

of paying listing fees to both the Exchange and the predecessor foreign regulated exchange imposes a financial burden and acts as a disincentive to transferring. Additionally, the Exchange has implemented similar waivers for companies that switch their listing markets for its non-convertible bonds from the New York Stock Exchange or NYSE America.¹⁰ Moreover, similar waivers exist on other exchanges.¹¹

The Proposal Is an Equitable Allocation of Fees

The Exchange believes that the waiver of the application and annual fees for listing non-convertible bonds listings in conjunction with their voluntary delisting from a foreign regulated exchange is not inequitable as it expects it will be available to a small number of issuers and is being implemented solely to relieve these issuers of the burden of duplicative payments to two exchanges.

The Proposal Is Not Unfairly Discriminatory

The Exchange believes that the proposal is not unfairly discriminatory, because the proposed waivers are solely intended to avoid duplication of costs for issuers transferring their listings from foreign regulated exchanges and does not provide them with any benefit that would place them in a more favorable position than other listed companies. Finally, the Exchange believes that it is subject to significant competitive forces, as described below in the Exchange's statement regarding the burden on competition.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

Intramarket Competition

The Exchange does not believe that its proposals will place any applicant at a competitive disadvantage. To the contrary, the proposed waiver will ensure that applicants who transfer their listings from a foreign exchange are not placed at a disadvantage versus other applicants. The proposed waivers will be available to all similarly situated applicants on the same basis. The Exchange does not believe that the proposed amended fees will have any meaningful effect on the competition among issuers listed on the Exchange.

Moreover, applicants are free to list on other venues to the extent they believe that the waiver is not attractive.

Intermarket Competition

The Exchange operates in a highly competitive market in which issuers can readily choose to list new securities on other exchanges and transfer listings to other exchanges if they deem fee levels at those other venues to be more favorable. Because competitors are free to modify their own fees in response, and because issuers may change their chosen listing venue, the Exchange does not believe its proposed fee change imposes any burden on intermarket competition.

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

No written comments were either solicited or received.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act¹² and paragraph (f) of Rule 19b-4 thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include File Number SR-NASDAQ-2020-097 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-NASDAQ-2020-097. This file number should be included on the

subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NASDAQ-2020-097 and should be submitted on or before January 27, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹³

J. Matthew DeLesDernier,
Assistant Secretary.

[FR Doc. 2020-29221 Filed 1-5-21; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-90833; File No. SR-NYSEAMER-2020-87]

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

December 30, 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 December 29, 2020, NYSE American LLC ("NYSE

¹³ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

¹⁰ See Rule 5935.

¹¹ See Securities Exchange Act Release No. 88408 (March 18, 2020), 85 FR 16705 (March 24, 2020) (NYSE-2020-16).

¹² 15 U.S.C. 78s(b)(3)(A)(ii).

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 modify the NYSE American Options Fee Schedule (“Fee Schedule”) to extend the waiver of certain Floor-based fixed fees. The Exchange proposes to implement the fee change effective January 1, 2021. 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 purpose of this filing is to modify the Fee Schedule to extend the waiver of certain Floor-based fixed fees for market participants that have been unable to resume their Floor operations to a certain capacity level, as discussed below. The Exchange proposes to implement the fee change effective January 1, 2021.

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

May and June 2020.⁴ Although the Trading Floor partially reopened on May 26, 2020 and Floor-based open outcry activity is supported, certain participants have been unable to resume pre-Floor closure levels of operations. As a result, the Exchange extended the fee waiver through December 2020, but only for Floor Broker firms that were unable to operate at more than 50% of their March 2020 on-Floor staffing levels and for Market Maker firms that have vacant or “unmanned” Podia for the entire month due to COVID-19 related considerations (the “Qualifying Firms”).⁵ Because the Trading Floor will continue to operate with reduced capacity, the Exchange proposes to extend the fee waiver for Qualifying Firms through the earlier of the first full month of a full reopening of the Trading Floor facilities to Floor personnel or March 2021.⁶

Specifically, as with the prior fee waivers, the proposed fee waiver covers the following fixed fees for Qualifying Firms, which relate directly to Floor operations, are charged only to Floor participants and do not apply to participants that conduct business off-Floor:

- Floor Access Fee;
- Floor Broker Handheld
- Transport Charges
- Floor Market Maker Podia;
- Booth Premises; and
- Wire Services.⁷

The proposed fee change is designed to reduce monthly costs for all Qualifying Firms whose operations continue to be disrupted even though the Trading Floor has partially

reopened. In reducing this monthly financial burden, the proposed change would allow Qualifying Firms that had Floor operations in March 2020 to reallocate funds to assist with the cost of shifting and maintaining their prior fully-staffed on-Floor operations to off-Floor and recoup losses as a result of the partial reopening. The Exchange believes that all Qualifying Firms would benefit from this proposed fee change.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,⁸ in general, and furthers the objectives of Sections 6(b)(4) and (5) of the Act,⁹ in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

The Exchange operates in a highly competitive market. The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system “has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.”¹⁰

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.¹¹ Therefore, currently no exchange possesses significant pricing power in the execution of multiply-listed equity & ETF options order flow. More specifically, in November 2020, the Exchange had less than 10% market share of executed volume of multiply-listed equity and ETF options trades.¹²

⁸ 15 U.S.C. 78f(b).

⁹ 15 U.S.C. 78f(b)(4) and (5).

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

¹¹ The OCC publishes options and futures volume in a variety of formats, including daily and monthly volume by exchange, available here: <https://www.theocc.com/market-data/volume/default.jsp>.

¹² Based on OCC data, *see id.*, the Exchange’s market share in equity-based options increased slightly from 8.06% for the month of November 2019 to 9.09% for the month of November 2020.

⁴ See Securities Exchange Act Release Nos. 88595 (April 8, 2020), 85 FR 20737 (April 14, 2020) (SR-NYSEAMER-2020-25) (waiving Floor-based fixed fees); 88840 (May 8, 2020), 85 FR 28992 (May 14, 2020) (SR-NYSEAMER-2020-37) (extending April 2020 fee changes through May 2020); and 89049 (June 11, 2020), 85 FR 36649 (June 17, 2020) (SR-NYSEAMER-2020-44) (extending April and May fee changes through June 2020). *See also* Fee Schedule, Section III. Monthly Trading Permit, Rights, Floor Access and Premium Product Fees, and IV. Monthly Floor Communication, Connectivity, Equipment and Booth or Podia Fees.

⁵ See Securities Exchange Act Release Nos. 89241 (July 7, 2020), 85 FR 42034 (July 13, 2020) (SR-NYSEAMER-2020-47); 89482 (August 5, 2020), 85 FR 48577 (August 11, 2020) (SR-NYSEAMER-2020-55); 89692 (August 27, 2020), 85 FR 54611 (September 2, 2020) (SR-NYSEAMER-2020-65); 90185 (October 14, 2020), 85 FR 66675 (October 20, 2020) (SR-NYSEAMER-2020-75). *See also* Fee Schedule, Section III., Monthly Trading Permit, Rights, Floor Access and Premium Product Fees, and IV. Monthly Floor Communication, Connectivity, Equipment and Booth or Podia Fees.

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

⁷ *See id.*

This proposed fee change is reasonable, equitable, and not unfairly discriminatory because it would reduce monthly costs for all Qualifying Firms whose operations have been disrupted despite the fact that the Trading Floor has partially reopened because of the social distancing requirements and/or other health concerns related to resuming operation on the Floor. In reducing this monthly financial burden, the proposed change would allow Qualifying Firms that had Floor operations in March 2020 to reallocate funds to assist with the cost of shifting and maintaining their prior fully-staffed on-Floor operations to off-Floor and recoup losses as a result of the partial reopening of the Floor. The Exchange believes that all Qualifying Firms would benefit from this proposed fee change.

The Exchange believes the proposed rule change is an equitable allocation of its fees and credits as it merely continues the previous fee waiver for Qualifying Firms, which affects fees charged only to Floor participants and does not apply to participants that conduct business off-Floor. The Exchange believes it is an equitable allocation of fees and credits to extend the fee waiver for Qualifying Firms because such firms have either no more than half of their Floor staff (as measured by either the March 2020 or Exchange-approved) levels or have vacant podia—and this reduction in staffing levels on the Floor impacts the speed, volume and efficiency with which these firms can operate, which is to their financial detriment.

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

Finally, the Exchange believes that it is subject to significant competitive forces, as described below in the Exchange's statement regarding the burden on competition.

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

In accordance with Section 6(b)(8) of the Act, the Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that the proposed changes would encourage the continued participation of Qualifying Firms, thereby promoting market depth, price discovery and transparency and would enhance order execution opportunities for all market participants. As a result, the Exchange

believes that the proposed change furthers the Commission's goal in adopting Regulation NMS of fostering integrated competition among orders, which promotes "more efficient pricing of individual stocks for all types of orders, large and small."¹³

Intramarket Competition. The proposed change, which continues the fee waiver for all Qualifying Firms, is designed to reduce monthly costs for those Floor participants whose operations continue to be impacted, even though the Trading Floor has partially reopened. In reducing this monthly financial burden, the proposed change would allow Qualifying Firms that had Floor operations in March 2020 to reallocate funds to assist with the cost of shifting and maintaining their previously on-Floor operations to off-Floor. The Exchange believes that the proposed waiver of fees for Qualifying Firms would not impose a disparate burden on competition among market participants on the Exchange because off-Floor market participants are not subject to these Floor-based fixed fees. In addition, Floor-based firms that are not subject to the extent of staffing shortfalls as are Qualifying Firms, *i.e.*, such firms have more than 50% of their March 2020—or Exchange-approved—staffing levels on the Floor and/or have no vacant Podia during the month, do not face the same operational disruption and potential financial impact during the partial reopening of the Floor.

Intermarket Competition. The Exchange operates in a highly competitive market in which market participants can readily favor one of the 16 competing option exchanges if they deem fee levels at a venue to be excessive. In such an environment, the Exchange must continually adjust its fees to remain competitive with other exchanges and to attract order flow to the Exchange. Based on publicly-available information, and excluding index-based options, no single exchange currently has more than 16% of the market share of executed volume of multiply-listed equity and ETF options trades.¹⁴ Therefore, currently no exchange possesses significant pricing power in the execution of multiply-listed equity & ETF options order flow. More specifically, in November 2020, the Exchange had less than 10% market share of executed volume of multiply-listed equity and ETF options trades.¹⁵

¹³ See Reg NMS Adopting Release, *supra* note 10, at 37499.

¹⁴ See *supra* note 11.

¹⁵ Based on OCC data, *supra* note 12, the Exchange's market share in equity-based options was 8.06% for the month of November 2019 and 9.09% for the month of November 2020.

The Exchange believes that the proposed rule change reflects this competitive environment because it waives fees for Qualifying Firms and is designed to reduce monthly costs for Floor participants whose operations continue to be disrupted even though the Trading Floor has partially reopened. In reducing this monthly financial burden, the proposed change would allow affected participants to reallocate funds to assist with the cost of shifting and maintaining their prior fully-staffed on-Floor operations to off-Floor.

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

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

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

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A)¹⁶ of the Act and subparagraph (f)(2) of Rule 19b-4¹⁷ thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)¹⁸ of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include File Number SR-

¹⁶ 15 U.S.C. 78s(b)(3)(A).

¹⁷ 17 CFR 240.19b-4(f)(2).

¹⁸ 15 U.S.C. 78s(b)(2)(B).

NYSEAMER–2020–87 on the subject line.

Paper Comments

- Send paper comments in triplicate to: Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEAMER–2020–87. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEAMER–2020–87 and should be submitted on or before January 27, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁹

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–29222 Filed 1–5–21; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–90821; File No. SR–NYSE–2020–107]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Extending the Expiration Date of the Temporary Amendments to Rules 9261 and 9830 as Set Forth in SR–NYSE–2020–76 From December 31, 2020, to April 30, 2021

December 30, 2020.

Pursuant to Section 19(b)(1)¹ of the Securities Exchange Act of 1934 (“Act” or “Exchange Act”)² and Rule 19b–4 thereunder,³ notice is hereby given that on December 22, 2020, New York Stock Exchange LLC (“NYSE” or the “Exchange”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The 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 extending the expiration date of the temporary amendments to Rules 9261 and 9830 as set forth in SR–NYSE–2020–76 from December 31, 2020, to April 30, 2021, in conformity with recent changes by the Financial Industry Regulatory Authority, Inc. (“FINRA”). The proposed rule change would not make any changes to the text of NYSE Rules 9261 and 9830. 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 Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes extending the expiration date of the temporary amendments in SR–NYSE–2020–76⁴ to Rules 9261 (Evidence and Procedure in Hearing) and 9830 (Hearing) from December 31, 2020, to April 30, 2021 to harmonize with recent changes by FINRA to extend the expiration date of the temporary amendments to its Rules 9261 and 9830. SR–NYSE–2020–76 temporarily granted to the Chief or Deputy Chief Hearing Officer the authority to order that hearings be conducted by video conference if warranted by public health risks posed by in-person hearings during the ongoing COVID–19 pandemic. The proposed rule change would not make any changes to the text of Exchange Rules 9261 and 9830.⁵

Background

In 2013, the NYSE adopted disciplinary rules that are, with certain exceptions, substantially the same as the FINRA Rule 8000 Series and Rule 9000 Series, and which set forth rules for conducting investigations and enforcement actions.⁶ The NYSE disciplinary rules were implemented on July 1, 2013.⁷

In adopting disciplinary rules modeled on FINRA's rules, the NYSE adopted the hearing and evidentiary processes set forth in Rule 9261 and in Rule 9830 for hearings in matters involving temporary and permanent cease and desist orders under the Rule 9800 Series. As adopted, the text of Rule 9261 is identical to the counterpart FINRA rule. Rule 9830 is substantially

⁴ See Securities Exchange Act Release No. 90024 (September 28, 2020), 85 FR 62353 (October 2, 2020) (SR–NYSE–2020–76) (“SR–NYSE–2020–76”).

⁵ The Exchange may submit a separate rule filing to extend the expiration date of the proposed extension beyond April 30, 2021 if the Exchange requires additional temporary relief from the rule requirements identified in NYSE–SR–2020–76. The amended NYSE rules will revert back to their original state at the conclusion of the temporary relief period and any extension thereof.

⁶ See Securities Exchange Act Release No. 68678 (January 16, 2013), 78 FR 5213 (January 24, 2013) (SR–NYSE–2013–02) (“2013 Notice”), 69045 (March 5, 2013), 78 FR 15394 (March 11, 2013) (SR–NYSE–2013–02) (“2013 Approval Order”), and 69963 (July 10, 2013), 78 FR 42573 (July 16, 2013) (SR–NYSE–2013–49).

⁷ See NYSE Information Memorandum 13–8 (May 24, 2013).

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b–4.

¹⁹ 17 CFR 200.30–3(a)(12).