physical securities may result in a CNS fail to deliver position that persists beyond the T+35 close-out timeframe.

Pursuant to Rule 204(b) of Regulation SHO,[23] if a Participant has not closed out a fail to deliver position in an equity security in accordance with Rule 204(a), the Participant and any broker-dealer from which the Participant receives trades for clearance and settlement, may not accept a short sale order in that equity security from another person or effect a short sale in that equity security for its own account, without first borrowing, or arranging to borrow, the security until the Participant closes out the fail to deliver position by purchasing securities of like kind and quantity, and that purchase has cleared and settled at a registered clearing agency. This requirement is known as the ''Penalty Box'' provision. As stated by the Commission, this provision is ''intended to act as an additional incentive to broker-dealers to deliver securities by settlement date, and to close out fail to deliver positions in accordance with the requirements of Rule 204.'' [24] Absent relief, Participants would be required to close out any fail to deliver positions resulting from the sale of owned physical securities pursuant to Rule 204(a)(2) and, if they did not, would be subject to the Penalty Box provision.

We believe that, due to DTC's intermittent suspension of physical securities processing, sales of owned physical securities raise policy considerations that warrant granting limited exemptive relief.[25] Moreover, requiring compliance with the Rule 204(a)(2) close-out requirement may create undue burdens for Participants and other broker-dealers for which they clear and settle trades, and we do not believe that subjecting Participants or other broker-dealers to the Penalty Box provision in this context would further the policy goal of incentivizing broker-dealers to deliver securities by settlement and to close out fail to deliver positions in accordance with Rule 204. Thus, we believe that the temporary relief from the close-out requirement of Regulation SHO provided by this Exemptive Order is appropriate in the public interest and consistent with the protection of investors.

Accordingly, *it is further ordered*, pursuant to Section 36 of the Exchange Act,[26] that a Participant is exempt from the close-out requirement of Rule 204(a) [27] and the Penalty Box provision of Rule 204(b) [28] of Regulation SHO with respect to a fail to deliver position resulting from the sale of an owned physical security,[29] subject to the following conditions: [30]

(a) The Participant must determine and document that the fail to deliver position resulted from a sale of an owned physical security [31] that a person is ''deemed to own'' pursuant to Rule 200 of Regulation SHO; [32]

(b) The Participant must check DTCC systems on a daily basis to determine when an owned physical security, the sale of which resulted in a fail to deliver position, is available for settlement; [33]

(c) The Participant must deliver the owned physical security as soon as possible, and in any event, must deliver the security or close out the fail to deliver position resulting from the sale by purchasing or borrowing securities of like kind and quantity by no later than the beginning of regular trading hours on the fourth settlement day following the date on which the Participant determines, in accordance with condition (b) above, that the owned physical security, the sale of which resulted in the fail to deliver position, is available for settlement;

(d) The Participant's books and records must reflect that it made delivery of the owned physical security or closed out the fail to deliver position resulting from the sale within the applicable time period, consistent with this Exemptive Order;

(e) The Participant must maintain contemporaneous records reflecting any reliance on this Order, and make this information available to Commission staff upon request; and

(f) The participant provides notice on its website promptly upon its initial reliance on the Order and maintains the notice on its website until it ceases reliance on the Order.

III. Modification, Revocation, and Expiration of Exemptions

The relief provided in this Order shall expire on December 31, 2020. The Commission intends to continue to monitor the current situation. The time period for any or all of the relief may, if necessary, be extended with any additional conditions that are deemed appropriate, and the Commission may issue other relief as necessary or appropriate.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[34]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2020–19061 Filed 8–28–20; 8:45 am]

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[23] 17 CFR 242.204(b).

[24] Rule 204 Adopting Release at 38275.

[25] These policy considerations are similar to those considered in the context of the 2012 Hurricane Sandy Order. *See supra* note 6.

[26] *See supra* note 16.

[27] 17 CFR 242.204(a).

[28] 17 CFR 242.204(b).

[29] Rule 203(b)(3) of Regulation SHO provides that if a Participant has a fail to deliver position at a registered clearing agency in a threshold security, as defined by Rule 203(c)(6), for thirteen consecutive settlement days, the Participant shall immediately thereafter close out the fail to deliver position by purchasing securities of like kind and quantity. If the sale of an owned physical security resulted in a fail to deliver position in a threshold security and that fail to deliver position persisted for thirteen consecutive settlement days because the close-out date applicable under this Exemptive Order had not yet arrived, Rule 203(b)(3) would nonetheless require the Participant to close out the fail to deliver position. Accordingly, Participants are exempt from the close-out requirements of Rule 203(b)(3) with respect to fail to deliver positions in threshold securities resulting from sales of owned physical securities, provided that the Participants close out the fail to deliver positions in compliance with this Exemptive Order. *See* 17 CFR 242.203(b)(3).

[30] These conditions are designed to (1) promote the prompt delivery of securities by participants as soon as practical under the circumstances surrounding COVID–19 without putting undue burdens on participants or their customers, and (2) aid in ensuring participants' compliance with this Order.

[31] Such determination could be based, for example, on records indicating that the sale involves a physical certificate custodied at DTCC.

[32] 17 CFR 242.200.

[33] We understand based on conversations with SIFMA that processing for certain securities may resume prior to that for others. As such, this determination must be made on a security-by-security basis. We further understand that DTC systems (including the Participant Browser System and the Participant Terminal System) enable Participants to verify their positions in physical securities held at DTC and issue withdrawal instructions. We understand that these systems permit Participants, in conjunction with the Participant's own books and records, to track when physical securities have been debited (withdrawn) and sent to the transfer agent and when the physical securities are available for settlement after they have been returned to DTC and are available for Participant pickup, are mailed directly to the customer, or are set up as a Direct Registration System account, and that Participants check these systems for completed status of physical certificate processing on a daily basis.

[34] *See* 17 CFR 200.30–3(a)(11).

SECURITIES AND EXCHANGE COMMISSION

[Release Nos. 33–10826; 34–89671/August 26, 2020]

Order Making Fiscal Year 2021 Annual Adjustments to Registration Fee Rates

I. Background

The Commission collects fees under various provisions of the securities laws. Section 6(b) of the Securities Act of 1933 (''Securities Act'') requires the Commission to collect fees from issuers on the registration of securities.[1] Section 13(e) of the Securities Exchange Act of 1934 (''Exchange Act'') requires the Commission to collect fees on specified repurchases of securities.[2] Section 14(g) of the Exchange Act requires the Commission to collect fees on specified proxy solicitations and statements in corporate control transactions.[3] These provisions require the Commission to make annual adjustments to the applicable fee rates.

II. Fiscal Year 2021 Annual Adjustment to Fee Rates

Section 6(b)(2) of the Securities Act requires the Commission to make an annual adjustment to the fee rate applicable under Section 6(b).[4] The annual adjustment to the fee rate under Section 6(b) of the Securities Act also sets the annual adjustment to the fee rates under Sections 13(e) and 14(g) of the Exchange Act.[5]

Section 6(b)(2) sets forth the method for determining the annual adjustment to the fee rate under Section 6(b) for fiscal year 2021. Specifically, the Commission must adjust the fee rate under Section 6(b) to a ''rate that, when applied to the baseline estimate of the aggregate maximum offering prices for [fiscal year 2021], is reasonably likely to produce aggregate fee collections under [Section 6(b)] that are equal to the target fee collection amount for [fiscal year 2021].'' That is, the adjusted rate is determined by dividing the ''target fee collection amount'' for fiscal year 2021 by the ''baseline estimate of the aggregate maximum offering prices'' for fiscal year 2021.

III. Target Fee Collection Amount for FY 2021

The statutory ''target fee collection amount'' for fiscal year 2021 and ''each fiscal year thereafter'' is ''an amount that is equal to the target fee collection amount for the prior fiscal year, adjusted by the rate of inflation.'' The target fee collection amount for fiscal year 2020 was $705,000,000. To adjust the fiscal year 2020 target fee collection amount by the rate of inflation to determine the fiscal year 2021 target fee collect amount, the Commission has determined that it will use an approach similar to one that it uses to annually adjust civil monetary penalties by the rate of inflation.[6] Under this approach, the Commission will use the Consumer Price Index for All Urban Consumers (''CPI–U''), not seasonally adjusted, rounded to five decimal places, in calculating the target fee collection amount, which is then rounded to the nearest whole dollar. The calculation for the fiscal year 2021 target fee collection amount is described in more detail below.

The most recent CPI–U index value, not seasonally adjusted, available for use by the Commission is for June 2020. This value is 257.797.[7] The CPI–U index value, not seasonally adjusted, for June 2019 is 256.143.[8] Dividing the June 2020 value by the June 2019 value and rounding to five decimal places yields a multiplier value of 1.00646. Multiplying the fiscal year 2020 target fee collection amount of $705,000,000 by the multiplier value of 1.00646 and rounding to the nearest whole dollar yields a fiscal year 2021 target fee collection amount of $709,554,300.

Section 6(b)(6)(B) defines the ''baseline estimate of the aggregate maximum offering prices'' for fiscal year 2021 as ''the baseline estimate of the aggregate maximum offering price at which securities are proposed to be offered pursuant to registration statements filed with the Commission during [fiscal year 2021] as determined by the Commission, after consultation with the Congressional Budget Office and the Office of Management and Budget . . . .''

To make the baseline estimate of the aggregate maximum offering price for fiscal year 2021, the Commission is using the methodology it has used in prior fiscal years and that was developed in consultation with the Congressional Budget Office and the Office of Management and Budget (''OMB''). [9] Using this methodology, the Commission determines the ''baseline estimate of the aggregate maximum offering price'' for fiscal year 2021 to be $6,506,143,522,561. Based on this estimate and the fiscal year 2021 target fee collection amount, the Commission calculates the fee rate for fiscal 2021 to be $109.10 per million. This adjusted fee rate applies to Section 6(b) of the Securities Act, as well as to Sections 13(e) and 14(g) of the Exchange Act. IV. Effective Dates of the Annual Adjustments

The fiscal year 2021 annual adjustments to the fee rates applicable under Section 6(b) of the Securities Act and Sections 13(e) and 14(g) of the Exchange Act will be effective on October 1, 2020.[10]

V. Conclusion

Accordingly, pursuant to Section 6(b) of the Securities Act and Sections 13(e) and 14(g) of the Exchange Act,[11]

It is hereby ordered that the fee rates applicable under Section 6(b) of the Securities Act and Sections 13(e) and 14(g) of the Exchange Act shall be $109.10 per million effective on October 1, 2020.

By the Commission.

Vanessa A. Countryman,

Secretary.

Appendix A

Congress has established a target amount of monies to be collected from fees charged to issuers based on the value of their registrations. This appendix provides the formula for determining such fees, which the Commission adjusts annually. Congress has mandated that the Commission determine these fees based on the ''aggregate maximum offering prices,'' which measures the aggregate dollar amount of securities registered with the Commission over the course of the year. In order to maximize the likelihood that the amount of monies targeted by Congress will be collected, the fee rate must be set to reflect projected aggregate maximum offering prices. As a percentage, the fee rate equals the ratio of the target amounts of monies to the projected aggregate maximum offering prices.

For 2021, the Commission has estimated the aggregate maximum offering prices by projecting forward the trend established in the previous decade. More specifically, an auto-regressive integrated moving average (''ARIMA'') model was used to forecast the value of the aggregate maximum offering prices for months subsequent to July 2020,

[1] 15 U.S.C. 77f(b).

[2] 15 U.S.C. 78m(e).

[3] 15 U.S.C. 78n(g).

[4] 15 U.S.C. 77f(b)(2). The annual adjustments are designed to adjust the fee rate in a given fiscal year so that, when applied to the aggregate maximum offering price at which securities are proposed to be offered for the fiscal year, it is reasonably likely to produce total fee collections under Section 6(b) equal to the ''target fee collection amount'' specified in Section 6(b)(6)(A) for that fiscal year.

[5] 15 U.S.C. 78m(e)(4) and 15 U.S.C. 78n(g)(4).

[6] The Commission annually adjusts for inflation the civil money penalties that can be imposed under the statutes administered by Commission, as required by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, pursuant to guidance from the Office of Management and Budget (''OMB''). See OMB December 16, 2019 Memorandum for the Heads of Executive Departments and Agencies,'' M–20–05, on ''Implementation of Penalty Inflation Adjustments for 2020, Pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015.''

[7] This was announced on July 14, 2020. See *https://www.bls.gov/news.release/archives/cpi_07142020.htm.*

[8] See Supplemental Tables, ''CPI–U News Release Companion File'' from the July 14, 2020 press release.

[9] Appendix A explains how we determined the ''baseline estimate of the aggregate maximum offering price'' for fiscal year 2021 using our methodology, and then shows the arithmetical process of calculating the fiscal year 2021 annual adjustment based on that estimate. The appendix includes the data used by the Commission in making its ''baseline estimate of the aggregate maximum offering price'' for fiscal year 2021.

[10] 15 U.S.C. 77f(b)(4), 15 U.S.C. 78m(e)(6) and 15 U.S.C. 78n(g)(6).

[11] 15 U.S.C. 77f(b), 78m(e) and 78n(g).

the last month for which the Commission has data on the aggregate maximum offering prices.

The following sections describe this process in detail.

A. Baseline Estimate of the Aggregate Maximum Offering Prices for Fiscal Year 2021

First, calculate the aggregate maximum offering prices (AMOP) for each month in the sample (July 2010–July 2020). Next, calculate the percentage change in the AMOP from month to month.

Model the monthly percentage change in AMOP as a first order moving average process. The moving average approach allows one to model the effect that an exceptionally high (or low) observation of AMOP tends to be followed by a more ''typical'' value of AMOP.

Use the [estimated moving average] [ARIMA] model to forecast the monthly percent change in AMOP. These percent changes can then be applied to obtain forecasts of the total dollar value of registrations. The following is a more formal (mathematical) description of the procedure:

1. Begin with the monthly data for AMOP. The sample spans ten years, from July 2010 to July 2020.

2. Divide each month's AMOP (column C) by the number of trading days in that month (column B) to obtain the average daily AMOP (AAMOP, column D).

3. For each month t, the natural logarithm of AAMOP is reported in column E.

4. Calculate the change in log(AAMOP) from the previous month as $\Delta_t = \log(AAMOP_t)-\log(AAMOP_{t-1})$. This approximates the percentage change.

5. Estimate the first order moving average model $\Delta_t = \alpha + \beta e_{t-1} + e_t$, where e_t denotes the forecast error for month t. The forecast error is simply the difference between the one-month ahead forecast and the actual realization of Δ_t. The forecast error is expressed as $e_t = \Delta_t - \alpha - \beta e_{t-1}$. The model can be estimated using standard commercially available software. Using least squares, the estimated parameter values are $\alpha = 0.0070920641$ and $\beta = 0.8803315102$.

6. For the month of August 2020 forecast $\Delta_{t=8/2020} = \alpha + \beta e_{t=7/2020}$. For all subsequent months, forecast $\Delta_t = \alpha$.

7. Calculate forecasts of log(AAMOP). For example, the forecast of log(AAMOP) for October 2020 is given by $FLAAMOP_{t=10/2020} = \log(AAMOP_{t=7/2020}) + \Delta_{t=8/2020} + \Delta_{t=9/2020} + \Delta_{t=10/2020}$.

8. Under the assumption that e_t is normally distributed, the n-step ahead forecast of AAMOP is given by $\exp(FLAAMOP_t + \sigma_n^2/2)$, where σ_n denotes the standard error of the n-step ahead forecast.

9. For October 2020, this gives a forecast AAMOP of $24.705 billion (Column I), and a forecast AMOP of $543.503 billion (Column J).

10. Iterate this process through September 2021 to obtain a baseline estimate of the aggregate maximum offering prices for fiscal year 2021 of $6,506,143,522,561.

B. Using the Forecasts From A To Calculate the New Fee Rate

1. Using the data from Table A, estimate the aggregate maximum offering prices between 10/01/20 and 9/30/21 to be $6,506,143,522,561.

2. The rate necessary to collect the target $709,554,300 in fee revenues set by Congress is then calculated as: $709,554,300 ÷ $6,506,143,522,561 = 0.00010906.

3. Round the result to the seventh decimal point, yielding a rate of 0.0001091 (or $109.10 per million).

TABLE A—ESTIMATION OF BASELINE OF AGGREGATE MAXIMUM OFFERING PRICES

Fee rate calculation	
a. Baseline estimate of the aggregate maximum offering prices, 10/01/20 to 09/30/21 ($Millions)	6,506,144
b. Implied fee rate ($709,554,300 / a)	$109.10

Month (A)	Number of trading days in month (B)	Aggregate maximum offering prices, in $millions (C)	Average daily aggregate max. offering prices (AAMOP) in $millions (D)	Log(AAMOP) (E)	Log (change in AAMOP) (F)	forecast log(AAMOP) (G)	Standard error (H)	Forecast AAMOP, in $millions (I)	Forecast aggregate maximum offering prices, in $millions (J)
Jul–10	21	171,191	8,152	22.822					
Aug–10	22	240,793	10,945	23.116	0.295				
Sep–10	21	260,783	12,418	23.242	0.126				
Oct–10	21	214,988	10,238	23.049	−0.193				
Nov–10	21	340,112	16,196	23.508	0.459				
Dec–10	22	297,992	13,545	23.329	−0.179				
Jan–11	20	233,668	11,683	23.181	−0.148				
Feb–11	19	252,785	13,304	23.311	0.130				
Mar–11	23	595,198	25,878	23.977	0.665				
Apr–11	20	236,355	11,818	23.193	−0.784				
May–11	21	319,053	15,193	23.444	0.251				
Jun–11	22	359,727	16,351	23.518	0.073				
Jul–11	20	215,391	10,770	23.100	−0.418				
Aug–11	23	179,870	7,820	22.780	−0.320				
Sep–11	21	168,005	8,000	22.803	0.023				
Oct–11	21	181,452	8,641	22.880	0.077				
Nov–11	21	256,418	12,210	23.226	0.346				
Dec–11	21	237,652	11,317	23.150	−0.076				
Jan–12	20	276,965	13,848	23.351	0.202				
Feb–12	20	228,419	11,421	23.159	−0.193				
Mar–12	22	430,806	19,582	23.698	0.539				
Apr–12	20	173,626	8,681	22.884	−0.813				
May–12	22	414,122	18,824	23.658	0.774				
Jun–12	21	272,218	12,963	23.285	−0.373				
Jul–12	21	170,462	8,117	22.817	−0.468				
Aug–12	23	295,472	12,847	23.276	0.459				
Sep–12	19	331,295	17,437	23.582	0.305				
Oct–12	21	137,562	6,551	22.603	−0.979				
Nov–12	21	221,521	10,549	23.079	0.476				

Month (A)	Number of trading days in month (B)	Aggregate maximum offering prices, in $millions (C)	Average daily aggregate max. offering prices (AAMOP) in $millions (D)	Log(AAMOP) (E)	Log (change in AAMOP) (F)	forecast log(AAMOP) (G)	Standard error (H)	Forecast AAMOP, in $millions (I)	Forecast aggregate maximum offering prices, in $millions (J)
Dec–12	20	321,602	16,080	23.501	0.422				
Jan–13	21	368,488	17,547	23.588	0.087				
Feb–13	19	252,148	13,271	23.309	−0.279				
Mar–13	20	533,440	26,672	24.007	0.698				
Apr–13	22	235,779	10,717	23.095	−0.912				
May–13	22	382,950	17,407	23.580	0.485				
Jun–13	20	480,624	24,031	23.903	0.322				
Jul–13	22	263,869	11,994	23.208	−0.695				
Aug–13	22	253,305	11,514	23.167	−0.041				
Sep–13	20	267,923	13,396	23.318	0.151				
Oct–13	23	293,847	12,776	23.271	−0.047				
Nov–13	20	326,257	16,313	23.515	0.244				
Dec–13	21	358,169	17,056	23.560	0.045				
Jan–14	21	369,067	17,575	23.590	0.030				
Feb–14	19	298,376	15,704	23.477	−0.113				
Mar–14	21	564,840	26,897	24.015	0.538				
Apr–14	21	263,401	12,543	23.252	−0.763				
May–14	21	403,700	19,224	23.679	0.427				
Jun–14	21	423,075	20,146	23.726	0.047				
Jul–14	22	373,811	16,991	23.556	−0.170				
Aug–14	21	405,017	19,287	23.683	0.127				
Sep–14	21	409,349	19,493	23.693	0.011				
Oct–14	23	338,832	14,732	23.413	−0.280				
Nov–14	19	386,898	20,363	23.737	0.324				
Dec–14	22	370,760	16,853	23.548	−0.189				
Jan–15	20	394,127	19,706	23.704	0.156				
Feb–15	19	466,138	24,534	23.923	0.219				
Mar–15	22	753,747	34,261	24.257	0.334				
Apr–15	21	356,560	16,979	23.555	−0.702				
May–15	20	478,591	23,930	23.898	0.343				
Jun–15	22	446,102	20,277	23.733	−0.166				
Jul–15	22	402,062	18,276	23.629	−0.104				
Aug–15	21	334,746	15,940	23.492	−0.137				
Sep–15	21	289,872	13,803	23.348	−0.144				
Oct–15	22	300,276	13,649	23.337	−0.011				
Nov–15	20	409,690	20,485	23.743	0.406				
Dec–15	22	308,569	14,026	23.364	−0.379				
Jan–16	19	457,411	24,074	23.904	0.540				
Feb–16	20	554,343	27,717	24.045	0.141				
Mar–16	22	900,301	40,923	24.435	0.390				
Apr–16	21	250,716	11,939	23.203	−1.232				
May–16	21	409,992	19,523	23.695	0.492				
Jun–16	22	321,219	14,601	23.404	−0.291				
Jul–16	20	289,671	14,484	23.396	−0.008				
Aug–16	23	352,068	15,307	23.452	0.055				
Sep–16	21	326,116	15,529	23.466	0.014				
Oct–16	21	266,115	12,672	23.263	−0.203				
Nov–16	21	443,034	21,097	23.772	0.510				
Dec–16	21	310,614	14,791	23.417	−0.355				
Jan–17	20	503,030	25,152	23.948	0.531				
Feb–17	19	255,815	13,464	23.323	−0.625				
Mar–17	23	723,870	31,473	24.172	0.849				
Apr–17	19	255,275	13,436	23.321	−0.851				
May–17	22	569,965	25,908	23.978	0.657				
Jun–17	22	445,081	20,231	23.730	−0.247				
Jul–17	20	291,167	14,558	23.401	−0.329				
Aug–17	23	263,981	11,477	23.164	−0.238				
Sep–17	20	372,705	18,635	23.648	0.485				
Oct–17	22	173,749	7,898	22.790	−0.858				
Nov–17	21	377,262	17,965	23.612	0.822				
Dec–17	20	281,126	14,056	23.366	−0.245				
Jan–18	21	593,025	28,239	24.064	0.698				
Feb–18	19	353,182	18,589	23.646	−0.418				
Mar–18	21	685,784	32,656	24.209	0.563				
Apr–18	21	367,569	17,503	23.586	−0.624				
May–18	22	543,840	24,720	23.931	0.345				
Jun–18	21	477,967	22,760	23.848	−0.083				
Jul–18	21	327,710	15,605	23.471	−0.377				

Month	Number of trading days in month	Aggregate maximum offering prices, in $millions	Average daily aggregate max. offering prices (AAMOP) in $millions	Log(AAMOP)	Log (change in AAMOP)	forecast log(AAMOP)	Standard error	Forecast AAMOP, in $millions	Forecast aggregate maximum offering prices, in $millions
(A)	(B)	(C)	(D)	(E)	(F)	(G)	(H)	(I)	(J)
Aug–18	23	347,239	15,097	23.438	−0.033				
Sep–18	19	259,874	13,678	23.339	−0.099				
Oct–18	23	300,814	13,079	23.294	−0.045				
Nov–18	21	447,767	21,322	23.783	0.489				
Dec–18	19	276,130	14,533	23.400	−0.383				
Jan–19	21	495,624	23,601	23.885	0.485				
Feb–19	19	372,166	19,588	23.698	−0.186				
Mar–19	21	604,813	28,801	24.084	0.385				
Apr–19	21	267,737	12,749	23.269	−0.815				
May–19	22	476,892	21,677	23.800	0.531				
Jun–19	20	399,178	19,959	23.717	−0.083				
Jul–19	22	359,438	16,338	23.517	−0.200				
Aug–19	22	401,391	18,245	23.627	0.110				
Sep–19	20	382,876	19,144	23.675	0.048				
Oct–19	23	181,113	7,874	22.787	−0.888				
Nov–19	20	553,889	27,694	24.044	1.258				
Dec–19	21	438,062	20,860	23.761	−0.283				
Jan–20	21	636,403	30,305	24.135	0.373				
Feb–20	19	424,133	22,323	23.829	−0.306				
Mar–20	22	409,403	18,609	23.647	−0.182				
Apr–20	21	389,821	18,563	23.644	−0.002				
May–20	20	731,835	36,592	24.323	0.679				
Jun–20	22	650,219	29,555	24.110	−0.214				
Jul–20	22	457,871	20,812	23.759	−0.351				
Aug–20	21					23.858	0.336	24,317	510,665
Sep–20	21					23.865	0.338	24,510	514,715
Oct–20	22					23.872	0.341	24,705	543,503
Nov–20	20					23.879	0.343	24,901	498,013
Dec–20	22					23.886	0.346	25,098	552,159
Jan–21	19					23.893	0.348	25,297	480,647
Feb–21	19					23.901	0.350	25,498	484,460
Mar–21	23					23.908	0.353	25,700	591,103
Apr–21	21					23.915	0.355	25,904	543,984
May–21	20					23.922	0.357	26,109	522,189
Jun–21	22					23.929	0.359	26,317	578,965
Jul–21	21					23.936	0.362	26,525	557,032
Aug–21	22					23.943	0.364	26,736	588,186
Sep–21	21					23.950	0.366	26,948	565,904

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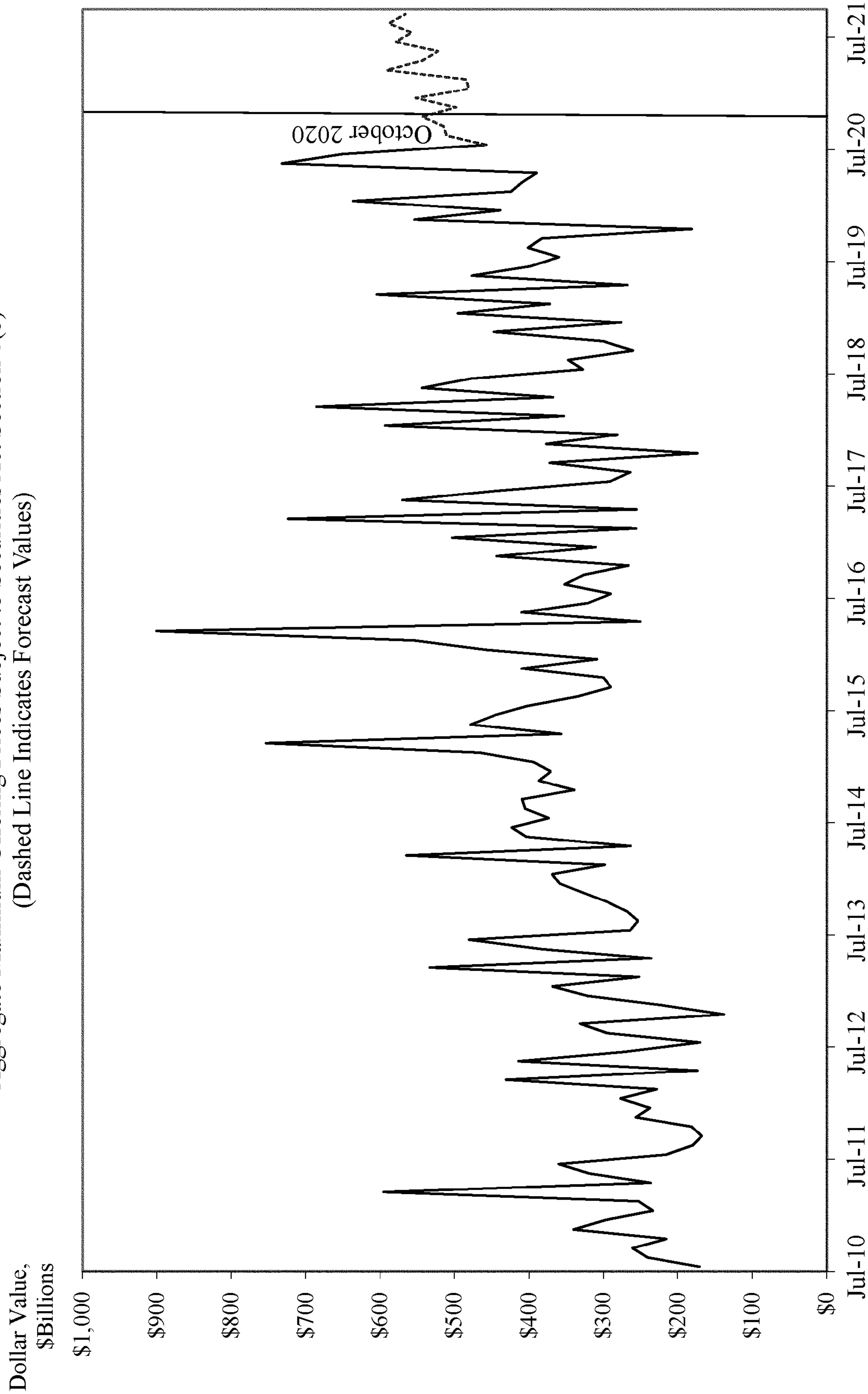
Figure A
Aggregate Maximum Offering Prices Subject to Securities Act Section 6(b)
(Dashed Line Indicates Forecast Values)



[FR Doc. 2020–19079 Filed 8–28–20; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–89651; File No. SR–NYSEAMER–2020–63]

Self-Regulatory Organizations; NYSE American LLC; Notice of Filing and Immediate Effectiveness of Proposed Change To Extend the Temporary Waiver of the Co-Location Hot Hands Fee

August 25, 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 August 11, 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 extend the temporary waiver of the co-location ''Hot Hands'' fee. 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.

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 extend of the temporary waiver of the co-location [4] ''Hot Hands'' fee through the reopening of the Mahwah, New Jersey data center (''Data Center''). The waiver of the Hot Hands fee is scheduled to expire on August 31, 2020.[5]

The Exchange is an indirect subsidiary of Intercontinental Exchange, Inc. (''ICE''). Through its ICE Data Services (''IDS'') business, ICE operates the Data Center, from which the Exchange provides co-location services to Users.[6] Among those services is a ''Hot Hands'' service, which allows Users to use on-site Data Center personnel to maintain User equipment, support network troubleshooting, rack and stack a server in a User's cabinet; power recycling; and install and document the fitting of cable in a User's cabinet(s).[7] The Hot Hands fee is $100 per half hour.

ICE previously announced to Users that the Data Center would be closed to third parties starting on March 16, 2020, to help avoid the spread of COVID–19, which could negatively impact Data Center functions. Prior to the closure of the Data Center, the Chief Executive Officer of the Exchange took the actions required under NYSE American Rules 7.1E and 901NY to close the co-location facility of the Exchange to third parties. The closure period was extended twice, through June 30, 2020 (the ''Initial Closure'').[8]

ICE has announced to Users that, because the concerns that led to the Initial Closure still apply, the closure of the Data Center will be extended, with the date of the reopening announced through a customer notice.

If a User's equipment requires work while a Rules 7.1E and 901NY closure is in effect, the User has to use the Hot Hands service and, absent a waiver, incurs Hot Hands fees for the work. Given that, the Exchange waived all Hot Hands fees for the duration of the Initial Closure.[9] Because the period has been extended, the Exchange proposes to extend the waiver of the Hot Hands Fee for the length of the period. To that end, the Exchange proposes to revise the footnote to the Hot Hands Fee in the Price List and Fee Schedule as follows (deletions bracketed, additions underlined):

† Fees for Hot Hands Services will be waived beginning on March 16, 2020 through [the earlier of August 31, 2020 and] the reopening of the Mahwah, New Jersey data center. *The date of the reopening will be announced through a customer notice.*

The Exchange believes that there will be sufficient Data Center staff on-site to comply with User requests for Hot Hands service.

The proposed extension of the waiver would apply equally to all Users. The proposed extension of the fee waiver would not apply differently to distinct types or sizes of market participants. Rather, it would continue to apply uniformly to all Users.

The proposed change is not otherwise intended to address any other issues relating to co-location services and/or related fees, and the Exchange is not aware of any problems that Users would have in complying with the proposed change.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[10] in general, and furthers the objectives of Sections 6(b)(4) and (5) of the Act,[11] in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members,

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

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

[3] 17 CFR 240.19b–4.

[4] The Exchange initially filed rule changes relating to its co-location services with the Securities and Exchange Commission (''Commission'') in 2010. *See* Securities Exchange Act Release No. 62961 (September 21, 2010), 75 FR 59299 (September 27, 2010) (SR–NYSEAmex–2010–80).

[5] *See* Securities Exchange Act Release No. 89173 (June 29, 2020), 85 FR 40352 (July 6, 2020) (SR–NYSEAmer–2020–46).

[6] For purposes of the Exchange's co-location services, a ''User'' means any market participant that requests to receive co-location services directly from the Exchange. *See* Securities Exchange Act Release No. 76009 (September 29, 2015), 80 FR 60213 (October 5, 2015) (SR–NYSEMKT–2015–67). As specified in the NYSE American Equities Price List and Fee Schedule and the NYSE American Options Fee Schedule (together, the ''Price List and Fee Schedule''), a User that incurs co-location fees for a particular co-location service pursuant thereto would not be subject to co-location fees for the same co-location service charged by the Exchange's affiliates the New York Stock Exchange LLC, NYSE Arca, Inc., NYSE Chicago, Inc., and NYSE National, Inc. (together, the ''Affiliate SROs''). *See* Securities Exchange Act Release No. 70176 (August 13, 2013), 78 FR 50471 (August 19, 2013) (SR–NYSEMKT–2013–67). Each Affiliate SRO has submitted substantially the same proposed rule change to propose the changes described herein. *See* SR–NYSE–2020–69, SR–NYSEArca–2020–74, SR–NYSECHX–2020–25, and SR–NYSENAT–2020–26.

[7] *See* Securities Exchange Act Release No. 72719 (July 30, 2014), 79 FR 45502 (August 5, 2014) (SR–NYSEMKT–2014–61).

[8] *See* Securities Exchange Act Release Nos. 88403 (March 17, 2020), 85 FR 16400 (March 23, 2020) (SR–NYSEAMER–2020–19); 88523 (March 31, 2020), 85 FR 19179 (April 6, 2020) (SR–NYSEAMER–2020–23); and 88956 (May 27, 2020), 85 FR 33760 (June 2, 2020) (SR–NYSEAmer–2020–39).

[9] *See* 85 FR 40352, *supra* note 5.

[10] 15 U.S.C. 78f(b).

[11] 15 U.S.C. 78f(b)(4) and (5).