

firms. As described above, the connectivity services purchased by market participants typically increase based on their additional message traffic and/or the complexity of their operations. The market participants that utilize more connectivity services typically utilize the most bandwidth, and those are the participants that consume the most resources from the network. Accordingly, the proposed fees for connectivity services do not favor certain categories of market participants in a manner that would impose a burden on competition; rather, the allocation of the proposed fees for connectivity reflects the network resources consumed by the various size of market participants and the costs to the Exchange of providing such connectivity services.

#### Intermarket Competition

The Exchange does not believe the proposed fees for connectivity to LTSE places an undue burden on competition on other SROs that is not necessary or appropriate. Additionally, another exchange has similar connectivity alternatives for their participants, but with higher rates to connect.<sup>31</sup> The Exchange is also unaware of any assertion that the proposed fees for connectivity services would somehow unduly impair its competition with other exchanges. In sum, LTSE's proposed fees for connectivity for Members and Non-Members are comparable to and generally lower than fees charged by another exchange for the same or similar services.

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

The Exchange neither solicited nor received comments on the proposed rule change.

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

This proposed rule change establishes dues, fees or other charges among its members and, as such, may take effect upon filing with the Commission pursuant to Section 19(b)(3)(A)(ii) of the Act<sup>32</sup> and paragraph (f)(2) of Rule 19b-4 thereunder.<sup>33</sup> Accordingly, the proposed rule change would take effect upon filing with the Commission.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may

temporarily suspend the rule change if it appears to the Commission that the action is necessary or appropriate in the public interest, for the protection of investors, or would otherwise further 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 (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include file number SR-LTSE-2024-09 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-LTSE-2024-09. 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 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or

subject to copyright protection. All submissions should refer to file number SR-LTSE-2024-09 and should be submitted on or before January 3, 2025.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>34</sup>

**Sherry R. Haywood**,  
Assistant Secretary.

[FR Doc. 2024-29336 Filed 12-12-24; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-101844; File No. SR-NYSE-2024-47]

### Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing of Amendment No. 1 and Order Instituting Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Change, as Modified by Amendment No. 1, To Amend Section 102.01 of the NYSE Listed Company Manual To Provide That the Stockholder Requirements Set Forth Therein Will Be Calculated on a Worldwide Basis When Listing a Company From Outside North America That Is Listing in Connection With Its Initial Public Offering and Is Not Listed on Any Other Regulated Stock Exchange

December 9, 2024.

On August 22, 2024, New York Stock Exchange LLC ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Exchange Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to amend Section 102.01 of the NYSE Listed Company Manual ("Manual") to provide that the distribution standard therein would be calculated on a worldwide basis. The proposed rule change was published for comment in the **Federal Register** on September 10, 2024.<sup>3</sup> The Commission has received no comment letters on the proposed rule change.

On October 22, 2024, pursuant to Section 19(b)(2) of the Exchange Act,<sup>4</sup> the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to

<sup>34</sup> 17 CFR 200.30-3(a)(12).

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

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

<sup>3</sup> See Securities Exchange Act Release No. 100918 (September 4, 2024), 89 FR 73463 (September 10, 2024) (SR-NYSE-2024-47) ("Notice").

<sup>4</sup> 15 U.S.C. 78s(b)(2).

<sup>31</sup> See *supra* notes 28-29 [sic].

<sup>32</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>33</sup> 17 CFR 240.19b-4(f)(2).

disapprove the proposed rule change.<sup>5</sup> On November 18, 2024, the Exchange filed Amendment No. 1 to the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. Amendment No. 1 amended and replaced the proposed rule change as originally filed and superseded such filing in its entirety. The Commission is publishing this notice and order to solicit comments on the proposed rule change, as modified by Amendment No. 1, from interested persons and to institute proceedings under Section 19(b)(2)(B) of the Exchange Act<sup>6</sup> to determine whether to approve or disapprove the proposed rule change, as modified by Amendment No. 1.

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

The Exchange proposes to amend Section 102.01 of the NYSE Listed Company Manual to provide that the distribution standards therein will be calculated on a worldwide basis when listing a company from outside North America and such company (i) is listing in connection with its initial public offering, and (ii) is not listed on any other regulated stock exchange. This Amendment No. 1 supersedes the original filing in its entirety. The changes to the original filing made in Amendment No. 1 are described in the Purpose section below. The proposed rule change is available on the Exchange's website at [www.nyse.com](http://www.nyse.com), at the principal office of the Exchange, and at the Commission's Public Reference Room.

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

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 NYSE previously submitted a rule filing proposing to amend Section 102.01B to provide that the distribution standards in Section 102.01A will be calculated on a worldwide basis when listing a company on the Exchange.<sup>7</sup> The proposed rule change was published for comment in the **Federal Register** on September 10, 2024.<sup>8</sup> This Amendment No. 1 supersedes the original filing in its entirety.

Amendment No. 1 modifies the original proposal by providing that the proposed amendment to Section 102.01B would solely provide that the stockholder requirements set forth in Section 102.01A will be calculated on a worldwide basis when listing a company from outside North America and such company (i) is listing in connection with its initial public offering and, (ii) is not listed on any other regulated stock exchange. In addition, Amendment No. 1 proposes to amend Section 102.01B to clarify that the discretion to include stockholders and trading volume from a company's home country or primary trading market outside North America in applying the applicable requirements of Section 102.01A is applicable only when the applicant issuer is listed on another regulated stock exchange. This Amendment No. 1 supersedes the original filing in its entirety.

Section 102.01A of the Manual sets forth the Exchange's minimum initial listing requirements with respect to distribution for companies seeking to list under the Exchange's "domestic" initial listing standards. A note included in Section 102.01B (under the heading "Calculations under the Distribution Criteria") provides that, when considering a listing application from a company organized under the laws of Canada, Mexico or the United States ("North America"), the Exchange will include all North American holders and North American trading volume in applying the minimum stockholder and trading volume requirements of Section 102.01A.

Notwithstanding the foregoing, the note included in Section 102.01B also provides that, in connection with the listing of any issuer from outside North America, the Exchange will have the

discretion, but will not be required, to consider holders and trading volume in the company's home country market or primary trading market outside the United States in determining whether a company is qualified for listing under Section 102.01, provided such market is a regulated stock exchange. The note specifies that, in exercising this discretion, the Exchange would consider all relevant factors including: (i) whether the information was derived from a reliable source, preferably either a regulated securities market or a transfer agent that was subject to governmental regulation; (ii) whether there existed efficient mechanisms for the transfer of securities between the company's non-U.S. trading market and the United States; and (iii) the number of stockholders and the extent of trading in the company's securities in the United States prior to the listing.

The Exchange proposes to amend the note in Section 102.01B under the heading "Calculations under the Distribution Criteria" to provide that, when considering a listing application from a company from outside North America when such company is listing in connection with its initial public offering and is not listed on any other regulated stock exchange, the Exchange will include all holders on a global basis in applying the minimum stockholder requirements of Section 102.01A. The Exchange notes that the trading volume provisions of Section 102.01A are not relevant to the listing of a company from outside North America when such company is listing in connection with its initial public offering and is not listed on any other regulated stock exchange, as the trading volume requirements are only applicable in the case of a quotation listing or transfer or upon exchange of a common equity security for a listed Equity Investment Tracking Stock and not in the case of an initial public offering. In addition, the Exchange proposes to amend the existing text of Section 102.01B to clarify that the discretion to include stockholders and trading volume from a company's home country or primary trading market outside North America in applying the applicable requirements of Section 102.01A is applicable only when the applicant issuer is listed on another regulated stock exchange.

It has been the Exchange's experience in recent years that non-U.S. companies conducting their initial public offerings in the United States will often seek to sell a significant portion of the offering in the company's home market rather than in the United States. Such companies and their underwriters have sometimes had difficulty placing shares

<sup>5</sup> See Securities Exchange Act Release No. 101402, 89 FR 85574 (Oct. 18, 2024). The Commission designated December 9, 2024, as the date by which the Commission shall approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change.

<sup>6</sup> 15 U.S.C. 78s(b)(2)(B).

<sup>7</sup> See SR-NYSE-2024-47 (August 22, 2024).

<sup>8</sup> See Securities Exchange Act Release No. 100918 (September 4, 2024), 89 FR 73463 (September 10, 2024) (SR-NYSE-2024-47).

with a sufficient number of investors in North America to meet the Exchange's domestic distribution standards and, in some instances, companies have been unable to list on the Exchange because of the restrictions imposed by the current NYSE rule. In some cases, this means that these companies are lost to the U.S. capital markets, but in other cases these companies are able to list on the Nasdaq Stock Market ("Nasdaq"), as the text of Nasdaq's distribution requirements (as set forth in Nasdaq Stock Market Rule 5315(f)) do not include the type of restriction to North America set forth in Section 102.01. The Exchange believes that the proposed rule change will enable it to compete more effectively for the listing of non-U.S. companies, as the rule change would remove a significant competitive disadvantage faced by the Exchange in competing with Nasdaq for the listing of companies from outside North America that are listing in connection with an initial public offering and are not listed on any other regulated stock exchange.

In addition to the competitive benefits described above, the Exchange believes that the current rule reflects an understanding of the functioning of the trading market for non-U.S. companies that is inconsistent with the current reality. The current restrictions have been in place for many years and do not reflect the speed and reliability of links that enable investors who hold securities in brokerage accounts in countries outside North America to trade in the U.S. listing markets. Given the ease of transfer of securities between different countries in the contemporary securities markets, there is no reason why the holders of a listed company's securities outside of North America cannot be active real time participants in the trading market in the United States and that foreign holders should be viewed as less valuable as a source of liquidity in that market. The Exchange notes that this is particularly relevant to the listing of a foreign company listed on the NYSE when it does not have an exchange listing in its home market, as the NYSE will be the only exchange trading market for such companies and any investor wishing to trade in such company's securities in a regulated exchange market will have to do so on the NYSE.

The Exchange notes that a large majority of the companies from outside North America that list on the NYSE do so in the form of American Depositary Receipts ("ADRs"). Section 102.01B currently includes a statement that, for securities that trade in the format of ADRs, volume in the ordinary shares will be adjusted to be on an ADR-

equivalent basis. It has also long been the practice of the Exchange to adopt this same approach to include holders of ordinary shares on an ADR-equivalent basis in calculating the compliance of companies with the stockholder requirements of Section 102.01A. The Exchange intends to continue that practice in applying the proposed amended form of Section 102.01B. The Exchange believes that this approach is appropriate in light of the speed and ease with which shares can be deposited into an ADR facility to create new ADRs (and withdrawn from such ADR facility), which makes an issuer's ordinary shares essentially fungible with its ADRs for trading purposes. The Exchange notes that the fact that some investors may hold shares directly rather than in the form of ADRs is especially unlikely to reduce liquidity in the ADR market on the NYSE in cases where there is no regulated exchange market in the company's home jurisdiction to compete for liquidity and trading volume.

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,<sup>9</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act,<sup>10</sup> in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest and because it is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that the proposed rule change furthers the objectives of Section 6(b)(5) in that it will promote competition for the listing of non-U.S. companies by ensuring that the listing rules of the major listing exchanges will function the same in their consideration of stockholders outside of North America for purposes of initial listing requirements with respect to the listing of companies from outside North America when such companies are listing in connection with an initial public offering and are not listed on any other regulated stock exchange. In addition to these

competitive benefits, the Exchange believes that the current rule reflects an understanding of how the trading market for non-U.S. companies functions that is inconsistent with the current reality. The current restrictions have been in place for many years and do not reflect the speed and reliability of links that enable investors who hold securities in brokerage accounts in countries outside North America to trade in the U.S. listing markets. Given the ease of transfer of securities between different countries in the contemporary securities markets, there is no reason why, in the case of a company from outside North America that lists on the NYSE in connection with an initial public offering and that does not have any other regulated exchange market, the holders of such company's securities outside of North America cannot be active real time participants in the trading market in the United States and that foreign holders should be viewed as less valuable as a source of liquidity in that market. As such, the Exchange believes that the proposal is consistent with the protection of investors as it reflects appropriately the role played by stockholders and trading activity by stockholders located outside North America in the development of a liquid trading market in the United States in the securities of non-U.S. listed companies that do not have any regulated exchange market other than the NYSE.

The Exchange believes it is appropriate to limit its proposed amendment to companies from outside North America listing in connection with an initial public offering that do not have any other regulated listing market other than the NYSE, as the absence of any alternative regulated exchange market for investors in those companies ensures that trading liquidity in their securities is concentrated on the NYSE market. The current rule does not allow the Exchange to include stockholders outside of North America in determining compliance with the stockholder distribution requirements of Section 102.01A by a company from outside North America that does not have a regulated listing exchange market outside North America, which makes it more difficult for those companies to meet the distribution requirements. By contrast, the current rule text already provides a more flexible approach to meeting the stockholder distribution requirements for companies that have a regulated listing exchange in their home markets, so the difficulty in meeting the current requirements addressed by this proposal is specific to companies where

<sup>9</sup> 15 U.S.C. 78f(b).

<sup>10</sup> 15 U.S.C. 78f(b)(5).

the NYSE is the company's sole regulated exchange market. Consequently, the Exchange believes it is not discriminatory to limit the scope of the current proposal to companies from outside North America that do not have another regulated exchange market, as the current rule already provides a means for those companies from outside North America that do have another regulated exchange market to include stockholders outside North America when meeting the stockholder distribution requirements.

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

The Exchange believes that the proposal will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of Section 6(b)(8) of the Act.<sup>11</sup>

The Exchange believes that the proposal will not impose a burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because the proposed rule change is designed to increase the competition for listing of non-U.S. companies by enabling the Exchange to compete more effectively with Nasdaq for the listing of companies outside North America that are not listed on any other regulated stock exchange. The proposal ensures that the Exchange's treatment of stockholders outside North America for purposes of its stockholder requirements will be substantively the same as Nasdaq's treatment of comparable issuers.

The Exchange believes it is appropriate to limit its proposed amendment to companies from outside North America listing in connection with an initial public offering that do not have any other regulated listing market other than the NYSE, as the absence of any alternative regulated exchange market for investors in those companies ensures that trading liquidity in their securities is concentrated on the NYSE market. The current rule does not allow the Exchange to include stockholders outside of North America in determining compliance with the stockholder distribution requirements of Section 102.01A by a company from outside North America that does not have a regulated listing exchange market outside North America, which makes it more difficult for those companies to meet the distribution requirements. By contrast, the current rule text already provides a more flexible approach to meeting the stockholder distribution requirements for companies that have a regulated listing exchange in their home

markets, so the difficulty in meeting the current requirements addressed by this proposal is specific to companies where the NYSE is the company's sole regulated exchange market. Consequently, the Exchange does not believe that the proposed rule change imposes a burden on intra-market competition.

#### *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. Proceedings To Determine Whether To Approve or Disapprove SR-NYSE-2024-47, as Modified by Amendment No. 1, and Grounds for Disapproval Under Consideration**

The Commission is instituting proceedings pursuant to Section 19(b)(2)(B) of the Exchange Act<sup>12</sup> to determine whether the proposed rule change, as modified by Amendment No. 1, should be approved or disapproved. Institution of proceedings is appropriate at this time in view of the legal and policy issues raised by the proposed rule change, as discussed below. Institution of proceedings does not indicate that the Commission has reached any conclusions with respect to any of the issues involved.

Pursuant to Section 19(b)(2)(B) of the Exchange Act,<sup>13</sup> the Commission is providing notice of the grounds for disapproval under consideration. The Commission is instituting proceedings to allow for additional analysis of the proposed rule change's consistency with the Exchange Act and, in particular, with Section 6(b)(5) of the Exchange Act, which requires, among other things, that the rules of a national securities exchange be 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, in general, to protect investors and the public interest, and not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.<sup>14</sup>

The development and enforcement of meaningful exchange listing standards is of critical importance to financial markets and the investing public. Among other things, such listing standards help ensure that exchange-

listed companies will have sufficient public float, investor base, and trading interest to provide the depth and liquidity to promote fair and orderly markets. Meaningful listing standards also are important given investor expectations regarding the nature of securities that have achieved an exchange listing, and the role of an exchange in overseeing its market and assuring compliance with its listing standards.<sup>15</sup>

As discussed above, Section 102.01A of the Manual sets forth the Exchange's distribution criteria for issuers seeking to list under the Exchange's initial listing standards for the common equity securities of domestic companies.<sup>16</sup> The Exchange also lists applicants that are foreign private issuers<sup>17</sup> under Section 102.01 of the Manual where such applicants are qualified to list thereunder.<sup>18</sup>

Pursuant to Section 102.01A of the Manual, an issuer (other than a company listing in connection with a transfer or quotation or upon exchange of a common equity security for a listed

<sup>15</sup> See, e.g., Securities Exchange Act Release Nos. 88716 (Apr. 21, 2020), 85 FR 23393 (Apr. 27, 2020) (SR-NASDAQ-2020-001) (Order Approving a Proposed Rule Change To Modify the Delisting Process for Securities With a Bid Price at or Below \$0.10 and for Securities That Have Had One or More Reverse Stock Splits With a Cumulative Ratio of 250 Shares or More to One Over the Prior Two-Year Period); 88389 (Mar. 16, 2020), 85 FR 16163 (Mar. 20, 2020) (SR-NASDAQ-2019-089) (Notice of Filing of Amendment No. 1 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 1, To Amend Rule 5815 To Preclude Stay During Hearing Panel Review of Staff Delisting Determinations in Certain Circumstances). See also Securities Exchange Act Release No. 81856 (Oct. 11, 2017), 82 FR 48296, 48298 (Oct. 17, 2017) (SR-NYSE-2017-31) (Notice of Filing of Amendment No. 1 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 1, To Amend the Listed Company Manual To Adopt Initial and Continued Listing Standards for Subscription Receipts).

<sup>16</sup> A company seeking to list under the Exchange's domestic company equity listing standards would be required to meet additional minimum initial listing requirements, including minimum aggregate market value of publicly-held shares, minimum closing price (or offering price) per share, and minimum financial standards as set forth in Section 102.01 of the Manual.

<sup>17</sup> "Foreign private issuer" and "non-U.S. company" have the same meaning and are defined in accordance with the Commission's definition of foreign private issuer set out in Rule 3b-4(c) of the Exchange Act. See Section 103.00 of the Manual.

<sup>18</sup> See Section 101.01 of the Manual. If a foreign private issuer applicant does not meet all of the requirements for the listing of common equity securities applicable to domestic issuers under Section 102.01 of the Manual, the Exchange will consider whether the applicant qualifies for listing under the quantitative listing standards for the listing of equity securities of non-U.S. companies set forth in Section 103.01 of the Manual. See *id.*

<sup>12</sup> 15 U.S.C. 78s(b)(2)(B).

<sup>13</sup> *Id.*

<sup>14</sup> 15 U.S.C. 78f(b)(5).

<sup>11</sup> 15 U.S.C. 78f(b)(8).

Equity Investment Tracking Stock<sup>19</sup>) wishing to list an equity security must have, among other things, at least 400 holders<sup>20</sup> of 100 shares or more (or of a unit of trading if less than 100 shares) and a minimum of 1,100,000 publicly held shares.<sup>21</sup> Section 102.01B of the Manual includes an explanation of how the distribution criteria set forth in Section 102.01A of the Manual are applied. Among other things, Section 102.01B of the Manual currently provides that when listing a company from outside North America (*i.e.*, Canada, Mexico or the United States), the Exchange may, in its discretion, consider holders and trading volume in the company's home country or primary trading market outside the United States in applying the applicable distribution listing standards under Section 102.01A of the Manual, provided that such market is a regulated stock exchange. Section 102.01B of the Manual further specifies that, in exercising this discretion, the Exchange will consider all relevant factors including: (i) whether the information is derived from a reliable source, preferably either a government-regulated securities market or a transfer agent that is subject to governmental regulation; (ii) whether there exist efficient mechanisms for the transfer of securities between the company's non-U.S. trading market and the United States; and (iii) the number of shareholders and the extent of trading in the company's securities in the United States prior to the listing.<sup>22</sup>

The Exchange proposes to amend its domestic company equity listing standards as set forth in Section 102.01B

<sup>19</sup> An "Equity Investment Tracking Stock" is defined in Section 102.07 of the Manual. The initial listing requirements relating to a company listing in connection with a transfer or quotation or upon exchange of a common equity security for a listed Equity Investment Tracking Stock remain unchanged by the Exchange's proposed rule change because such companies would not be listing in connection with an initial public offering. *See supra* Section II.A.

<sup>20</sup> The number of beneficial holders of stock held in the name of Exchange member organizations will be considered in addition to holders of record. The Exchange will make any necessary check of such holdings. *See* Section 102.01A(A) of the Manual.

<sup>21</sup> If the unit of trading is less than 100 shares, the requirements relating to number of publicly-held shares shall be reduced proportionately. Shares held by directors, officers, or their immediate families and other concentrated holdings of 10 percent or more are excluded in calculating the number of publicly-held shares. *See* Section 102.01A(B) of the Manual.

<sup>22</sup> Section 102.01B of the Manual provides that, when considering a listing application from a company organized under the laws of North America, the Exchange will include all North American holders and North American trading volume in applying the minimum stockholder and trading volume requirements of Section 102.01A. The Exchange does not propose to amend this provision.

to provide that when listing a company from outside North America that is listing in connection with its initial public offering and is not listed on another regulated stock exchange, the Exchange will include all holders on a global basis in applying the minimum stockholder requirements set forth in Section 102.01A. In connection with this proposed change, the Exchange also proposes to amend Section 102.01B to add language to clarify that the current rule text describing how the distribution criteria set forth in Section 102.01A are applied to companies from outside North America would apply when listing a company from outside North America that is already listed on another regulated stock exchange.<sup>23</sup>

The Commission has concerns about whether the Exchange's proposal is designed to protect investors and the public interest, as required by Section 6(b)(5) of the Exchange Act. The Exchange's proposal would loosen the application of the minimum stockholder requirements for the initial listing of companies from outside North America that are listing in connection with an initial public offering and are not listed on another regulated stock exchange, where these companies are listing pursuant to the listing standards applicable to domestic companies' equity securities. The Commission has concerns about whether such companies, if they qualify for initial listing based on distribution criteria that includes a significant number of holders located outside of the United States, would have sufficient public float, investor base, and trading interest to provide the depth and liquidity to promote fair and orderly markets on the Exchange.

The Exchange states that the current rule "do[es] not reflect the speed and reliability of links that enable investors who hold securities in brokerage accounts in countries outside North America to trade in the U.S. listing markets." The Exchange further states that "[g]iven the ease of transfer of securities between countries in the contemporary securities markets, there is no reason why the holders of a listed company's securities outside of North America cannot be active real time

<sup>23</sup> Section 102.01B of the Manual provides that for securities that trade in the form of ADRs, volume in the ordinary shares will be adjusted to be on an ADR-equivalent basis. The Exchange represents that it has also long been the practice of the Exchange to adopt this same approach to include holders of ordinary shares on an ADR-equivalent basis in calculating the compliance of companies with the stockholder requirements of Section 102.01A and that the Exchange intends to continue that practice in applying the proposed amended form of Section 102.01B.

participants in the trading market in the United States." However, the Exchange does not clearly explain or provide evidence as to what efficient mechanisms exist for the transfer of securities held in brokerage accounts outside of North America and whether and how securities held in such brokerage accounts would contribute to the depth and liquidity of the domestic market for a company's shares.

As a result, the Commission believes there are questions as to whether the proposal, as modified by Amendment No. 1, is consistent with Section 6(b)(5) of the Exchange Act<sup>24</sup> and its requirement, among other things, that the rules of a national securities exchange be designed to protect investors and the public interest. For this reason, it is appropriate to institute proceedings pursuant to Section 19(b)(2)(B) of the Exchange Act<sup>25</sup> to determine whether the proposal, as modified by Amendment No. 1, should be approved or disapproved.

#### IV. Procedure: Request for Written Comments

The Commission requests that interested persons provide written submissions of their data, views, and arguments with respect to the issues identified above, as well as any other concerns they may have with the proposal, as modified by Amendment No. 1. In particular, the Commission invites the written views of interested persons concerning whether the proposed rule change is consistent with Section 6(b)(5) of the Exchange Act<sup>26</sup> or any other provision of the Exchange Act, or the rules and regulations thereunder. Although there do not appear to be any issues relevant to approval or disapproval that would be facilitated by an oral presentation of data, views, and arguments, the Commission will consider, pursuant to Rule 19b-4 under the Exchange Act,<sup>27</sup> any request for an opportunity to make an oral presentation.<sup>28</sup>

Interested persons are invited to submit written data, views, and arguments regarding whether the

<sup>24</sup> 15 U.S.C. 78f(b)(5).

<sup>25</sup> 15 U.S.C. 78s(b)(2)(B).

<sup>26</sup> 15 U.S.C. 78f(b)(5).

<sup>27</sup> 17 CFR 240.19b-4.

<sup>28</sup> Section 19(b)(2) of the Exchange Act, as amended by the Securities Acts Amendments of 1975, Public Law 94-29 (June 4, 1975), grants to the Commission flexibility to determine what type of proceeding—either oral or notice and opportunity for written comments—is appropriate for consideration of a particular proposal by a self-regulatory organization. *See* Securities Acts Amendments of 1975, Senate Comm. on Banking, Housing & Urban Affairs, S. Rep. No. 75, 94th Cong., 1st Sess. 30 (1975).

proposed rule change, as modified by Amendment No. 1, should be approved or disapproved by January 3, 2025. Any person who wishes to file a rebuttal to any other person's submission must file that rebuttal by January 17, 2025. The Commission asks that commenters address the sufficiency of the Exchange's statements in support of the proposal, in addition to any other comments they may wish to submit about the proposed rule change. 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](mailto:rule-comments@sec.gov). Please include file number SR-NYSE-2024-47 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-2024-47. 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 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR-NYSE-2024-47 and should be submitted on or before January 3, 2025.

Rebuttal comments should be submitted by January 17, 2025.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>29</sup>

**Sherry R. Haywood,**

*Assistant Secretary.*

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**BILLING CODE 8011-01-P**

## **SECURITIES AND EXCHANGE COMMISSION**

**[Release No. 34-101843; File No. SR-SAPPHIRE-2024-39]**

### **Self-Regulatory Organizations; MIAX Sapphire, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Establish Fees for the Exchange's Proprietary Market Data Feeds: (i) MIAX Sapphire Top of Market Data Feed; (ii) MIAX Sapphire Complex Top of Market Data Feed; and (iii) MIAX Sapphire Liquidity Feed**

December 9, 2024.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on November 25, 2024, MIAX Sapphire, LLC ("MIAX Sapphire" or "Exchange") filed with the Securities and Exchange Commission ("Commission") a proposed rule change as described in Items I, II, and III 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 is filing a proposal to amend the MIAX Sapphire Options Exchange Fee Schedule (the "Fee Schedule") to establish fees for the Exchange's proprietary market data feeds: (i) MIAX Sapphire Top of Market ("ToM") data feed; (ii) MIAX Sapphire Complex Top of Market ("cToM") data feed; and (iii) MIAX Sapphire Liquidity Feed ("SLF").

The text of the proposed rule change is available on the Exchange's website at <https://www.miaxglobal.com/markets/us-options/all-options-exchanges/rule-filings>, at MIAX Sapphire's principal office, and at the Commission's Public Reference Room.

<sup>29</sup> 17 CFR 200.30-3(a)(12); 17 CFR 200.30-3(a)(57).

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

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

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

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

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

###### 1. Purpose

On July 19, 2024, the Exchange filed a proposal to establish the ToM, cToM and SLF data feeds (collectively, the "market data feeds")<sup>3</sup> for MIAX Sapphire. The Exchange now proposes to amend the Fee Schedule to establish fees for each of these market data feeds.<sup>4</sup> The Exchange also proposes to waive such fees during an Initial Waiver Period,<sup>5</sup> which would run for six full calendar months from the initial effective date (August 12, 2024) of the proposed fees to incentivize market participants to subscribe and make the Exchange's proprietary market data more widely available. The Exchange initially filed this proposal on August 8, 2024 (SR-SAPPHIRE-2024-18).<sup>6</sup> The Exchange withdrew the Initial Proposal on October 3, 2024 and resubmitted its proposal (SR-SAPPHIRE-2024-31).<sup>7</sup> The Exchange withdrew the Second Proposal on November 25, 2024, and resubmitted this proposal (SR-SAPPHIRE-2024-39).

The ToM data feed contains top of book quotations based on options

<sup>3</sup> See Securities Exchange Act Release No. 100588 (July 25, 2024), 89 FR 61554 (July 31, 2024) (SR-SAPPHIRE-2024-01).

<sup>4</sup> The Exchange established the Definitions section of the Fee Schedule in a separate rule filing. See Securities Exchange Act Release No. 100683 (August 9, 2024), 89 FR 66467 (August 15, 2024) (SR-SAPPHIRE-2024-13).

<sup>5</sup> The term "Initial Waiver Period" means, for each applicable fee, the period of time from the initial effective date of the MIAX Sapphire Fee Schedule plus an additional six (6) full calendar months after the completion of the partial month of the Exchange launch. See the Definitions section of the Fee Schedule.

<sup>6</sup> See Securities Exchange Act Release No. 100806 (August 22, 2024), 89 FR 68964 (August 28, 2024) (SR-SAPPHIRE-2024-18) (the "Initial Proposal").

<sup>7</sup> See Securities Exchange Act Release No. 101368 (October 17, 2024), 89 FR 84646 (October 23, 2024) (SR-SAPPHIRE-2024-31) (the "Second Proposal").