposed rule change would result in any member organization directing orders to the Exchange in order to qualify for the new tier.

Each of the proposed changes are not otherwise intended to address other issues, and the Exchange is not aware of any significant problems that market participants would have in complying with the proposed changes.

[10] The Exchange proposes several non-substantive conforming changes to the existing Step Up Tier Adding Credit. First, the existing tier would be re-numbered ''Step Up Tier 1 Adding Credit.'' Second, romanette (i) would be moved so as to make the phrase ''has Adding ADV, excluding any liquidity added by a DMM, that is'' in romanette (ii) redundant, and the phrase would accordingly be deleted. Third, the outdated reference to ''Non-Display Reserve order'' would be replaced with ''Non-Displayed Limit Orders,'' which is the current usage in Rule 7.31(d)(2). Finally, the outdated phrase ''traded pursuant to Unlisted Trading Privileges (Tapes B and C) on the Pillar Trading Platform'' would be replaced with ''Tapes B and C Securities,'' and the ''s'' in securities would be capitalized. These last two changes would be reflected in the proposed Step Up Tier 2 Adding Credit.

[11] *See* Rule 1.1(q) (defining ''NBBO'' to mean the national best bid or offer).

[12] The terms ''ADV'' and ''CADV'' are defined in footnote * of the Price List.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[13] in general, and furthers the objectives of Sections 6(b)(4) and (5) of the Act,[14] in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

The Proposed Change Is Reasonable

As discussed above, the Exchange operates in a highly fragmented and competitive market. The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Specifically, in Regulation NMS, 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.'' [15]

The Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can move order flow, or discontinue or reduce use of certain categories of products, in response to fee changes. With respect to non-marketable orders which provide liquidity on an Exchange, member organizations can choose from any one of the 13 currently operating registered exchanges to route such order flow. Accordingly, competitive forces constrain exchange transaction fees that relate to orders that would provide displayed liquidity on an exchange. Stated otherwise, changes to exchange transaction fees can have a direct effect on the ability of an exchange to compete for order flow.

Given this competitive environment, the proposal represents a reasonable attempt to attract additional order flow to the Exchange. As noted, the Exchange's market share of intraday trading (*i.e.,* excluding auctions) for the month of August 2019, in Tapes A, B and C securities was only 9.3%.[16]

Specifically, the Exchange believes that the proposed Step Up Tier 2 would provide an incentive for member organizations to route additional liquidity-providing orders to the Exchange in Tape A securities. As noted above, the Exchange operates in a highly competitive environment, particularly for attracting non-marketable order flow that provides liquidity on an exchange. The Exchange believes it is reasonable to provide a higher credit for orders that provide additional liquidity. The Exchange believes that requiring member organizations to quote at least 15% of the NBBO in 300 or more securities on a monthly basis in order to qualify for the proposed Step Up Tier 2 Adding Credit is reasonable because it would encourage additional displayed liquidity on the Exchange and because market participants benefit from the greater amounts of displayed liquidity present on the Exchange. Similarly, the Exchange believes that it is reasonable to provide an incremental credit to member organizations that meet the requirements of the Step Up Tier that add additional liquidity in UTP securities on Pillar.

Since the proposed Step Up Tier 2 would be new with a requirement for increased Adding ADV over the baseline month, no member organization currently qualifies for the proposed pricing tier. As previously noted, there are a number of member organizations that could qualify for the proposed higher credit but without a view of member organization activity on other exchanges and off-exchange venues, the Exchange has no way of knowing whether the proposed rule change would result in any member organization qualifying for the tier. The Exchange believes the proposed higher credit is reasonable as it would provide an additional incentive for member organizations to direct their order flow to the Exchange and provide meaningful added levels of liquidity in order to qualify for the higher credit, thereby contributing to depth and market quality on the Exchange.

The Proposal Is an Equitable Allocation of Fees

The Exchange believes its proposal equitably allocates its fees among its market participants.

The Exchange believes that the proposed Step Up Tier 2 is equitable because the magnitude of the additional credit is not unreasonably high relative to the other adding tier credits, which noted above range from $0.0015 to $0.0022, in comparison to the credits paid by other exchanges for orders that provide additional step up liquidity.[17] The Exchange believes the proposed rule change would improve market quality for all market participants on the Exchange and, as a consequence, attract more liquidity to the Exchange, thereby improving market-wide quality and price discovery. The Exchange believes that requiring member organizations to quote at least 15% of the NBBO in 300 or more securities on a monthly basis in order to qualify for the proposed credit would also encourage additional displayed liquidity on the Exchange.

Since the proposed Step Up Tier 2 would be new, no member organization currently qualifies for it. As noted, there are currently no member organizations that could qualify for the proposed higher credit, but without a view of member organization activity on other exchanges and off-exchange venues, the Exchange has no way of knowing whether this proposed rule change would result in any member organization qualifying for the tier. The Exchange believes the proposed higher credit is reasonable as it would provide an additional incentive for member organizations to direct their order flow to the Exchange and provide meaningful added levels of liquidity in order to qualify for the higher credit, thereby contributing to depth and market quality on the Exchange.

The proposal neither targets nor will it have a disparate impact on any particular category of market participant. All member organizations would be eligible to qualify for the higher credit proposed in Step Up Tier 2 if they increase their Adding ADV over their own baseline of order flow. The Exchange believes that offering a higher step up credit for providing liquidity if the step up requirements for Tape A securities are met, will continue to attract order flow and liquidity to the Exchange, thereby providing additional price improvement opportunities on the Exchange and benefiting investors generally. As to those market participants that do not presently qualify for the adding liquidity credits, the proposal will not adversely impact their existing pricing or their ability to qualify for other credits provided by the Exchange.

The Proposal Is Not Unfairly Discriminatory

The Exchange believes that the proposal is not unfairly discriminatory. In the prevailing competitive environment, member organizations are free to disfavor the Exchange's pricing if

[13] 15 U.S.C. 78f(b).

[14] 15 U.S.C. 78f(b)(4) & (5).

[15] *See* Regulation NMS, 70 FR at 37499.

[16] *See* notes 8–9 *supra.*

[17] *See* Cboe BZX Fee Schedule, which has adding credits ranging from $0.0025 to $0.0032, at *https://markets.cboe.com/us/equities/membership/fee_schedule/bzx/.*

they believe that alternatives offer them better value.

The Exchange believes it is not unfairly discriminatory to provide a higher per share step up credit, as the proposed credit would be provided on an equal basis to all member organizations that add liquidity by meeting the new proposed Step Up 2 Tier's requirements. For the same reason, the Exchange believes it is not unfairly discriminatory to provide an additional incremental credit to member organizations that satisfy the Step Up Tier 2 requirements and add liquidity in UTP securities. Further, the Exchange believes the proposed Step Up Tier 2 credit would incentivize member organizations that meet the current tiered requirements to send more orders to the Exchange to qualify for higher credits. The Exchange also believes that the proposed change is not unfairly discriminatory because it is reasonably related to the value to the Exchange's market quality associated with higher volume. Finally, the submission of orders to the Exchange is optional for member organizations in that they could choose whether to submit orders to the Exchange and, if they do, the extent of its activity in this regard.

Finally, the Exchange believes that it is subject to significant competitive forces, as described below in the Exchange's statement regarding the burden on competition.

For the foregoing reasons, the Exchange believes that the proposal is consistent with the Act.

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

In accordance with Section 6(b)(8) of the Act,[18] the Exchange believes that the proposed rule change would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Instead, as discussed above, the Exchange believes that the proposed changes would encourage the submission of additional liquidity to a public exchange, thereby promoting market depth, price discovery and transparency and enhancing order execution opportunities for member organizations. As a result, the Exchange believes that the proposed change furthers the Commission's goal in adopting Regulation NMS of fostering integrated competition among orders, which promotes ''more efficient pricing of individual stocks for all types of orders, large and small.'' [19]

Intramarket Competition. The proposed changes are designed to attract additional order flow to the Exchange. The Exchange believes that the proposed changes would continue to incentivize market participants to direct displayed order flow to the Exchange. Greater liquidity benefits all market participants on the Exchange by providing more trading opportunities and encourages member organizations to send orders, thereby contributing to robust levels of liquidity, which benefits all market participants on the Exchange. The proposed credits would be available to all similarly-situated market participants, and, as such, the proposed change would not impose a disparate burden on competition among market participants on the Exchange.

Intermarket Competition. The Exchange operates in a highly competitive market in which market participants can readily choose to send their orders to other exchange and off-exchange venues if they deem fee levels at those other venues to be more favorable. As noted, the Exchange's market share of intraday trading (*i.e.,* excluding auctions) for the month of August 2019, in Tapes A, B and C securities was only 9.3%.[20] In such an environment, the Exchange must continually adjust its fees and rebates to remain competitive with other exchanges and with off-exchange venues. Because competitors are free to modify their own fees and credits in response, and because market participants may readily adjust their order routing practices, the Exchange does not believe its proposed fee change can impose any burden on intermarket competition.

The Exchange believes that the proposed change could promote competition between the Exchange and other execution venues, including those that currently offer similar order types and comparable transaction pricing, by encouraging additional orders to be sent to the Exchange for execution. The Exchange also believes that the proposed change is designed to provide the public and investors with a Price List that is clear and consistent, thereby reducing burdens on the marketplace and facilitating investor protection.

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 foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A) [21] of the Act and subparagraph (f)(2) of Rule 19b–4 [22] thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

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) [23] 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–NYSE–2019–53 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–2019–53. 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

[18] 15 U.S.C. 78f(b)(8).

[19] Regulation NMS, 70 FR at 37498–99.

[20] *See* notes 8–9 *supra.*

[21] 15 U.S.C. 78s(b)(3)(A).

[22] 17 CFR 240.19b–4(f)(2).

[23] 15 U.S.C. 78s(b)(2)(B).

Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSE–2019–53 and should be submitted on or before November 13, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[24]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2019–23052 Filed 10–22–19; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–87329; File No. SR–NYSE–2019–54]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing of Proposed Rule Change To Permit the Exchange To List and Trade Exchange Traded Products

October 17, 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 October 3, 2019, 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 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 to permit the Exchange to list and trade Exchange Traded Products that have a component NMS Stock listed on the Exchange or that are based on, or represent an interest in, an underlying index or reference asset that includes an NMS Stock listed on the Exchange. 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 to permit the Exchange to list and trade Exchange Traded Products (''ETPs'')[4] that have a component NMS Stock[5] listed on the Exchange or that are based on, or represent an interest in, an underlying index or reference asset that includes an NMS Stock listed on the Exchange.

Background

Currently, the Exchange trades securities, including ETPs, on its Pillar trading platform on an unlisted trading privileges (''UTP'') basis, subject to Pillar Platform Rules 1P–13P.[6] ETPs traded on a UTP basis on the Exchange are not assigned to a Designated Market Maker (''DMM'') but are available for Floor brokers to trade in Floor-based crossing transactions.[7]

The Exchange's rules also permit it to list ETPs under Rules 5P and 8P. Specifically, Rules 5P (Securities Traded) and 8P (Trading of Certain Exchange Traded Products) provide for the listing of certain ETPs on the Exchange that (1) meet the applicable requirements set forth in those rules, and (2) do not have any component NMS Stock that is listed on the Exchange or is based on, or represents an interest in, an underlying index or reference asset that includes an NMS Stock listed on the Exchange. ETPs listed under Rules 5P and 8P would be ''Tape A'' listings and would be traded pursuant to the rules applicable to NYSE-listed securities.

Accordingly, once an ETP is listed, it will be assigned to a DMM pursuant to Rule 103B and the assigned DMM will have obligations vis-à-vis such securities as specified in Rule 104, including facilitating the opening, reopening, and closing of such securities.[8]

Proposed Rule Change

The Exchange proposes to expand the ETPs that would be eligible to list and trade on the Exchange to include ETPs that have a component NMS Stock or that are based on, or represent an interest in, an underlying index or reference asset that includes an NMS

[24] 17 CFR 200.30–3(a)(12).

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

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] Rule 1.1P(k) defines ''Exchange Traded Product'' as a security that meets the definition of ''derivative securities product'' in Rule 19b–4(e) under the Act. ETPs include, for example, securities listed and traded on the Exchange pursuant to the following Exchange rules: Rule 5.2(j)(3) (Investment Company Units); Rule 5.2(j)(5) (Equity Gold Shares); Rule 5.2(j)(6) (Index-Linked Securities); Rule 8.100 (Portfolio Depositary Receipts); Rule 8.200 (Trust Issued Receipts); Rule 8.201 (Commodity-Based Trust Shares); Rule 8.202–E (Currency Trust Shares); Rule 8.203 (Commodity Index Trust Shares); Rule 8.204 (Commodity Futures Trust Shares); Rule 8.600 (Managed Fund Shares); and Rule 8.700 (Managed Trust Securities).

[5] NMS Stock is defined in Rule 600 of Regulation NMS, 17 CFR 242.600(b)(48) as ''any NMS security other than an option.'' ''NMS Security'' means any security or class of securities for which transaction reports are collected, processed, and made available pursuant to an effective transaction reporting plan, or an effective national market system plan for reporting transactions in listed options.'' *See* 17 CFR 242.600(b)(47). As the Commission has explained, the term ''NMS Security'' refers to ''exchange-listed equity securities and standardized options, but does not include exchange-listed debt securities, securities futures, or open-end mutual funds, which are not currently reported pursuant to an effective transaction reporting plan.'' *See* Question 1.1 in the ''Responses to Frequently Asked Questions Concerning Large Trader Reporting,'' available at *https://www.sec.gov/divisions/marketreg/large-trader-faqs.htm.*

[6] ''UTP Security'' is defined as a security that is listed on a national securities exchange other than the Exchange and that trades on the Exchange pursuant to unlisted trading privileges. See Rule 1.1.

[7] *See* Securities Exchange Act Release No. 82945 (March 26, 2018), 83 FR 13553, 13568 (March 29, 2018) (SR–NYSE–2017–36) (approving Exchange rules to trade securities on a UTP basis on the Pillar trading platform).

[8] *See* Securities Exchange Act Release No. 87056 (September 23, 2019), 84 FR 51205 (September 27, 2019) (SR–NYSE–2019–34) (order approving amendments to Rule 104 to specify DMM requirements for ETPs listed on the Exchange pursuant to Rules 5P and 8P).