

**DATES:** *Prehearing Conference:* September 1, 2020 at 1:00 p.m. Eastern Daylight Time (10:00 a.m. Pacific Daylight Time) by telephone; *Hearing of evidence to begin:* October 5, 2020; *Deadline for requests to hold a hearing before the Presiding Officer for oral presentation of evidence:* no later than 7 days before the prehearing conference.

**ADDRESSES:** For additional information, Presiding Officer's Ruling No. 4 can be accessed electronically through the Commission's website at <https://www.prc.gov>.

**FOR FURTHER INFORMATION CONTACT:** David A. Trissell, General Counsel, at 202-789-6820.

**SUPPLEMENTARY INFORMATION:**

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- I. Introduction
- II. Revised Procedural Schedule

**I. Introduction**

Pursuant to 39 CFR 3001.19 and 39 CFR 3001.17, the Commission gives notice that the procedural schedule has been adjusted for the Complaint of Randall Ehrlich v. United States Postal Service, which relates to alleged discrimination by Postal Service management in continuing a suspension of mail service due to a dog hold on the Complainant's residence, potentially violating 39 U.S.C. 403(c).<sup>1</sup> This notice informs the public of the revised procedural schedule established in Presiding Officer's Ruling No. 4.<sup>2</sup>

**II. Revised Procedural Schedule**

1. A prehearing conference is scheduled to be conducted before the Presiding Officer on September 1, 2020 at 1:00 p.m. Eastern Daylight Time (10:00 a.m. Pacific Daylight Time) by telephone.

2. The hearing of evidence in this case shall begin October 5, 2020.

3. A request to hold a hearing before the Presiding Officer for the oral presentation of evidence (including any testimony) shall be filed no later than 7 days before the prehearing conference and shall specify each witness for which oral testimony is proposed.

**Erica A. Barker,**  
*Secretary.*

[FR Doc. 2020-10354 Filed 5-13-20; 8:45 am]

**BILLING CODE 7710-FW-P**

<sup>1</sup> Complaint of Randall Ehrlich, December 23, 2019.

<sup>2</sup> See Presiding Officer's Ruling Adjusting Procedural Schedule, May 8, 2020.

**POSTAL REGULATORY COMMISSION**

[Docket Nos. MC2020-130 and CP2020-137]

**New Postal Product**

**AGENCY:** Postal Regulatory Commission.

**ACTION:** Notice.

**SUMMARY:** The Commission is noticing a recent Postal Service filing for the Commission's consideration concerning a negotiated service agreement. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

**DATES:** *Comments are due:* May 18, 2020.

**ADDRESSES:** Submit comments electronically via the Commission's Filing Online system at <http://www.prc.gov>. Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

**FOR FURTHER INFORMATION CONTACT:** David A. Trissell, General Counsel, at 202-789-6820.

**SUPPLEMENTARY INFORMATION:**

**Table of Contents**

- I. Introduction
- II. Docketed Proceeding(s)

**I. Introduction**

The Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to negotiated service agreement(s). The request(s) may propose the addition or removal of a negotiated service agreement from the market dominant or the competitive product list, or the modification of an existing product currently appearing on the market dominant or the competitive product list.

Section II identifies the docket number(s) associated with each Postal Service request, the title of each Postal Service request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 (Public Representative). Section II also establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service's request(s) can be accessed via the Commission's website (<http://www.prc.gov>). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance

with the requirements of 39 CFR 3011.301.<sup>1</sup>

The Commission invites comments on whether the Postal Service's request(s) in the captioned docket(s) are consistent with the policies of title 39. For request(s) that the Postal Service states concern market dominant product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3622, 39 U.S.C. 3642, 39 CFR part 3030, and 39 CFR part 3040, subpart B. For request(s) that the Postal Service states concern competitive product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3035, and 39 CFR part 3040, subpart B. Comment deadline(s) for each request appear in section II.

**II. Docketed Proceeding(s)**

1. *Docket No(s):* MC2020-130 and CP2020-137; *Filing Title:* USPS Request to Add Priority Mail Contract 614 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* May 8, 2020; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 *et seq.*, and 39 CFR 3035.105; *Public Representative:* Christopher C. Mohr; *Comments Due:* May 18, 2020.

This Notice will be published in the **Federal Register**.

**Erica A. Barker,**  
*Secretary.*

[FR Doc. 2020-10361 Filed 5-13-20; 8:45 am]

**BILLING CODE 7710-FW-P**

**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-88840; File No. SR-NYSEAMER-2020-37]

**Self-Regulatory Organizations; NYSE American LLC; Notice of Filing and Immediate Effectiveness of Proposed Change Modifying the NYSE American Options Fee Schedule**

May 8, 2020.

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 May 6, 2020, NYSE American LLC ("NYSE American" or the "Exchange") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in

<sup>1</sup> See Docket No. RM2018-3, Order Adopting Final Rules Relating to Non-Public Information, June 27, 2018, Attachment A at 19-22 (Order No. 4679).

<sup>2</sup> 15 U.S.C. 78s(b)(1).

<sup>3</sup> 15 U.S.C. 78a.

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

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 modify the NYSE American Options Fee Schedule ("Fee Schedule") to extend through May 2020 certain fee changes implemented for April 2020. The Exchange proposes to implement the fee change effective May 6, 2020.<sup>4</sup> The proposed 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

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 purpose of this filing is to modify the Fee Schedule to extend through May 2020 certain fee changes implemented for April 2020, as described below. The Exchange proposes to implement the fee change effective May 6, 2020.

On March 18, 2020, the Exchange announced that it would temporarily close the Trading Floor, effective Monday, March 23, 2020, as a precautionary measure to prevent the potential spread of COVID-19. Following the temporary closure of the Trading Floor, the Exchange temporarily modified certain fees for April 2020.<sup>5</sup>

<sup>4</sup> The Exchange originally filed to amend the Fee Schedule on May 1, 2020 (SR-NYSEAMER-2020-36) and withdrew such filing on May 6, 2020.

<sup>5</sup> See Securities Exchange Act Release Nos. 88595 (April 8, 2020), 85 FR 20737 (April 14, 2020) (SR-NYSEAMER-2020-25) (waiving Floor-based fixed fees); 88682 (April 8, 2020), 85 FR 20799 (April 14, 2020) (SR-NYSEAMER-2020-26) (raising Floor Broker QCC Rebate Cap); 88682 (April 17, 2020), 85 FR 22772 (April 23, 2020) (SR-NYSEAMER-2020-

Because the Trading Floor remains closed and has been closed for a longer period than expected—including seven business days in March, the Exchange proposes to extend the April 2020 fee changes through May 2020.

#### Waiver of Floor-Based Fixed Fees

First, the Exchange proposes to extend through May 2020 the waiver of the following Floor-based fixed fees, which relate directly to Floor operations, are charged only to Floor participants and do not apply to participants that conduct business off-Floor:

- Floor Access Fee;
- Floor Broker Handheld
- Transport Charges
- Floor Market Maker Podia;
- Booth Premises; and
- Wire Services.<sup>6</sup>

This proposed extension of the fee waiver would reduce monthly costs for Floor participants whose operations have been disrupted by the unanticipated Floor closure. In reducing this monthly financial burden while the Floor remains temporarily closed, the proposed change would allow affected participants to reallocate funds to assist with the cost of shifting and maintaining their previously on-Floor operations to off-Floor and recoup losses as a result of the unanticipated Floor closure. Absent this change, such participants may experience an unexpected increase in the cost of doing business on the Exchange.<sup>7</sup> The Exchange believes that all ATP Holders that conduct business on the Trading Floor would benefit from this proposed fee change.

#### Floor Broker QCC Cap

Second, the Exchange proposes to extend through May 2020 the increase in the maximum allowable Floor Broker credit, which is typically \$425,000 up to \$625,000 per month per Floor Broker (the "FB QCC Cap").<sup>8</sup> Following the

31) (including reversals and conversions in Strategy Execution Fee Cap).

<sup>6</sup> See proposed Fee Schedule, Section III.B, Monthly Trading Permit, Rights, Floor Access and Premium Product Fees, and IV. Monthly Floor Communication, Connectivity, Equipment and Booth or Podia Fees.

<sup>7</sup> The Exchange will refund participants of the Floor Broker Prepayment Program for any prepaid May 2020 fees that are waived. See proposed Fee Schedule, Section III.E (providing that "the Exchange will refund certain of the prepaid Eligible Fixed costs that were waived for April and May 2020, per Sections III.B and IV").

<sup>8</sup> See proposed Fee Schedule, Section I.F., QCC Fees & Credits, n. 1 (setting forth available credits to Floor Brokers and providing that "[t]he maximum Floor Broker credit paid shall not exceed \$425,000 per month per Floor Broker firm (the 'Cap'), except that for the months of April and May

temporary closure of the Trading Floor, the Exchange experienced an unanticipated surge in QCC trades. The Exchange therefore believes that extending this fee change during the period while the Trading Floor remains temporarily closed would allow incentives to operate as intended—to encourage Floor Brokers to execute volume on the Exchange and to continue to execute all QCC transactions on the Exchange and, for the month of May, to continue to increase the number of such QCC transactions.

Absent the proposed change, participating Floor Brokers—whose operations have been disrupted by the unanticipated Floor closure for more than a month—could experience an unintended increase in the cost of trading on the Exchange, a result that is unintended and undesirable to the Exchange and its Floor Brokers trading QCCs. The Exchange believes that extending the increase in the FB QCC Cap through May would provide Floor Brokers with greater certainty as to their monthly costs and diminish the likelihood of an effective increase in the cost of trading.

The Exchange cannot predict with certainty whether any Floor Brokers would benefit from this proposed fee change. However, without this proposed change during a time when Floor Brokers have increasingly turned to QCCs because the temporary Trading Floor closure prevents open outcry trading, the Exchange believes the proposed change is necessary to prevent Floor Brokers from diverting QCC order flow from the Exchange if and when they hit the Cap.

#### Strategy Fee Execution Cap

Finally, the Exchange proposes to extend through May 2020 the inclusion of reversals and conversions executed as QCCs ("RevCon QCCs") in the \$1,000 daily Strategy Execution Cap (the "Strategy Cap").<sup>9</sup> Absent this change, RevCon QCCs are not eligible for the Strategy Cap (but instead are subject to QCC Fees & Credits).<sup>10</sup> With the temporary closure of the Trading Floor, which has continued longer than anticipated, Floor Brokers are unable to execute RevCons in open outcry. Floor

2020, the Cap would be \$625,000 per Floor Broker firm").

<sup>9</sup> See proposed Fee Schedule, Sections I.J., Strategy Execution Fee Cap (including RevCon QCCs in the Strategy Cap during May 2020) and Section I.F., QCC Fees & Credits, n. 1 (providing that "[t]he Floor Broker credit will not apply to any QCC trades that qualify for the Strategy Cap during the months of April and May 2020 (per Section I.J)").

<sup>10</sup> See Fee Schedule, Section I.F., QCC Fees & Credits.

Brokers, however, are able to execute RevCon QCCs electronically via the Exchange systems. The Exchange believes the proposed inclusion of RevCon QCCs in the Strategy Cap, which is available to all ATP Holders, would encourage ATP Holders (including those acting as Floor Brokers) to execute their RevCon QCC volume on the Exchange, particularly during the period when open outcry is unavailable and to continue to increase the number of such RevCon QCC transactions during the month of May.

The Exchange cannot predict with certainty whether any ATP Holders would benefit from this proposed fee change. At present, whether or when an ATP Holder qualifies for the Strategy Cap varies day-to-day, month-to-month. That said, the Exchange believes that ATP Holders would be encouraged to take advantage of the modified Cap. In addition, the Exchange believes the proposed change is necessary to prevent ATP Holders from diverting RevCon QCC order flow from the Exchange to a more economical venue.

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,<sup>11</sup> in general, and furthers the objectives of Sections 6(b)(4) and (5) of the Act,<sup>12</sup> 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 Exchange operates in a highly competitive market. 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>13</sup>

There are currently 16 registered options exchanges competing for order flow. Based on publicly-available information, and excluding index-based options, no single exchange has more than 16% of the market share of

executed volume of multiply-listed equity and ETF options trades.<sup>14</sup> Therefore, currently no exchange possesses significant pricing power in the execution of multiply-listed equity & ETF options order flow. More specifically, in January 2020, the Exchange had less than 10% market share of executed volume of multiply-listed equity & ETF options trades.<sup>15</sup>

The Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can shift order flow, or discontinue or reduce use of certain categories of products, in response to fee changes. Accordingly, competitive forces constrain options exchange transaction fees. Stated otherwise, changes to exchange transaction fees and credits can have a direct effect on the ability of an exchange to compete for order flow. The proposed rule change is a reasonable attempt by the Exchange to increase the depth of its market and improve its market share relative to its competitors. The Exchange’s fees are constrained by intermarket competition, as ATP Holders—whose operations may have been (unintentionally) disrupted by the unanticipated temporary closure of the Floor—may direct their order flow to any of the 16 options exchanges.

## Waiver of Floor-Based Fixed Fees

This proposed extension of the fee waiver is reasonable, equitable, and not unfairly discriminatory because it would reduce monthly costs for Floor participants whose operations have been disrupted by the unanticipated Floor closure for more than a month. In reducing this monthly financial burden, the proposed change would allow affected participants to reallocate funds to assist with the cost of shifting and maintaining their previously on-Floor operations to off-Floor and recoup losses as a result of the unanticipated Floor closure. Absent this change, such participants may experience an unexpected increase in the cost of doing business on the Exchange.

The Exchange believes the proposed rule change is an equitable allocation of its fees and credits as it merely continues the fee waiver granted in April 2020, which impacts fees charged only to Floor participants and do not

apply to participants that conduct business off-Floor.

The Exchange believes that the proposal is not unfairly discriminatory because the proposed continuation of the fee waiver would affect all similarly-situated market participants on an equal and non-discriminatory basis.

The Exchange believes that all ATP Holders that conduct business on the Trading Floor would benefit from this proposed fee change.

## FB QCC Cap

This proposed extension of the increase to the FB QCC Cap through May is reasonable, equitable, and not unfairly discriminatory because it would allow Exchange incentives to operate as intended and continue encourage QCC volume, which has seen an uptick in volume on the Exchange following the temporary closure of the Trading Floor. The proposed change would also facilitate fair and orderly markets by attempting to avoid an unintended increase in the cost of Floor Brokers’ QCC trading on the Exchange. Absent the proposed change, participating Floor Brokers could experience an unintended increase in the cost of trading on the Exchange, a result that is unintended and undesirable to the Exchange and its Floor Brokers trading QCCs. The Exchange believes that the proposed increase to the Cap for May when the Trading Floor continues to be unavailable would provide Floor Brokers with greater certainty as to their monthly costs and diminish the likelihood of an effective increase in the cost of trading. To the extent that the proposed change attracts more QCC trades to the Exchange, this increased order flow would continue to make the Exchange a more competitive venue for, among other things, order execution, which, in turn, promotes just and equitable principles of trade and removes impediments to and perfects the mechanism of a free and open market and a national market system.

The Exchange cannot predict with certainty whether any Floor Brokers would benefit from this proposed fee change. However, without this proposed change during a time when Floor Brokers have increasingly turned to QCCs because the ongoing temporary Trading Floor closure prevents open outcry trading, the Exchange believes the proposed change is necessary to prevent Floor Brokers from diverting QCC order flow from the Exchange if and when they hit the FB QCC Cap.

The Exchange believes the proposed rule change is an equitable allocation of its fees and credits and not unfairly

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

<sup>12</sup> 15 U.S.C. 78f(b)(4) and (5).

<sup>13</sup> See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (S7-10-04) (“Reg NMS Adopting Release”).

<sup>14</sup> The OCC publishes options and futures volume in a variety of formats, including daily and monthly volume by exchange, available here: <https://www.theocc.com/market-data/volume/default.jsp>.

<sup>15</sup> Based on OCC data, see *id.*, the Exchange’s market share in equity-based options declined from 9.82% for the month of January 2019 to 8.08% for the month of January 2020.

discriminatory because it is based on the amount and type of business transacted on the Exchange during May and Floor Brokers can opt to avail themselves of the modified Cap (*i.e.*, by executing more QCC transactions) or not. The proposed change would incent Floor Brokers to attract increased QCC order flow to the Exchange that might otherwise go to other options exchanges.

The Exchange believes it is not unfairly discriminatory to modify the maximum allowable credit on QCC transactions to Floor Brokers because the proposed modification would be available to all similarly-situated market participants (*i.e.*, Floor Brokers) on an equal and non-discriminatory basis.

#### Strategy Cap

This proposed extension of the inclusion of RevCon QCCs in the \$1,000 daily Strategy Cap for May 2020 is reasonable, equitable, and not unfairly discriminatory because it would encourage ATP Holders to execute their RevCon QCC volume on the Exchange, particularly during the period when open outcry is unavailable due to the ongoing temporary closure of the Trading Floor and to increase the number of such RevCon QCC transactions during the month of May. Further, the proposal is designed to encourage ATP Holders to aggregate all Strategy Executions—including RevCon QCCs—at the Exchange as a primary execution venue. To the extent that the proposed change attracts more Strategy Executions to the Exchange, this increased order flow would continue to make the Exchange a more competitive venue for order execution. Thus, the Exchange believes the proposed rule change would improve market quality for all market participants on the Exchange and, as a consequence, attract more order flow to the Exchange thereby improving market-wide quality and price discovery.

The Exchange believes the proposed rule change is an equitable allocation of its fees and credits and not unfairly discriminatory because it is based on the amount and type of business transacted on the Exchange and ATP Holders can opt to avail themselves of the modified Strategy Cap (*i.e.*, by executing more RevCon QCC transactions) or not.

The Exchange believes it is not unfairly discriminatory to extend the modification of the Strategy Cap through May because the proposed change would be available to all similarly-situated market participants on an equal and non-discriminatory basis.

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.

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

In accordance with Section 6(b)(8) of the Act, the Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that the proposed changes would encourage the continued participation of affected ATP Holders, thereby promoting market depth, price discovery and transparency and enhancing order execution opportunities for all market participants. 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."<sup>16</sup>

*Intramarket Competition.* The proposed continuation of the April 2020 fee changes through May 2020 are designed to reduce monthly costs for Floor participants whose operations have been disrupted by the unanticipated Floor closure as well as to avoid an unintended increase in trading costs given the unavailability of open outcry trading on the Exchange. In addition, the continuation of the April 2020 fee changes is designed to attract additional order flow (particularly QCC trades and RevCon QCCs) to the Exchange

*Intermarket Competition.* The Exchange operates in a highly competitive market in which market participants can readily favor one of the 16 competing option exchanges if they deem fee levels at a particular venue to be excessive. In such an environment, the Exchange must continually adjust its fees to remain competitive with other exchanges and to attract order flow to the Exchange. Based on publicly-available information, and excluding index-based options, no single exchange currently has more than 16% of the market share of executed volume of multiply-listed equity and ETF options trades.<sup>17</sup> Therefore, currently no exchange possesses significant pricing power in the execution of multiply-listed equity & ETF options order flow. More specifically, in January 2020, the

Exchange had less than 10% market share of executed volume of multiply-listed equity & ETF options trades.<sup>18</sup>

The Exchange believes that the proposed rule change reflects this competitive environment because it modifies the Exchange's fees in a manner designed to reduce monthly costs for Floor participants whose operations have been disrupted by the unanticipated Floor closure and to encourage ATP Holders to direct trading interest (particularly QCCs and RevCon QCCs) to the Exchange, to provide liquidity and to attract order flow. To the extent that this purpose is achieved, all the Exchange's market participants should benefit from the improved market quality and increased opportunities for price improvement.

#### *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)<sup>19</sup> of the Act and subparagraph (f)(2) of Rule 19b-4<sup>20</sup> 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)<sup>21</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.

<sup>18</sup> Based on OCC data, *supra* note 15, the Exchange's market share in equity-based options was 9.57% for the month of January 2019 and 9.59% for the month of January, 2020.

<sup>19</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>20</sup> 17 CFR 240.19b-4(f)(2).

<sup>21</sup> 15 U.S.C. 78s(b)(2)(B).

<sup>16</sup> See Reg NMS Adopting Release, *supra* note 13, at 37499.

<sup>17</sup> See *supra* note 14.

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-2020-37 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-2020-37. 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-NYSEAMER-2020-37, and should be submitted on or before June 4, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>22</sup>

**J. Matthew DeLesDernier,**  
Assistant Secretary.

[FR Doc. 2020-10286 Filed 5-13-20; 8:45 am]

**BILLING CODE 8011-01-P**

**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-88843; File No. SR-CboeEDGX-2020-021]

**Self-Regulatory Organizations; Cboe EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Adopting Rule 14.12 Governing the Trading, Pursuant to Unlisted Trading Privileges, of Exchange-Traded Fund Shares**

May 8, 2020.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on May 7, 2020, Cboe EDGX Exchange, Inc. ("Exchange" or "EDGX") 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 Exchange. The Exchange filed the proposal as a "non-controversial" proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>3</sup> and Rule 19b-4(f)(6) thereunder.<sup>4</sup> 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**

Cboe EDGX Exchange, Inc. (the "Exchange" or "EDGX") is filing with the Securities and Exchange Commission ("Commission") a proposed rule change to adopt Rule 14.12 to permit the trading, pursuant to unlisted trading privileges, of Exchange-Traded Fund Shares. Additionally, the Exchange proposes to make corresponding changes to Rule 14.1(a). The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website ([http://markets.cboe.com/us/options/regulation/rule\\_filings/edgx/](http://markets.cboe.com/us/options/regulation/rule_filings/edgx/)), at the Exchange's Office of the Secretary, 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 Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed

any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

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

1. Purpose

The Exchange proposes to adopt Rule 14.12 to permit the trading, pursuant to unlisted trading privileges ("UTP"), of Exchange-Traded Fund (also referred to as "ETF") Shares,<sup>5</sup> which substantially conforms to Cboe BZX Exchange, Inc. ("BZX") Rule 14.11(l).<sup>6</sup> Additionally, the Exchange proposes to make corresponding changes to Rule 14.1(a) to reference Exchange-Traded Fund Shares and proposed Rule 14.12, where applicable.

The Exchange does not currently list any securities as a primary listing market. Consistent with this fact, Exchange Rule 14.1(a) currently states that all securities traded on the Exchange are traded pursuant to UTP and that the Exchange will not list any securities before first filing and obtaining Commission approval of rules that incorporate qualitative listing criteria and comply with Rules 10A-3<sup>7</sup> ("Rule 10A-3") and 10C-1<sup>8</sup> ("Rule 10C-1") under the Act. Therefore, the provisions of existing Rules 14.2 through 14.9, 14.11, and proposed Rule 14.12 that permit the listing of certain Equity Securities<sup>9</sup> will not be effective

<sup>5</sup> ETF Shares means shares of stock issued by an Exchange-Traded Fund. See proposed Rule 14.12(c)(1).

<sup>6</sup> See Securities and Exchange Act Release No. 88566 (April 6, 2020) 85 FR 20312 (April 10, 2020) (SR-CboeBZX-2019-097) (the "BZX Approval Order").

<sup>7</sup> Rule 10A-3 obligates the Exchange to prohibit the initial or continued listing of any security of an issuer that is not in compliance with certain required standards. See 17 CFR 240.10A-3.

<sup>8</sup> Rule 10C-1 obligates the Exchange to establish listing standards that require each member of a listed issuer's compensation committee to be a member of the issuer's board and to be independent, as well as establish certain factors that an issuer must consider when evaluating the independence of a director. See 17 CFR 240.10C-1.

<sup>9</sup> As provided in Rule 14.1(a), the term "Equity Security" means, but is not limited to, common stock, secondary classes of common stock, preferred stock and similar issues, shares or certificates of beneficial interest of trusts, notes, limited partnership interests, warrants, certificates of deposit for common stock, convertible debt securities, ADRs, CVRs, Investment Company Units, Trust Issued Receipts (including those based on Investment Shares), Commodity-Based Trust Shares, Currency Trust Shares, Partnership Units,

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

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

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

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

<sup>22</sup> 17 CFR 200.30-3(a)(12).