

records related to requests for Reasonable Accommodation.

5. *COVID-19 Related Medical Records*: Records related to the COVID-19 public health crisis, including copies of COVID-19 Vaccination Record Cards, and Records of COVID-19 immunization from a health care provider or pharmacy, copies of COVID-19 immunization records from public health, state, or tribal immunization information system.

RECORD SOURCE CATEGORIES:

Employees, applicants for employment; applicant or employee health care provider(s), USPS and Department of Veterans Affairs medical staff, USPS designee testing facilities, substance abuse professionals, and designated contractors.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Standard routine uses 1 through 9 apply. In addition:

a. Medical records may be disclosed to an employee's private treating physician and to medical personnel retained by USPS to provide medical examinations or treatment for an employee's health or physical condition related to employment.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Automated database, computer storage media, digital files, and paper files.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

By employee or applicant name, Social Security Number, Employee Identification Number, Candidate Identification Number, or duty or pay location.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

1. The Employee Medical Folder is retained by USPS until the employee is separated from USPS. On an annual basis, records of all employees separated during the prior year are transferred to the National Personnel Records Center and retained for 30 years.

2. Candidate medical information for applicants determined to be medically unsuitable for the position offered is retained 2 years in hard copy. Computer data is retained 3 years in a history database.

3. Documentation supporting applicant requests for reasonable accommodation for participation in the hiring or assessment process are maintained for 2 years in hard copy. Computer records of such requests are retained 3 years.

4. Reasonable Accommodation Committee and District Reasonable Accommodation Committee records are maintained for the duration of the employee's tenure with the USPS or until any appeals are adjudicated, whichever is longer. After the official use for these records has been satisfied, the records are to be placed in a sealed envelope, labeled as "Reasonable Accommodation Committee Records," and placed in the employee medical folder (EMF) and retained in accordance with the official retention period for the EMFs.

5. Alcohol test results indicating a breath alcohol concentration of 0.02 or greater, verified positive controlled substance test results, refusals, medical review officer's evaluations, employee statements, and substance abuse professionals' evaluations and referrals are retained 5 years. Alcohol test results indicating a breath alcohol concentration of less than 0.02, and negative and canceled controlled substance test results, are retained 1 year.

6. COVID-19 Test results are retained for one year after the expiration of Postal Service COVID-19 Policies.

7. COVID-19 Vaccination Status is retained for one year after the expiration of Postal Service COVID-19 Policies.

Records existing on paper are destroyed by burning, pulping, or shredding. Records existing on computer storage media are destroyed according to the applicable USPS media sanitization practice.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Paper records, computers, and computer storage media are located in controlled-access areas under supervision of program personnel. Access to these areas is limited to authorized personnel, who must be identified with a badge. Access to records is limited to individuals whose official duties require such access. Contractors and licensees are subject to contract controls and unannounced on-site audits and inspections. Computers are protected by mechanical locks, card key systems, or other physical access control methods. The use of computer systems is regulated with installed security software, computer logon identifications, and operating system controls including access controls, terminal and transaction logging, and file management software.

RECORD ACCESS PROCEDURES:

Requests for access must be made in accordance with the Notification Procedure above and USPS Privacy Act

regulations regarding access to records and verification of identity under 39 CFR 266.5.

CONTESTING RECORD PROCEDURES:

See *Notification Procedure* below and *Record Access Procedures* above.

NOTIFICATION PROCEDURES:

Individuals wanting to know if information about them is maintained in this system must address inquiries to the facility head where currently or last employed. Headquarters employees must submit inquiries to the National Medical Director, Health and Resource Management, 475 L'Enfant Plaza SW, Washington, DC 20260. Individuals who requested accommodation for an entrance examination or assessment must submit inquiries to the Manager of Selection, Evaluation, and Recognition, 475 L'Enfant Plaza SW, Washington, DC 20260. Inquiries must include full name, Social Security Number or Employee Identification Number, name and address of facility where last employed, and dates of USPS employment or date of application.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

June 17, 2011, 76 FR 35483; April 29, 2005, 70 FR 22516

* * * * *

Sarah E. Sullivan,

Attorney, Ethics and Legal Compliance.

[FR Doc. 2022-03242 Filed 3-3-22; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-94324; File No. SR-NYSEAMER-2022-12]

Self-Regulatory Organizations; NYSE American LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the NYSE American Options Proprietary Market Data Fee Schedule

February 28, 2022.

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 February 24, 2022, NYSE American LLC ("NYSE American" or the "Exchange") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

Items I and II below, which Items have been prepared by the Exchange. 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 Proprietary Market Data Fee Schedule ("Fee Schedule") to introduce a data product to be known as the NYSE Options Open-Close End of Day Volume Summary ("End of Day Volume Summary") that would be available for purchase by any market participant, *i.e.*, members⁴ and non-members, on an ad-hoc basis and to adopt fees for such product. 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 introduce a data product to be known as the End of Day Volume Summary that would be available for purchase by market participants on an ad-hoc basis and to adopt fees for such product.⁵

⁴ Members of the Exchange are member organizations, members, ETP Holders and ATP Holders.

⁵ The Exchange previously adopted a subscription-based market data product known as the NYSE Options Open-Close Volume Summary that market participants can purchase on a subscription basis. See Securities Exchange Act Release No. 93803 (December 16, 2021), 86 FR 72647 (December 22, 2021) (SR-NYSEAMER-2021-46). The purpose of this filing is to introduce a historic monthly report of the NYSE Options Open-Close Volume Summary that would be available for purchase by any market participant on an ad-hoc basis.

More specifically, the Exchange proposes to offer an ad-hoc historic monthly End of Day Volume Summary market data product that will provide a volume summary of trading activity on the Exchange at the option level by origin (Customer, Professional Customer, Firm, Broker-Dealer, and Market Maker⁶), side of the market (buy or sell), contract volume, and transaction type (opening or closing). The Customer, Professional Customer, Firm, Broker-Dealer, and Market Maker volume will be further broken down into trade size buckets (less than 100 contracts, 100–199 contracts, greater than 199 contracts). The ad-hoc historic monthly End of Day Volume Summary is proprietary Exchange trade data and does not include trade data from any other exchange. It is also a historical data product and not a real-time data feed. The Exchange proposes to offer data that would go back to December 2018 and would contain all series in an underlying security if it has volume.⁷

The Exchange anticipates a wide variety of market participants to purchase the ad-hoc historic monthly End of Day Volume Summary, including, but not limited to, individual customers, buy-side investors, investment banks and academic institutions. For example, academic institutions may utilize the proposed product to promote research and studies of the options industry to the benefit of all market participants. The Exchange believes the proposed product may also provide helpful trading information regarding investor sentiment and may be used to create and test trading models and analytical strategies. The ad-hoc historic monthly End of Day Volume Summary is a completely voluntary product, in that the Exchange is not required by any rule or regulation to make this data available and that potential customers may purchase it on an ad-hoc basis only if they voluntarily choose to do so. The Exchange notes that other exchanges offer a similar product.⁸ As such, the ad-hoc historic

⁶ The terms Customer, Professional Customer, Firm and Market Maker are defined in Rule 900.2NY.

⁷ The specifications for the ad-hoc historic monthly End of Day Volume Summary can be found at <https://www.nyse.com/market-data/historical/open-close-volume-summary>.

⁸ See Securities Exchange Act Release Nos. 87463 (November 5, 2019), 84 FR 61129 (November 12, 2019) (SR-C2-2019-023) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Introduce a New Data Product To Be Known as Open-Close Data and To Adopt Fees for Such Product); 55062 (January 8, 2007), 72 FR 2048 (January 17, 2007) (SR-CBOE-2006-88) (Order Granting Approval to Proposed Rule Change To Codify a Fee Schedule for the Sale of Open and Close Volume Data on CBOE Listed Options by

monthly End of Day Volume Summary is subject to direct competition from similar end of day options trading summaries offered by other exchanges. All of these exchanges offer essentially the same end of day options trading summary information, and generally differ solely in the amount of history available for purchase.⁹

The Exchange proposes to provide in its Fee Schedule that market participants may purchase the ad-hoc historic monthly End of Day Volume Summary for a specified month (historical file). The Exchange proposes to assess a fee of \$600 per request per month for an ad-hoc request of historical End of Day Volume Summary covering all Exchange-listed securities. An ad-hoc request can be for any number of months beginning with December 2018 for which the data is available.¹⁰ The proposed fee for ad-hoc requests for the historic monthly End of Day Volume Summary will apply to all market participants. The Exchange notes that other exchanges provide a similar data product that may be purchased on an ad-hoc basis and is comparably priced.¹¹

NYSE Options Open-Close Volume Summary is subject to significant competitive forces that constrain its pricing. As described above, the Exchange's data product competes head-to-head with numerous products

Market Data Express, LLC); and 56957 (December 13, 2007), 72 FR 71988 (December 19, 2007) (SR-ISE-2007-115) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Historical ISE Open/Close Trade Profile Fees). The ad-hoc historic monthly End of Day Volume Summary report contains the same information that is provided in the monthly subscription-based market data product known as the NYSE Options Open-Close Volume Summary. See note 5, *supra*.

⁹ For example, Nasdaq PHLX LLC offers history for their end of day data starting in January 2009 while NYSE Options Open-Close Volume Summary history is only offered starting in December 2018. See <https://www.nasdaqtrader.com/micro.aspx?id=photo>.

¹⁰ For example, a customer that requests historical End of Day Volume Summary for the months of June 2021 and July 2021, would be assessed a total of \$1,200. The Exchange notes that it may make historical data prior to December 2018 available in the future and that such historical data would be available to all members and non-members.

¹¹ See *e.g.*, Cboe LiveVol, LLC Market Data Fees available at https://www.cboe.com/us/options/membership/fee_schedule/ctwo/. Cboe C2 Options ("C2") offers Open-Close Data: End-of-Day Ad-hoc Request (historical data) and assesses a fee of \$400 per request per month. Cboe EDGX Exchange, Inc. ("EDGX") similarly offers Open-Close Data: End-of-Day Ad-hoc Request (historical data) and assesses a fee of \$400 per request per month. See https://www.cboe.com/us/options/membership/fee_schedule/edgx/. Nasdaq ISE, LLC ("ISE") offers Nasdaq ISE Open/Close Trade Profile End of Day Ad-Hoc Request (historical data) and assesses a fee of \$600 per request per month. See Sec. 10, Market Data, at <https://listingcenter.nasdaq.com/rulebook/ise/rules/ise-options-7>.

currently available in the marketplace. These products each serve as reasonable substitutes for one another as they are each designed to provide data on options market activity which can be used to infer longer-term trends. The information provided by one exchange is generally similar to that provided by other exchanges because order flow can move from one exchange to another, and market sentiment trends that appear on one exchange are likely to be similar to the sentiment trends on other exchanges. The key differentiator in the quality of the data depends on the volume of transactions on a given exchange. The greater the volume of transactions, the greater the value of the data. The proposed fee for ad-hoc purchases of historic monthly End of Day Volume Summary is therefore constrained by the competition among exchanges for similar options trading summary products.

The Exchange intends to offer the historic monthly End of Day Volume Summary on an ad-hoc basis and charge the proposed fees on March 1, 2022.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,¹² in general, and furthers the objectives of Section 6(b)(5) of the Act,¹³ in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and to protect investors and the public interest, and that it is not designed to permit unfair discrimination among customers, brokers, or dealers. The Exchange also believes that its proposal to adopt fees for End of Day Volume Summary is consistent with Section 6(b) of the Act¹⁴ in general, and furthers the objectives of Section 6(b)(4) of the Act¹⁵ in particular, in that it is an equitable allocation of dues, fees and other charges among its members and other recipients of Exchange data.

In adopting Regulation NMS, the Commission granted self-regulatory organizations (“SROs”) and broker-dealers increased authority and flexibility to offer new and unique market data to the public. It was believed that this authority would expand the amount of data available to users and consumers of such data and

also spur innovation and competition for the provision of market data.

The Exchange believes that the proposed ad-hoc historic monthly End of Day Volume Summary market data product would further broaden the availability of U.S. option market data to investors consistent with the principles of Regulation NMS. The proposed rule change would benefit investors by providing access to historic data, which as noted above, may promote better informed trading, as well as research and studies of the options industry. Particularly, information regarding opening and closing activity across different option series may indicate investor sentiment, which can be helpful research and/or trading information. Customers of the historic data product may be able to enhance their ability to analyze options trade and volume data, and create and test trading models and analytical strategies. The Exchange believes ad-hoc historic monthly End of Day Volume Summary would provide a valuable tool that customers can use to gain comprehensive insight into the trading activity in a particular series, but also emphasizes such data is not necessary for trading. Moreover, other exchanges offer a similar data product.¹⁶

The Exchange operates in a highly competitive market. Indeed, 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.¹⁷ Therefore, currently no exchange possesses significant pricing power in the execution of multiply-listed equity and ETF options order flow. More specifically, in November 2021, the Exchange had less than 8% market share of executed volume of multiply-listed equity and ETF options trades.¹⁸

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

With respect to market data, the decision of the United States Court of Appeals for the District of Columbia Circuit in *NetCoalition v. SEC* upheld the Commission’s reliance on the existence of competitive market mechanisms to evaluate the reasonableness and fairness of fees for proprietary market data:

In fact, the legislative history indicates that the Congress intended that the market system “evolve through the interplay of competitive forces as unnecessary regulatory restrictions are removed” and that the SEC wield its regulatory power “in those situations where competition may not be sufficient,” such as in the creation of a “consolidated transactional reporting system.”²⁰

The court agreed with the Commission’s conclusion that “Congress intended that ‘competitive forces should dictate the services and practices that constitute the U.S. national market system for trading equity securities.’”²¹ More recently, the Commission confirmed that it applies a “market-based” test in its assessment of market data fees, and that under that test:

the Commission considers whether the exchange was subject to significant competitive forces in setting the terms of its proposal for [market data], including the level of any fees. If an exchange meets this burden, the Commission will find that its fee rule is consistent with the Act unless there is a substantial countervailing basis to find that the terms of the rule violate the Act or the rules thereunder.²²

Making similar historic data products available to market participants fosters competition in the marketplace, and constrains the ability of exchanges to charge supra-competitive fees. In the event that a market participant views one exchange’s historic data product as more or less attractive than the competition they can and do switch between similar products. The proposed

¹⁶ See note 8, *supra*.

¹⁷ The Options Clearing Corporation (“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/Market-Data-Reports/Volume-and-Open-Interest/Monthly-Weekly-Volume-Statistics>.

¹⁸ Based on OCC data for monthly volume of equity-based options and monthly volume of ETF-based options, *see id.*, the Exchange’s market share in multiply-listed equity and ETF options was 9.09% for the month of November 2020 and 7.06% for the month of November 2021.

¹⁹ See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005).

²⁰ *NetCoalition v. SEC*, 615 F.3d 525, 535 (D.C. Cir. 2010) (quoting H.R. Rep. No. 94–229 at 92 (1975), as reprinted in 1975 U.S.C.C.A.N. 323).

²¹ *Id.* at 535.

²² See Securities Exchange Act Release No. 34–90217 (October 16, 2020), 85 FR 67392 (October 22, 2020) (SR–NYSE/NYSE–2020–05) (internal quotation marks omitted), quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74781 (December 9, 2008) (ArcaBook Approval Order).

¹² 15 U.S.C. 78f(b).

¹³ 15 U.S.C. 78f(b)(5).

¹⁴ 15 U.S.C. 78f(b).

¹⁵ 15 U.S.C. 78f(b)(4).

fees are a result of the competitive environment, as the Exchange seeks to adopt fees to attract purchasers of the ad-hoc historic monthly End of Day Volume Summary data product.

The Exchange believes its proposal to provide the ad-hoc historic monthly End of Day Volume Summary is reasonable as the proposed fees are comparable to the fees assessed by other exchanges²³ that provide similar historic data products.²⁴ Indeed, proposing fees that are excessively higher than established fees for similar historic data products would simply serve to reduce demand for the Exchange's historic data product, which as noted, is entirely optional. Like the ad-hoc historic monthly End of Day Volume Summary, other exchanges offer similar historic data products that each provide insight into trading on those markets and may likewise aid in assessing investor sentiment. Although each of these similar historic data products provide only proprietary trade data and not trade data from other exchanges, it is possible investors are still able to gauge overall investor sentiment across different option series based on open and closing interest on any one exchange. Similarly, market participants may be able to analyze option trade and volume data, and create and test trading models and analytical strategies using only the ad-hoc historic monthly End of Day Volume Summary data relating to trading activity on one or more of the other markets that provide similar historic data products. As such, if a market participant views another exchange's data as more attractive than the Exchange's offering, then such market participant can merely choose not to purchase the Exchange's historic data product and instead purchase another exchange's historic product, which offer similar data points, albeit based on that other market's trading activity.

The Exchange also believes the proposed fees are reasonable as they would support the introduction of a historic market data product that is designed to aid investors by providing insight into trading on the Exchange. In turn, this data would assist market participants in gauging investor sentiment and trading activity, resulting in potentially better-informed trading decisions. As noted above, customers may also use such data to create and test trading models and analytical strategies.

Selling historic market data, such as the ad-hoc historic monthly End of Day

Volume Summary, is also a means by which exchanges compete to attract business. To the extent that the Exchange is successful in attracting customers to the Exchange's historic data product, it may earn trading revenues and further enhance the value of its data products. If the market deems the proposed fees to be unfair or inequitable, customers can diminish or discontinue their use of the historic data and/or avail themselves of similar products offered by other exchanges.²⁵ The Exchange therefore believes that the proposed fees reflect the competitive environment and would be properly and equally assessed to all customers. The Exchange also believes the proposed fees are equitable and not unfairly discriminatory as the fees would apply equally to all customers who choose to purchase such data. The proposed fees would not differentiate between customers that purchase the ad-hoc historic monthly End of Day Volume Summary, and are set at a modest level that would allow any interested market participant to purchase such data based on their business needs. Nothing in this proposal treats any category of market participant any differently from any other category of market participant. The ad-hoc historic monthly End of Day Volume Summary is available to all market participants, *i.e.*, members and non-members, and all market participants would receive the same information in the data feed.

As noted above, the Exchange anticipates a wide variety of market participants to purchase the ad-hoc historic monthly End of Day Volume Summary data product, including but not limited to individual customers, buy-side investors, investment banks and academic institutions. As such, the Exchange anticipates that the historic data product may be used not just for commercial or monetizing purposes, but also for educational use and research. The Exchange reiterates that the decision as to whether or not to purchase the ad-hoc historic monthly End of Day Volume Summary is entirely optional for all potential customers. Indeed, no market participant is required to purchase the historic data product, and the Exchange is not required to make the historic data product available to market participants. Rather, the Exchange is voluntarily making the historic data product available, as requested by customers, and market participants may choose to receive (and pay for) this data based on their own business needs. Potential customers may request the data at any

time if they believe it to be valuable or may decline to purchase such data.

In sum, the fierce competition for order flow constrains any exchange from pricing its historic market data at a supra-competitive price, and constrains the Exchange here in setting its fees for the ad-hoc historic monthly End of Day Volume Summary data product.

The proposed fees are therefore reasonable because in setting them, the Exchange is constrained by the availability of numerous substitute venues offering historic market data products and trading.²⁶ Such substitutes need not be identical, but only substantially similar to the product at hand. More specifically, in setting fees for the ad-hoc historic monthly End of Day Volume Summary data product, the Exchange is constrained by the fact that, if its pricing is unattractive to customers, customers have their pick of an increasing number of alternative venues to use instead of the Exchange.²⁷ Because of the availability of substitutes, an exchange that overprices its historic market data products stands a high risk that customers may substitute another source of market data information for its own. Those competitive pressures imposed by available alternatives are evident in the Exchange's proposed pricing. The existence of numerous alternatives to the Exchange ensures that the Exchange cannot set unreasonable fees for historic market data without suffering the negative effects of that decision in the fiercely competitive market in which it operates.

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

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange also does not believe the proposed fees would cause any unnecessary or inappropriate burden on intermarket competition as other exchanges are free to introduce their own comparable historic data product and adopt fees to better compete with the Exchange's offering. Rather, the Exchange believes that the proposal will promote competition by permitting the Exchange to sell a historic data product similar to those offered by other competitor options exchanges.²⁸ The Exchange is offering the ad-hoc historic monthly End of Day Volume Summary

²³ See, note 11, *supra*.

²⁴ See, note 8, *supra*.

²⁵ See, note 11, *supra*.

²⁶ See, note 8, *supra*.

²⁷ See, note 11, *supra*.

²⁸ See, note 8, *supra*.

in order to keep pace with changes in the industry and evolving customer needs, and believes the data product will contribute to robust competition among national securities exchanges.

Furthermore, the Exchange operates in a highly competitive environment, and its ability to price the ad-hoc historic monthly End of Day Volume Summary is constrained by competition among exchanges that offer similar historic data products to their customers. As discussed above, there are currently a number of similar products available to market participants and investors. A number of U.S. options exchanges offer a historic market data product that is substantially similar to the Exchange's offering, which the Exchange must consider in its pricing discipline in order to compete effectively. For example, proposing fees that are excessively higher than established fees for similar historic data products would simply serve to reduce demand for the Exchange's historic data product, which as discussed, market participants are under no obligation to utilize or purchase. In this competitive environment, potential purchasers are free to choose which, if any, similar historic product to purchase to satisfy their need for market information. As a result, the Exchange believes this proposed rule change permits fair competition among national securities exchanges.

The Exchange does not believe the proposed rule change would cause any unnecessary or inappropriate burden on intramarket competition. Particularly, the proposed fees would apply uniformly to any customer, in that the Exchange would not differentiate between customers that purchase the ad-hoc historic monthly End of Day Volume Summary and all customers would receive the same information in the data feed. The Exchange believes the proposed fees are set at a modest level that would allow interested customers to purchase such data based on their business needs.

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

No written comments were solicited or received with respect to the proposed rule change.

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

The Exchange has filed the proposed rule change pursuant to Section

19(b)(3)(A) of the Act²⁹ and Rule 19b-4(f)(6)³⁰ thereunder. Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act³¹ and Rule 19b-4(f)(6)³² thereunder.

A proposed rule change filed under Rule 19b-4(f)(6)³³ normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),³⁴ the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay to allow the Exchange to implement the proposed rule change and corresponding fee on March 1, 2022, and thereby allow the Exchange to compete with exchanges that currently offer similar historic market data products. The Commission believes that, as described above, the Exchange's proposal does not raise any new or novel issues. Therefore, the Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission designates the proposed rule change to be operative upon filing.³⁵

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 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 will institute proceedings to determine whether the proposed rule

²⁹ 15 U.S.C. 78(b)(3)(A).

³⁰ 17 CFR 240.19b-4(f)(6).

³¹ 15 U.S.C. 78s(b)(3)(A).

³² 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

³³ 17 CFR 240.19b-4(f)(6).

³⁴ 17 CFR 240.19b-4(f)(6).

³⁵ For purposes only of waiving the 30-day operative delay, the Commission also has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

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 (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include File Number SR-NYSEAMER-2022-12 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-2022-12. 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 (<https://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-2022-12, and

should be submitted on or before March 25, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.³⁶

J. Matthew DeLesDernier,
Assistant Secretary.

[FR Doc. 2022-04561 Filed 3-3-22; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-94330; File No. SR-ICC-2022-001]

Self-Regulatory Organizations; ICE Clear Credit LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to ICC's Fee Schedules

February 28, 2022.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934,¹ and Rule 19b-4 thereunder,² notice is hereby given that on February 17, 2022, ICE Clear Credit LLC ("ICC") filed with the Securities and Exchange Commission the proposed rule change, as described in Items I, II and III below, which Items have been prepared primarily by ICC. ICC filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act³ and Rule 19b-4(f)(2) thereunder,⁴ such that the proposed rule change was immediately effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

The principal purpose of the proposed rule change is to modify ICC's

fee schedules to implement reduced fees for credit default index swaptions ("Index Options") through calendar year 2022. These revisions do not require any changes to the ICC Clearing Rules.

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, ICC included statements concerning the purpose of and basis for the proposed rule change, security-based swap submission, or advance notice and discussed any comments it received on the proposed rule change, security-based swap submission, or advance notice. The text of these statements may be examined at the places specified in Item IV below. ICC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(a) Purpose

The proposed changes are intended to modify ICC's fee schedules to implement reduced fees for Index Options through calendar year 2022.⁵ ICC maintains a Clearing Participant ("CP") fee schedule⁶ and client fee schedule⁷ (collectively, the "fee schedules") that are publicly available

⁵ Pursuant to an Index Option, one party (the "Swaption Buyer") has the right (but not the obligation) to cause the other party (the "Swaption Seller") to enter into an index credit default swap transaction at a pre-determined strike price on a specified expiration date on specified terms. In the case of Index Options that may be cleared by ICC, the underlying index credit default swap is limited to certain CDX and iTraxx index credit default swaps that are accepted for clearing by ICC, and which would be automatically cleared by ICC upon exercise of the Index Option by the Swaption Buyer in accordance with its terms.

⁶ CP fee details available at: https://www.theice.com/publicdocs/clear_credit/ICE_Clear_Credit_Fees_Clearing_Participant.pdf.

⁷ Client fee details available at: https://www.theice.com/publicdocs/clear_credit/ICE_Clear_Credit_Fees.pdf. As specified, all fees are charged directly to a client's CP.

on its website, which ICC proposes to update. Clearing fees are due by CPs and clients in accordance with the product, amount and currency set out in the fee schedules and subject to any incentive program described in the fee schedules. The proposed changes to the fee schedules are set forth in Exhibit 5A and Exhibit 5B and described in detail as follows. ICC proposes to make such changes effective March 1, 2022 (the "Effective Date"), subject to the completion of any applicable regulatory review process.

The amended CP fee schedule would reduce Index Option fees to \$1/million or €1/million through calendar year 2022. Under the current CP fee schedule, Index Option fees are \$3/million or €3/million, subject to an incentive program that provides a tiered discount schedule based on U.S. Dollar equivalent, non-discounted Index Option fees billed since the start of the year. ICC also offered certain other incentive programs that discounted Index Option fees as part of the CP fee schedule, which expired at the end of calendar year 2021 and are removed from Exhibit 5A.⁸ Under the proposed changes, in addition to updating the fee table, ICC would include a footnote to indicate that the listed fees of \$1/million or €1/million are applicable from the Effective Date through calendar year 2022 and reflect a discount from ICC's regular Index Option fees of \$3/million or €3/million. On the first business day of 2023, ICC would remove this discount and the listed fees would revert to ICC's regular Index Option fees on this schedule dated January 2023.

⁸ A description of these incentive programs is included in prior filings. SEC Release No. 34-90524 (November 27, 2020) (notice), 85 FR 78157 (December 3, 2020) (SR-ICC-2020-013); SEC Release No. 34-91922 (May 18, 2021) (notice), 86 FR 27938 (May 24, 2021) (SR-ICC-2021-014).

³⁶ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A).

⁴ 17 CFR 240.19b-4(f)(2).