competitive standing in the financial markets.

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

No written comments were either solicited or received.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act,[21] and Rule 19b–4(f)(2)[22] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule 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–MRX–2020–11 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–MRX–2020–11. 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–MRX–2020–11 and should be submitted on or before July 8, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[23]

**J. Matthew DeLesDernier,**

*Assistant Secretary.*

[FR Doc. 2020–12985 Filed 6–16–20; 8:45 am]

**BILLING CODE 8011–01–P**

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

[22] 17 CFR 240.19b–4(f)(2).

[23] 17 CFR 200.30–3(a)(12).

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## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–89050; File No. SR–NYSE–2020–49]**

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

June 11, 2020.

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 June 1, 2020, 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 (1) adopt a step up tier for member organizations adding liquidity in Non-Displayed Limit Orders in Tapes A, B and C securities; (2) revise the credits for member organizations qualifying for Step Up Tier 2 Adding Credit; and (3) extend through June 2020 the waiver of equipment and related service charges and trading license fees for NYSE Trading Floor-based member organizations implemented for April and May 2020. The Exchange proposes to implement the fee changes effective June 1, 2020. 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 amend its Price List to (1) adopt a step up tier for member organizations adding liquidity in Non-Displayed Limit Orders in Tapes A, B and C securities; (2) revise the credits for member organizations qualifying for Step Up Tier 2 Adding Credit; and (3) extend through June 2020 the waiver of equipment and related service charges and trading license fees for NYSE Trading Floor-based member organizations implemented for April and May 2020.

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 proposed changes also respond to the current volatile market

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

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

[3] 17 CFR 240.19b–4.

environment that has resulted in unprecedented average daily volumes and the temporary closure of the Trading Floor, which are both related to the ongoing spread of the novel coronavirus (''COVID–19'').

The Exchange proposes to implement the fee changes effective June 1, 2020.

Current Market and Competitive Environment

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.'' [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 20% 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, the Exchange's market share of trading in Tape A, B and C securities combined is less than 13%.

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 the competitive environment described above, 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 Non-Displayed Limit Orders and Mid-Point Liquidity (''MPL'') Orders on the Exchange and revising the credits for member organizations adding liquidity by qualifying for Step Up Tier 2 Adding Credit.

Moreover, beginning on March 16, 2020, in order to slow the spread of COVID–19 through social distancing measures, significant limitations were placed on large gatherings throughout the country. As a result, on March 18, 2020, the Exchange determined that beginning March 23, 2020, the physical Trading Floor facilities located at 11 Wall Street in New York City would close and that the Exchange would move, on a temporary basis, to fully electronic trading.[9] On May 14, 2020, the Exchange announced that on May 26, 2020 trading operations on the Trading Floor would resume on a limited basis to a subset of Floor brokers, subject to safety measures designed to prevent the spread of COVID–19.[10] The proposed rule change responds to these unprecedented events by extending the waiver of equipment and related service charges and trading license fees for NYSE Trading Floor-based member organizations for June 2020.

Proposed Rule Change

Step Up Tier for Adding Liquidity in Non-Displayed Limit Orders

The Exchange proposes to adopt a step up tier that would offer credits to member organizations providing non-displayed liquidity to the Exchange in Tape A, B, and C securities.

As proposed, a member organization that

- sends orders that add liquidity to the Exchange in Non-Displayed Limit Orders, and
- that has adding average daily volume (''ADV'') in Non-Displayed Limit Orders and MPL Orders in Tapes A, B, and C consolidated ADV (''CADV'') [11] combined, excluding any liquidity added by a Designated Market Makers (''DMM''), that is at least 0.02% of NYSE CADV over that member organization's May 2020 adding liquidity in Non-Displayed Limit Orders and MPL Orders as a percentage of NYSE CADV (the ''Baseline Tape A Share'')

would receive a credit of $0.0005 for adding liquidity if the increase in Adding ADV over the Baseline Tape A Share is at least 0.02% and less than 0.04%. If the increase in Adding ADV over the Baseline Tape A Share is at least 0.04% and less than 0.08%, a member organization meeting the above requirements would receive a credit of $0.0010. If the increase in Adding ADV over the Baseline Tape A Share is at least 0.08% or more, a member organization meeting the above requirements would receive a credit of $0.0015.

For example, Member Organization A had an adding ADV in Non-Displayed Limit Orders and MPL Orders in Tape A, Tape B and Tape C securities combined of 6 million shares in the baseline month of May 2020 when Tape A, Tape B and Tape C CADV combined (''US CADV'') was 10.0 billion shares or 0.06% of US CADV. Further assume that in the billing month, Member Organization A had an adding ADV in Non-Displayed Limit Orders and MPL Orders combined of 10 million shares when US CADV was again 10 billion shares, or 0.10% of US CADV. In this scenario, Member Organization A would have a step up percentage of US CADV of 0.04% (0.10% minus 0.06%), which would qualify Member Organization A for a credit of $0.0010 per share for Non-Displayed Limit Orders.

If Member Organization A had an adding ADV of 18 million shares, or 0.18%, for a step up ADV of 0.12%, Member Organization A would instead qualify for a credit of $0.0015 because Member Organization A's increase in Adding ADV over the Baseline Tape A Share is at least 0.08%.

If in the same billing month Member Organization A's adding ADV of 18 million shares was solely in Non-Displayed Limit Orders (*i.e.,* the share

[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* Press Release, dated March 18, 2020, available here: *https://ir.theice.com/press/press-releases/allcategories/2020/03-18-2020-204202110* [sic].

[10] *See* Trader Update, dated May 14, 2020, available here: *https://www.nyse.com/traderupdate/history#110000251588* [sic].

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

number did not include MPL Orders) for an Adding ADV in Non-Displayed Limit Orders of 0.18%, Member Organization A would also qualify for the existing Non-Displayed Limit Order credit of $0.0018 by meeting the existing adding ADV requirement of 0.15%. In this scenario, Member Organization A would achieve the higher of the two credits, or $0.0018.

The purpose of this proposed change is to incentivize member organizations to increase the liquidity-providing orders in Non-Displayed Limit Orders and MPL Orders they send to the Exchange, which would support the quality of price discovery on the Exchange and provide additional liquidity for incoming orders. 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 the proposed tier requires a member organization to increase the volume of its trades in orders that add liquidity over that member organization's May 2020 baseline, the Exchange believes that the proposed credit would provide an incentive for all member organizations to send 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. Since the tier's requirements utilize an increase in volume from the most recent month, the Exchange does not know how many member organizations could qualify for the proposed tiered credits based on their current trading profile on the Exchange, but the Exchange notes that, since the lowest step up is only an Adding ADV of 0.02% of US CADV in Non-Display Limit Orders and MPL Orders combined, the Exchange believes that many member organizations could qualify 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.

Revised Credits for the Step Up Tier 2 Adding Credit

Under the current Step Up Tier 2 Adding Credit, 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 receive a credit of $0.0029 if:

- The member organization quotes at least 15% of the National Best Bid or Offer (''NBBO'') [12] in 300 or more Tape A securities on a monthly basis, and
- the member organization's Adding ADV in Tapes A, B and C securities as a percentage of Tapes A, B and C CADV, excluding any orders by a DMM, that
  - is at least two times more than the Member Organization's Adding ADV in Tapes A, B and C securities in July 2019 as a percentage of Tapes A, B and C CADV, and
  - adds liquidity as an Supplemental Liquidity Provider in Tape A securities of at least 0.10% of NYSE CADV, and
  - exceeds the Member Organization's Adding ADV, excluding any liquidity added by a DMM, in Tapes A, B and C securities in July 2019 as a percentage of Tapes A, B and C CADV by at least 0.20% of Tapes A, B and C CADV.

In addition, a member organization that meets these requirements, and thus qualifies for the $0.0029 credit, 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 Exchange proposes two higher credits for member organizations that meet the current Step Up Tier 2 Adding Credit requirements and increase their Adding ADV, excluding any liquidity added by a DMM, in Tapes A, B and C securities in July 2019 as a percentage of Tapes A, B and C CADV (''July 2019 Adding ADV'').

Specifically, member organizations whose Adding ADV as a percentage of US CADV represents an increase of at least 0.20% and less than 0.35% over their July 2019 Adding ADV as a percentage of US CADV would receive the current $0.0029 credit. Member organizations whose Adding ADV as a percentage of US CADV represents an increase of at least 0.35% and less than 0.45% over their July 2019 Adding ADV as a percentage of US CADV would receive a $0.0030 credit. Finally, member organizations whose Adding ADV as a percentage of US CADV represents an increase of at least 0.45% or more over their July 2019 Adding ADV as a percentage of US CADV would receive a $0.0031 credit.

The Exchange does not propose to change any of the other requirements to qualify for the Step Up Tier 2 Adding Credit.

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 higher credits under this tier to provide an incentive for member organizations to send more orders because they would then qualify for the credits. 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, the Exchange believes that the proposed higher credits based on a commensurate increase in Adding ADV would provide an incentive for member organizations to route additional liquidity to the Exchange in order to qualify for the higher credits.

The Exchange does not know how much order flow member organizations choose to route to other exchanges or to off-exchange venues. No firms currently qualify for the proposed higher Step Up Tier 2 Adding Credits based on their current trading profile on the Exchange, but the Exchange believes that at least five member organizations could qualify for the tier if they so choose. The Exchange notes that, given the lower requirement for Adding ADV of 0.20% as a percentage of US CADV requirement when compared to other Exchange Adding Tiers (for example, Tier 1 Adding Credit and Tier 2 Adding Credit), a number of firms would be eligible to qualify 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.

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

Fee Waivers for Trading Floor-Based Member Organizations

As noted above, on March 18, 2020, the Exchange announced that it would temporarily close the Trading Floor, effective 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 waived certain equipment fees for the booth telephone system on the Trading Floor and associated service charges for the months of April and May.[13] On May 26, 2020, the Trading Floor reopened on a limited basis to a reduced number of Floor brokers to accommodate health-focused considerations. DMMs continue to operate remotely.[14]

For the months of April and May, the Exchange waived the Annual Telephone Line Charge of $400 per phone number and the $129 fee for a single line phone, jack, and data jack. The Exchange also waived related service charges, as follows: $161.25 to install single jack (voice or data); $107.50 to relocate a jack; $53.75 to remove a jack; $107.50 to install voice or data line; $53.75 to disconnect data line; $53.75 to change a phone line subscriber; and miscellaneous telephone charges billed at $106 per hour in 15 minute increments.[15] These fees were waived for (1) member organizations with at least one trading license, a physical Trading Floor presence, and Floor broker executions accounting for 40% or more of the member organization's combined adding, taking, and auction volumes during March 1 to March 20, 2020, and (2) member organizations with at least one trading license that are Designated Market Makers with 30 or fewer assigned securities for the billing month of March 2020.

Because the Trading Floor will continue to operate with reduced capacity, the Exchange proposes to extend the waiver of these Trading Floor-based fees through June 2020. To effectuate this change, the Exchange proposes to add ''and June'' between ''May'' and ''2020'' in footnote 11 to the Price List.

In order to further reduce costs for member organizations with a Trading Floor presence, the Exchange also waived the April and May 2020 monthly portion of all applicable annual fees for (1) member organizations with at least one trading license, a physical Trading Floor presence and Floor broker executions accounting for 40% or more of the member organization's combined adding, taking, and auction volumes during March 1 to March 20, 2020, and (2) member organizations with at least one trading license that are DMMs with 30 or fewer assigned securities for the billing month of March 2020.[16]

The Exchange proposes to also waive the June 2020 monthly portion of all applicable annual fees for member organizations with at least one trading license, a physical Trading Floor presence and Floor broker executions accounting for 40% or more of the member organization's combined adding, taking, and auction volumes during March 1 to March 20, 2020. The indicated annual trading license fees would also be waived for June 2020 for member organizations with at least one trading license that are DMMs with 30 or fewer assigned securities for the billing month of March 2020. To effectuate this change, the Exchange proposes to add ''and June'' between ''May'' and ''2020'' in footnote 15.

This proposed extension of the fee waivers would reduce monthly costs for member organizations with a Trading Floor presence whose operations were disrupted by the Floor closure, which lasted approximately two months, and remains partially closed. The Exchange believes that extension of the fee waiver would ease the financial burden associated with the ongoing partial Trading Floor closure. The Exchange believes that all member organization that conduct business on the Trading Floor would benefit from this proposed fee change.

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.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[17] in general, and furthers the objectives of Sections 6(b)(4) and (5) of the Act,[18] 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.'' [19]

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.

Step Up Tier for Adding Liquidity in Non-Displayed Limit Orders

Given the competitive environment, the proposed Step Up Tier for Adding Liquidity in Non-Displayed Limit Orders 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

[13] *See* Securities Exchange Act Release No. 88602 (April 8, 2020), 85 FR 20730 (April 14, 2020) (SR–NYSE–2020–27); Securities Exchange Act Release No. 88874 (May 14, 2020), 85 FR 30743 (May 20, 2020) (SR–NYSE–2020–29). *See* footnote 11 of the Price List.

[14] DMMs will be provided access to the Trading Floor on trading days when an IPO Auction or Core Open Auction for a post-IPO public offering is scheduled. DMMs will continue to otherwise be absent from the Trading Floor and, thus, all intra-day trading and other Auctions will be conducted remotely by DMMs.

[15] The Service Charges also include an internet Equipment Monthly Hosting Fee that the Exchange did not waive for April and May 2020 and that the Exchange does not propose to waive for June 2020.

[16] *See* note 13, *supra. See* footnotes 15 of the Price List.

[17] 15 U.S.C. 78f(b).

[18] 15 U.S.C. 78f(b)(4) & (5).

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

organizations to have an Adding ADV in Non-Displayed Limit Orders and MPL Orders in Tapes A, B and C CADV combined, excluding any liquidity added by a DMM, that is at least 0.02% of NYSE CADV over that member organization's May 2020 adding liquidity in Non-Displayed Limit Orders and MPL Orders taken as a percentage of NYSE CADV in order to qualify for the proposed Step Up Tier is reasonable because it would encourage additional non-displayed and mid-point liquidity on the Exchange and because market participants benefit from the greater amounts of liquidity and price improvement 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 Non-Displayed Limit Orders and MPL Orders. Since the proposed Step Up Tier 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.

Step Up Tier 2 Adding Credit

The Exchange believes that higher credits for meeting the Step Up Tier 2 Adding Credit requirements is reasonable. Specifically, the Exchange believes that offering higher credits for increased Adding ADV of a minimum and maximum percentage over a baseline would provide an incentive for member organizations to route additional liquidity providing orders to the Exchange. 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 incrementally higher credits for orders that provide additional liquidity 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. Because, as proposed, the tier requires a member organization to increase the volume of its trades against orders that add liquidity, the Exchange believes that the proposed higher credits based on a commensurate increase in Adding ADV would provide an incentive for member organizations to route additional liquidity to the Exchange in order to qualify for the higher credits.

The Exchange does not know how much order flow member organizations choose to route to other exchanges or to off-exchange venues. As previously noted, there are currently a number of firms that could qualify for the proposed higher Step Up Tier 2 Adding Credits based on their current trading profile on the Exchange if they so choose, 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.

Fee Waivers for Trading Floor-Based Member Organizations

The proposed extension of the waiver of equipment and related service fees and the applicable monthly trading license fee for Trading Floor-based member organizations is reasonable in light of the partial continued closure of the NYSE Trading Floor. Beginning March 2020, markets worldwide have experienced unprecedented declines and volatility because of the ongoing spread of COVID–19 also resulted in the temporary closure of the NYSE Trading Floor. As noted, the Trading Floor was recently partially reopened on a limited basis to a subset of Floor brokers, subject to safety measures designed to prevent the spread of COVID–19. The proposed change is designed to reduce costs for Floor participants for the month of June 2020 and therefore ease the financial burden faced by member organizations that conduct business on the Trading Floor while it continues to operate with reduced capacity.

The Proposal is an Equitable Allocation of Fees

The Exchange believes the proposal equitably allocates its fees among its market participants by fostering liquidity provision and stability in the marketplace.

Step Up Tier for Adding Liquidity in Non-Displayed Limit Orders

The Exchange believes that the proposed Step Up Tier is equitable because the magnitude of the additional credit is not unreasonably high relative to the current tiered credits for Non-Displayed Limit orders that add liquidity of $0.0010 and $0.0018. 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 having an Adding ADV in Non-Displayed Limit Orders and MPL Orders in Tapes A, B and C CADV combined, excluding any liquidity added by a DMM, that is at least 0.02% of NYSE CADV over that member organization's May 2020 adding liquidity in Non-Displayed Limit Orders and MPL Orders combined taken as a percentage of NYSE CADV in order to qualify for the proposed credits would also encourage additional displayed liquidity on the Exchange. Since the proposed Step Up Tier 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 and increased price improvement 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 if they increase their Adding ADV in Non-Displayed Limit orders and MPL Orders combined over their own baseline of order flow. The Exchange believes that offering a higher step up credits for providing liquidity if the step up requirements for Tape A, Tape B and Tape C 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.

Step Up Tier 2 Adding Credit

The Exchange is not proposing to adjust the current requirements to qualify for the Step Up Tier 2 Adding Credit, which will remain the same for all market participants. Rather, the proposal would provide incrementally higher credits for member organizations that increase Adding ADV over the current baseline. The Exchange believes that the proposed higher credits are equitable because the magnitude of the additional credits is not unreasonably high compared to the current credit for Step Up Tier 2 and also 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.[20] 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 having an Adding ADV in Non-Displayed Limit Orders and MPL Orders in Tapes A, B and C CADV combined, excluding any liquidity added by a DMM, that is at least 0.02% of NYSE CADV over that member organization's May 2020 adding liquidity in Non-Displayed Limit Orders and MPL Orders taken as a percentage of NYSE CADV in order to qualify for the proposed credits would also encourage additional displayed liquidity on the Exchange. Since the proposed Step Up Tier would be new, no member organization currently qualifies for it. As noted, there are currently no member organizations that currently 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 credits are 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 credits proposed in Step Up Tier 2 if they increase their Adding ADV over their own baseline of order flow accordingly. The Exchange believes that offering higher step up credits 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.

Fee Waivers for Trading Floor-Based Member Organizations

Finally, the proposed extension of the waiver of equipment and related service fees and the applicable monthly trading license fee for Trading Floor-based member organizations to June 2020 are also an equitable allocation of fees. The proposed waivers apply to all Trading Floor-based firms meeting specific requirements during the period that the Trading Floor is partially open. The proposed change is equitable as it merely continues the fee waiver granted in April and May 2020, and is designed to reduce monthly costs for Trading Floor-based member organizations that are unable to fully conduct Floor operations.

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 they believe that alternatives offer them better value.

The proposal is not unfairly discriminatory because it neither targets nor will it have a disparate impact on any particular category of market participant.

Step Up Tier for Adding Liquidity in Non-Displayed Limit Orders

The Exchange believes it is not unfairly discriminatory to provide additional per share step up credits for adding liquidity in Non-Displayed Limit Orders, as the proposed credits would be provided on an equal basis to all member organizations that add liquidity by meeting the new proposed Step Up Tier's requirements. For the same reason, the Exchange believes it is not unfairly discriminatory to provide additional incrementally higher credits for increased adding ADV over the member organization's May 2020 adding liquidity in Non-Displayed Limit Orders and MPL Orders combined taken as a percentage of NYSE CADV because the proposed higher credits would equally encourage all member organizations to provide additional liquidity on the Exchange in Non-Displayed Limit Orders and MPL Orders. As noted, the Exchange believes that the proposed credit would provide an incentive for member organizations to send additional liquidity to the Exchange in order to qualify for the additional 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.

Step Up Tier 2 Adding Credit

The Exchange believes it is not unfairly discriminatory to provide higher per share step up credits, 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 Tier 2 requirements. For the same reason, the Exchange believes it is not unfairly discriminatory to provide additional incremental credits to member organizations that satisfy the Step Up Tier 2 requirements and add liquidity in Tape A, B and C securities. Further, the Exchange believes the proposed Step Up Tier 2 credits 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

[20] *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/.*

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.

Fee Waivers for Trading Floor-Based Member Organizations

The proposed continuation of the waiver of equipment and related service fees and the applicable monthly trading license fee for Trading Floor-based member organizations during June 2020 is not unfairly discriminatory because the proposed waivers would benefit all similarly-situated market participants on an equal and non-discriminatory basis. The Exchange is not proposing to waive the Floor-related fixed indefinitely, but rather during the period that the Trading Floor is not fully open. The proposed fee change is designed to ease the financial burden on Trading Floor-based member organizations that cannot fully conduct Floor operations.

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,[21] 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 further discussed above, the Exchange believes that the proposed changes would encourage the continued participation of member organizations on the Exchange by providing certainty and fee relief during the unprecedented volatility and market declines caused by the continued spread of COVID–19. 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.'' [22]

*Intramarket Competition.* The proposed changes are designed to respond to the current competitive environment and 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 current and 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. Further, the proposed continued waiver of equipment and related service fees and the applicable monthly trading license fee for Trading Floor-based member organizations during June 2020 provide a degree of certainty and ease the financial burden on Trading Floor-based member organizations impacted by the temporary closing and partial reopening of the Trading Floor. As noted, the proposal would apply to all similarly situated member organizations on the same and equal terms, who would benefit from the changes on the same basis. Accordingly, 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 previously noted, the Exchange's market share of trading in Tape A, B and C securities combined is less than 13%. 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 rule change reflects this competitive environment because it modifies the Exchange's fees in a manner designed to provide a degree of certainty and ease the financial burdens of the current unsettled market environment, and permit affected member organizations to continue to conduct market-making operations on the Exchange and avoid unintended costs of doing business on the Exchange while the Trading Floor is not fully open, which could make the Exchange a less competitive venue on which to trade as compared to other options exchanges.

*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)[23] of the Act and subparagraph (f)(2) of Rule 19b–4[24] 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)[25] 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

[21] 15 U.S.C. 78f(b)(8).

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

[23] 15 U.S.C. 78s(b)(3)(A).

[24] 17 CFR 240.19b–4(f)(2).

[25] 15 U.S.C. 78s(b)(2)(B).

• Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSE–2020–49 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–2020–49. 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–NYSE–2020–49 and should be submitted on or before July 8, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[26]

**J. Matthew DeLesDernier,**

*Assistant Secretary.*

[FR Doc. 2020–12989 Filed 6–16–20; 8:45 am]

**BILLING CODE 8011–01–P**

[26] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–89045; File No. SR–NYSEAMER–2020–45]**

## Self-Regulatory Organizations; NYSE American LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Amending the NYSE American Options Fee Schedule To Adopt a New Incentive Program for Floor Brokers

June 11, 2020.

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 June 5, 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 Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange proposes to amend the NYSE American Options Fee Schedule (''Fee Schedule'') to adopt a new incentive program for Floor Brokers. The Exchange proposes to implement the fee change effective June 5, 2020.[4] The proposed 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.

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

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

[3] 17 CFR 240.19b–4.

[4] The Exchange originally filed to amend the Fee Schedule on June 1, 2020 (SR–NYSEAMER–2020–43) and withdrew such filing on June 5, 2020.

*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 introduce a new incentive program for Floor Broker organizations (each a ''Floor Broker'') to encourage Floor Brokers to increase their billable volume on the Exchange.

Specifically, the Exchange proposes to offer a rebate of $35,000 to Floor broker organizations for each month that a Floor Broker achieves a certain minimum level of average daily volume (''ADV'') of billable contracts, as specified below.

The Exchange proposes to implement the rule changes on June 5, 2020.

Background

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.''[5]

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.[6] 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.[7]

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

[5] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (S7–10–04) (''Reg NMS Adopting Release'').

[6] 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.*

[7] 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.