

**FOR FURTHER INFORMATION CONTACT:**

Sean Robinson, 202-268-8405.

**SUPPLEMENTARY INFORMATION:**

The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on November 15, 2019, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Contract 561 to Competitive Product List*. Documents are available at [www.prc.gov](http://www.prc.gov), Docket Nos. MC2020-28, CP2020-26.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-87550; File No. SR-NYSEAMER-2019-48]

### Self-Regulatory Organizations; NYSE American LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Exchange Rules 1.1E and 7.29E To Eliminate the Delay Mechanism and Amend Exchange Rule 7.31E and Related Exchange Rules To Re-Introduce Previously-Approved Order Types and Modifiers

November 15, 2019.

Pursuant to Section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934 (“Act”)<sup>2</sup> and Rule 19b-4 thereunder,<sup>3</sup> notice is hereby given that on November 4, 2019, NYSE American LLC (“NYSE American” or “Exchange”) filed with the Securities and Exchange Commission (“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 amend Rules 1.1E and 7.29E to eliminate the Delay Mechanism and amend Rule 7.31E and related rules to re-introduce previously-approved order types and modifiers. The proposed rule change is available on the Exchange’s website at [www.nyse.com](http://www.nyse.com), at the principal office of the Exchange, and at the Commission’s Public Reference Room.

<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.

#### 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 decommission its Delay Mechanism and re-introduce orders and modifiers that were eliminated in connection with launching the Delay Mechanism. To effect these changes, the Exchange proposes to amend Rules 1.1E and 7.29E to eliminate the Delay Mechanism and amend Rule 7.31E and related rules to re-introduce previously-approved order types and modifiers.

###### Background

In 2017, the Exchange transitioned to trading on the Pillar trading platform. In advance of that transition, the Exchange amended its rules to transition from a Floor-based point-of-sale trading model to a fully automated price-time priority allocation model.<sup>4</sup> In the Pillar Filing, the Exchange added Rule 7.31E, which describes the order types and modifiers that would be available on the Exchange once it transitioned to Pillar, and which was based on NYSE Arca, Inc. (“NYSE Arca”) Rule 7.31-E. Among the orders and modifiers that were approved in the Pillar Filing were ALO Orders, Intermarket Sweep Orders designated Day (“Day ISO”), Non-Display Remove Modifiers, and MPL-ALO Orders.<sup>5</sup>

In connection with the transition to the Pillar trading platform, the Exchange introduced the Delay Mechanism,

<sup>4</sup> See Securities Exchange Act Release Nos. 79993 (February 9, 2017), 82 FR 10814 (February 15, 2017) (SR-NYSEMKT-2017-01) (“Pillar Filing”) and 80590 (May 4, 2017), 82 FR 21843 (May 10, 2017) (SR-NYSEMKT-2017-01) (Approval Order). The Exchange separately filed to establish the rules governing market makers on the Exchange. See Securities Exchange Act Release No. 80577 (May 2, 2017), 82 FR 21446 (May 8, 2017) (SR-NYSEMKT-2017-04) (Approval Order).

<sup>5</sup> See Pillar Filing, *id.* (Rules 7.31E(e)(2), 7.31E(e)(3)(D), 7.31E(e)(2)(B)(iv)(b), 7.31E(3)(F), 7.31E(d)(3)(G)).

which was approved in a separate proposed rule change.<sup>6</sup> Rule 1.1E(y) defines the Delay Mechanism to mean a delay that is 350 microseconds of latency that is added to specified order processing. That rule further provides that due to force majeure events and acts of third parties, the Exchange does not guarantee that the delay will always be 350 microseconds. Finally, that Rule provides that the Exchange will periodically monitor such latency, and will make adjustments to the latency as reasonably necessary to achieve consistency with the 350 microsecond target as soon as commercially practicable and that if the Exchange determines to increase or decrease the delay period, it will submit a rule filing pursuant to Section 19 of the Act.

Rule 7.29E(b)(1) provides that the Exchange will apply the Delay Mechanism to:

(A) All inbound communications from an ETP Holder to the NYSE American Marketplace;

(B) all outbound communications to an ETP Holder from the NYSE American Marketplace;

(C) all outbound communications the NYSE American Marketplace routes to an Away Market;

(D) all inbound communications from an Away Market about a routed order; and

(E) all outbound communications (*e.g.*, bids, offers, and trades) to the Exchange’s proprietary data feeds.

Rule 7.29E(b)(2) provides that the Exchange will not apply the Delay Mechanism to:

(A) All inbound communications from data feeds;

(B) order processing and order execution on the Exchange’s Book; and

(C) all outbound communications (*e.g.*, bids, offers, and trades) to the single plan processors under Rules 601 and 602 of Regulation NMS.

In the Delay Mechanism Filing, the Exchange noted that in conjunction with implementing the Delay Mechanism, the Exchange would no longer offer ALO Orders or Day ISO functionality.<sup>7</sup> Accordingly, before transitioning to Pillar, the Exchange filed a separate proposed rule change to eliminate ALO Orders and Day ISOs and related functionality.<sup>8</sup> To effect the

<sup>6</sup> See Securities Exchange Act Release No. 79998 (February 9, 2017), 82 FR 10828 (February 15, 2017) (SR-NYSEMKT-2017-05) (“Delay Mechanism Filing”) and 80700 (May 16, 2017), 82 FR 23381 (May 22, 2017) (SR-NYSEMKT-2017-05) (Approval Order).

<sup>7</sup> See Delay Mechanism Filing, *supra* note 6.

<sup>8</sup> See Securities Exchange Act Release No. 81115 (July 11, 2017), 82 FR 32745 (July 17, 2017) (SR-

elimination of ALO Orders, the Exchange made the following changes to the rules that were approved in the Pillar Filing:

- Deleted Rule 7.31E(e)(2) and its subparagraphs, which described ALO Orders, and replaced that section of the Rule with the term “Reserved.”
- Deleted Rule 7.31E(d)(2)(B), which provided that Limit Non-Display Orders may be designated with a Non-Display Remove Modifier.
- Deleted the last sentence of Rule 7.31E(d)(3)(E) and Rules 7.31E(d)(3)(F) and (G), which described MPL–ALO Orders and related Non-Display Remove Modifier functionality.
- Deleted Rule 7.31E(e)(1)(C), which provided that an MKT Only Order may be designated with a Non-Display Remove Modifier.
- Amended Rule 7.31E(j)(1) to delete the reference to “ALO Order.”
- Amended Rules 7.46E(f)(5)(F)(ii) and (iii) to delete references to ALO Orders.

To effect the changes described in the Delay Mechanism Filing to eliminate Day ISO Orders, the Exchange made the following changes to the rules that were approved in the Pillar Filing:

- Deleted Rules 7.31E(e)(3)(C) and (D), which described Day ISO and Day ISO ALO Orders. The Exchange also amended Rule 7.31E(e)(3) to provide that an ISO must be designated IOC and deleted the specific reference to “IOC ISO” in Rule 7.31E(e)(3)(B).
- Amended Rules 7.11E(a)(5)(A) and 7.11E(a)(5)(A)(ii) to delete references to “Day ISO” and make related conforming changes.
- Amended Rule 7.31E(a)(2)(C) to delete the last two sentences, which described how Limit Orders are repriced upon arrival of a Day ISO.
- Amended Rule 7.35E(h)(3)(C) to delete the last sentence, which described how Day ISOs are processed when transitioning to continuous trading.
- Deleted current Rule 7.46E(f)(5)(F)(i)(a), which relates to Day ISO Orders, and the designation of subparagraph (b). The text of then-approved Rule 7.46E(f)(5)(F)(i)(b) became the last sentence of 7.46E(f)(5)(F)(i).

Proposed Amendments

In the Delay Mechanism Filing, the Exchange noted that the Delay

Mechanism was designed to provide a competitive trading model to those ETP Holders and issuers that prefer to trade or list on an exchange that offers an intentional, symmetrical delay.

The Exchange has now been operating with the Delay Mechanism for over two years. However, we have not had any issuers interested in listing because of the Delay Mechanism. Additionally, market participants have not increased their trading volume on the Exchange as a result of adding the Delay Mechanism. For example, since introducing the Delay Mechanism, market share on the Exchange has not materially changed, and some market quality measures have declined. Specifically, when comparing monthly statistics for Exchange-listed securities for the first six months of trading on the Exchange in 2017 (pre-Delay Mechanism) with trading on the Exchange for the period July 2017 through September 2019 (post-Delay Mechanism), the Exchange has observed the following changes in market performance.

	Pre-delay mechanism	Post-delay mechanism
NYSE American’s Average Quoted Spread (bps) .....	208.2	292.4
NYSE American’s Average Quoted Shares at the BBO .....	2,762	1,197
NYSE American’s Average Quoted Notional at the BBO .....	\$13,342	\$9,549
NYSE American’s % of trading day quoting at the NBBO .....	71.3%	68.4%
NYSE American’s Market Share .....	12.1%	11.5%
Consolidated Average Daily Volume .....	123,906,053	113,831,729

The Exchange believes that if market participants were interested in trading on an exchange with an intentional, symmetrical delay, more order flow would have been directed to the Exchange. But it simply has not.

The Exchange therefore proposes to eliminate the Delay Mechanism. To effect this change, the Exchange proposes to delete the definition of “Delay Mechanism” in Rule 1.1E(y) and delete Rule 7.29E(b), which are the rules that were added in the Delay Mechanism Filing to establish the Delay Mechanism.

The Exchange also proposes to re-introduce previously-approved order types and modifiers that were deleted in anticipation of launching the Delay Mechanism, with specified differences described below. Specifically, the Exchange proposes to add back rules to

support ALO and related functionality, as follows:

- Amend Rule 7.31E(e)(2) to delete the term “Reserved” and add back the rule text that describes ALO Orders, as approved in the Pillar Filing. The Exchange proposes a non-substantive difference from the version of the rule approved in the Pillar Filing to use the term “Non-Routable Limit Order” instead of “MKT-Only Order.”
- Amend Rule 7.31E(d)(2) to add back sub-paragraph (B), as approved in the Pillar Filing, which would provide that Non-Displayed Limit Orders may be designated with a Non-Display Remove Modifier. The Exchange proposes a non-substantive difference from the version of the rule approved in the Pillar Filing to use the term “Non-Displayed Limit Order” instead of “Limit Non-Display Order.”

- Amend Rule 7.31E(d)(3) relating to MPL Orders to re-introduce MPL–ALO Orders and the Non-Display Remove Modifier. Since the Pillar Filing, Rule 7.31E(d)(3) has been amended, which resulted in changes to sub-numbering.<sup>9</sup> With respect to the Non-Display Remove Modifier, the Exchange proposes to re-introduce rule text previously approved in the Pillar Filing as Rule 7.31E(d)(3)(G) with a non-substantive difference that it would be numbered Rule 7.31E(d)(3)(F). The Exchange also proposes to re-introduce a new last sentence to Rule 7.31E(d)(3)(D), which was previously approved in the Pillar Filing as the last sentence of Rule 7.31E(d)(3)(E).

With respect to MPL–ALO Orders, as noted in the Pillar Filing, at that time, Rule 7.31E(d)(3) was based on NYSE Arca Rule 7.31–E(d)(3) without any substantive differences. Since approval

NYSEMKT–2017–38) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change).

<sup>9</sup> See Securities Exchange Act Release No. 85144 (September 21, 2017), 82 FR 45099 (September 27, 2017) (SR–NYSEAmer–2017–17) (Notice of Filing

and Immediate Effectiveness of Proposed Rule Change) (“Pillar ALO/Day ISO Filing”).

of the Pillar Filing, NYSE Arca has amended Rule 7.31–E(d)(3) relating to MPL–ALO Orders.<sup>10</sup> The Exchange proposes that when re-introducing MPL–ALO Orders on the Exchange, Rule 7.31E(d)(3) would be amended to add new sub-paragraph (E) to reflect the changes described in the Arca MPL Filing; the Exchange will not re-introduce the text that was approved in the Pillar Filing as Rule 7.31E(d)(3)(F).

As proposed, Rule 7.31E(d)(3)(E) would provide that an MPL Order may be designated with an ALO Modifier, which would be defined as an MPL–ALO Order. The proposed rule would further provide that an MPL–ALO Order to buy (sell) will trade with resting orders to sell (buy) with a working price below (above) the midpoint of the PBBO at the working price of the resting orders, but will not trade with resting orders to sell (buy) priced at the midpoint of the PBBO unless such resting order is designated with a Non-Display Remove Modifier pursuant to Rule 7.31E(d)(3)(F). Finally, the Rule would provide that if an MPL–ALO Order to buy (sell) cannot trade with a same-priced resting order to sell (buy), a subsequently arriving order to sell (buy) eligible to trade at the midpoint will trade ahead of a resting order to sell (buy) that is not displayed at that price. If such resting order to sell (buy) is displayed, the MPL–ALO Order to buy (sell) will not be eligible to trade at that price. As noted above, this proposed rule text is based on NYSE Arca Rule 7.31–E(d)(3)(E), NYSE National Rule 7.31(d)(3)(E), and NYSE Chicago Rule 7.31(d)(3)(E) without any differences.

- Amend Rule 7.31E(e)(1) to add back sub-paragraph (C), as approved in the Pillar Filing, which would provide that a Non-Routable Limit Order may be designated with a Non-Display Remove Modifier. The Exchange proposes a non-substantive difference from the version of the rule approved in the Pillar Filing to use the term “Non-Routable Limit Order” instead of “MKT-Only Order.”

- Amend Rule 7.31E(j)(1) to add back the reference to “ALO Order,” as approved in the Pillar Filing.

<sup>10</sup> See Securities Exchange Act Release No. 82504 (January 16, 2018), 83 FR 3038 (January 22, 2018) (SR–NYSEArca–2018–01) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change) (“Arca MPL Filing”). The rules of the Exchange’s affiliates—New York Stock Exchange LLC (“NYSE”), NYSE National, Inc. (“NYSE National”), and most recently approved, NYSE Chicago, Inc. (“NYSE Chicago”)—that describe MPL–ALO Orders and related Non-Display Remove Modifier are similarly based on the NYSE Arca rule, as amended in the Arca MPL Filing. See NYSE Rule 7.31(d)(3)(E) (except does not include reference to a Non-Display Remove Modifier, which is not currently available on NYSE); NYSE National Rule 7.31(d)(3)(E); and NYSE Chicago Rule 7.31(d)(3)(E).

The Exchange also proposes to add back rules to support Day ISO, as follows:

- Amend Rule 7.31E(e)(3) to add back subparagraphs (C) and (D), as approved in the Pillar Filing, which describe Day ISO and Day ISO ALO Orders. The Exchange proposes non-substantive differences from the version of the rule approved in the Pillar Filing to use the terms “Non-Routable Limit Order” instead of “MKT-Only Order” and “Non-Displayed Limit Order” instead of “Limit Non-Displayed Order.”

- Amend Rule 7.31E(e)(3) to delete the requirement that an ISO must be designated IOC and amend Rule 7.31E(e)(3)(B) to add back the term “IOC ISO,” both of which were approved in the Pillar Filing.

- Amend Rules 7.11E(a)(5)(A) and 7.11E(a)(5)(A)(ii) to add back references to “Day ISO” and make related conforming changes, as approved in the Pillar Filing.

- Amend Rule 7.31E(a)(2)(C) to add back rule text describing when Limit Orders would be repriced under this provision. The Exchange proposes that the text that would be added to this Rule would be based on the rules of NYSE Arca, NYSE, NYSE National, and NYSE Chicago, which were amended/adopted after the Pillar Filing, without any differences.<sup>11</sup> As proposed, the text that would be added to this rule would provide that if a Day ISO to buy (sell) arrives before the PBO (PBB) is updated, such re-priced Limit Order(s) to buy (sell) would be repriced to the lower (higher) of the display price of the Day ISO or the original price of the Limit Order(s).

- Amend Rule 7.35E(h)(3) to add back the last sentence under subparagraph (C) of that Rule that was approved in the Pillar Filing, which describes how Day ISOs are processed when transitioning to continuous trading. The Exchange proposes a non-substantive difference to include this sentence under new subparagraph (D) to Rule 7.35E(h)(3).<sup>12</sup>

At this time, the Exchange does not propose to revert any of the other changes made in the Pillar ALO/Day ISO Filing. Specifically, the Exchange does not propose any changes to Pegged Orders and does not propose to amend Rule 7.46 relating to the Tick Size Pilot, which is no longer operative.

With the elimination of the Delay Mechanism and re-introduction of ALO Orders, Day ISO, Non-Display Remove

Modifiers, and MPL–ALOs, the Exchange will operate on a fully-automated price-time priority trading model that is substantially identical to the trading models of its affiliated exchanges NYSE Arca and NYSE National. The Exchange is not proposing to change its transaction fees for trading on the Exchange. The Exchange currently charges a flat fee for orders that provide or remove liquidity, provided that it does not charge for orders that provide displayed liquidity.<sup>13</sup> This pricing model differs from the pricing model on NYSE Arca, which uses a maker-taker model, and NYSE National, which uses a taker-maker model.

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Because of the technology changes associated with this proposed rule change, the Exchange will announce the implementation date of this proposed rule change by Trader Update. The Exchange anticipates that the implementation date will be in November 2019.

## 2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act,<sup>14</sup> in general, and furthers the objectives of Section 6(b)(5),<sup>15</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.

The Exchange believes that eliminating the Delay Mechanism by deleting Rules 1.1E(y) and 7.29E(b) would remove impediments to and perfect the mechanism of a free and open market and a national market system because the reasons for establishing the Delay Mechanism no longer exist. Specifically, the Delay Mechanism was designed to provide a competitive trading model for those ETP Holders and issuers that prefer to trade or list on an exchange that offers such a delay.

Following two years of operating an exchange with the Delay Mechanism, the Exchange believes market

<sup>11</sup> See, e.g., Securities Exchange Act Release No. 85265 (March 7, 2019), 84 FR 9175 (March 13, 2019) (SR–NYSEArca–2019–08). See also NYSE Rule 7.31(a)(2)(C), NYSE National Rule 7.31(a)(2)(C), and NYSE Chicago Rule 7.31(a)(2)(C).

<sup>12</sup> See NYSE Arca Rule 7.35–E(h)(3)(D).

<sup>13</sup> See NYSE American Equities Fee Schedule, available here: [https://www.nyse.com/publicdocs/nyse/markets/nyse-american/NYSE\\_American\\_Equities\\_Price\\_List.pdf](https://www.nyse.com/publicdocs/nyse/markets/nyse-american/NYSE_American_Equities_Price_List.pdf).

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

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

participants are not interested in this trading model. The Exchange believes that if market participants were interested in trading on an exchange with an intentional, symmetrical delay, more order flow would have been directed to the Exchange. But it simply has not. Accordingly, the Exchange believes that decommissioning the Delay Mechanism would be consistent with the protection of investors and the public interest, as they have not chosen to use this trading model.

In addition, comparison of numerous market quality metrics for Exchange-listed securities between the Pre-Delay Mechanism and Post-Delay Mechanism periods indicate that the Delay Mechanism resulted in a degradation of the Exchange's displayed liquidity. Eliminating the Delay Mechanism is expected to reverse this trend.

The Exchange believes that the proposed re-introduction of ALO Orders, Day ISO, Non-Display Remove Modifiers, and MPL-ALO Orders would remove impediments to and perfect the mechanism of a free and open market and a national market system because the Exchange is proposing rules that either have already been approved in the Pillar Filing, or are based on the rules of NYSE Arca, NYSE, NYSE National, and NYSE Chicago. Accordingly, the Exchange is not proposing new or novel order types, but rather, will make available on the Exchange order types and modifiers that are already available on affiliated exchanges.

#### *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 Act. The Exchange anticipated that the Delay Mechanism would provide a competitive trading model for those ETP Holders and issuers that prefer to trade or list on an exchange that offers an intentional, symmetrical delay. Following two years of operating an exchange with the Delay Mechanism, the Exchange believes that market participants are not interested in this trading model. Accordingly, the Exchange does not believe that eliminating the Delay Mechanism would impose any burden on competition.

The Exchange further believes that re-introducing ALO Orders, Day ISO, Non-Display Remove Modifiers, and MPL-ALO Orders would promote competition by offering ETP Holders greater choice among the Exchange and

its affiliated exchanges that offer similar trading functionality. With the decommissioning of the Delay Mechanism and re-introduction of order types and modifiers, the Exchange does not propose to change its transaction fee model, and therefore would be differentiated from NYSE Arca and NYSE National because it charges a flat fee for all orders, regardless of whether an order provides or removes liquidity (except for orders that provide displayed liquidity, which are not charged at all). Accordingly, the Exchange believes that the proposed rule change would promote competition by providing greater optionality to ETP Holders that are interested in using the re-introduced order types on an exchange that offers a flat-fee pricing model.

#### *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) of the Act<sup>16</sup> and Rule 19b-4(f)(6) thereunder.<sup>17</sup> 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.<sup>18</sup>

A proposed rule change filed under Rule 19b-4(f)(6)<sup>19</sup> normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),<sup>20</sup> 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 Exchange has represented that the existing delay mechanism has not attracted new issuers or additional trading volume to the Exchange, and that re-introducing previously approved order types would allow the Exchange to have similar trading functionality with other exchanges. The Commission believes that waiver of the 30-day operative delay period is consistent with the protection of investors and the public interest and hereby waives the 30-day operative delay and designates the proposed rule change operative upon filing.<sup>21</sup>

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)<sup>22</sup> 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](mailto:rule-comments@sec.gov). Please include File Number SR-NYSEAMER-2019-48 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-NYSEAMER-2019-48. This file number should be included on the subject line if email is used. To help the

<sup>16</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>17</sup> 17 CFR 240.19b-4(f)(6).

<sup>18</sup> In addition, Rule 19b-4(f)(6) requires the Exchange to give the Commission written notice of the Exchange's 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.

<sup>19</sup> 17 CFR 240.19b-4(f)(6).

<sup>20</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>21</sup> 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).

<sup>22</sup> 15 U.S.C. 78s(b)(2)(B).

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-NYSEAMER-2019-48 and should be submitted on or before December 12, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>23</sup>

**Jill M. Peterson,**  
Assistant Secretary.

[FR Doc. 2019-25207 Filed 11-20-19; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-87551; File No. SR-NYSE-2019-58]

### Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Its Price List To Offer New Credits and Rebates

November 15, 2019.

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 November 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.

#### 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 offer (1) new tiered credits for member organizations providing additional liquidity in Non-Displayed Limit Orders across Tapes A, B and C, and (2) new incremental credits and rebates applicable to certain Designated Market Makers transactions. The Exchange proposes to implement the fee change effective November 1, 2019. The proposed rule change is available on the Exchange's website 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

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##### 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 offer (1) new tiered credits for member organizations providing additional liquidity in Non-Displayed Limit Orders across Tapes A, B and C, and (2) new incremental credits and rebates applicable to certain Designated Market Makers ("DMM") transactions.

The proposed change responds to the current competitive environment by offering additional incentives to member organizations to provide additional liquidity in Non-Displayed

Limit Orders<sup>4</sup> and to existing DMMs to increase their quoting at the National Best Bid or Offer ("NBBO") in their assigned More Active Securities and Less Active Securities.<sup>5</sup>

The Exchange proposes to implement the fee change effective November 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."<sup>6</sup>

As the Commission itself recognized, the market for trading services in NMS stocks has become "more fragmented and competitive."<sup>7</sup> Indeed, equity trading is currently dispersed across 13 exchanges,<sup>8</sup> 31 alternative trading systems,<sup>9</sup> and numerous broker-dealer internalizers and wholesalers, all competing for order flow. Based on publicly-available information, no single exchange has more than 19% market share (whether including or excluding auction volume).<sup>10</sup> Therefore, no exchange possesses significant pricing power in the execution of equity

<sup>4</sup> "Non-Displayed Limit Orders" in Rule 7.31(d)(2) were previously known as "Non-Display Reserve orders." The Exchange proposes to use the new term and replace two outdated references to "Non-Display Reserve orders" on the first page of the Price List. The Exchange also proposes to capitalize the word "order" following MPL throughout.

<sup>5</sup> "More Active Securities" are securities with an average daily consolidated volume ("Security CADV") in the previous month equal to or greater than 1,000,000 shares per month. "Less Active Securities" are securities that have a Security CADV of less than 1,000,000 shares per month in the previous month.

<sup>6</sup> See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37495, 37499 (June 29, 2005) (S7-10-04) (Final Rule) ("Regulation NMS").

<sup>7</sup> 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").

<sup>8</sup> See Cboe Global Markets, U.S. Equities Market Volume Summary, available at [http://markets.cboe.com/us/equities/market\\_share/](http://markets.cboe.com/us/equities/market_share/). See generally <https://www.sec.gov/fast-answers/divisionsmarketregmrexchangesshtml>.

<sup>9</sup> 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/atstlist.htm>.

<sup>10</sup> See Cboe Global Markets U.S. Equities Market Volume Summary, available at [http://markets.cboe.com/us/equities/market\\_share/](http://markets.cboe.com/us/equities/market_share/).

<sup>23</sup> 17 CFR 200.30-3(a)(12).

<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.