

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

Because the foregoing proposed rule change does not:

A. significantly affect the protection of investors or the public interest;

B. impose any significant burden on competition; and

C. 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 Act<sup>24</sup> and Rule 19b-4(f)(6)<sup>25</sup> thereunder.

A proposed rule change filed under Rule 19b-4(f)(6)<sup>26</sup> normally does not become operative prior to 30 days after the date of the filing. However, Rule 19b-4(f)(6)(iii)<sup>27</sup> permits the Commission to 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 so that the proposed rule change may become operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest, as it will allow the current clearly erroneous execution pilot program to continue uninterrupted, without any changes, while a permanent proposal for clearly erroneous execution reviews is being considered.<sup>28</sup> For this reason, the Commission hereby waives the 30-day operative delay and designates the proposed rule change as operative upon filing.<sup>29</sup>

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 shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

<sup>24</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>25</sup> 17 CFR 240.19b-4(f)(6).

<sup>26</sup> 17 CFR 240.19b-4(f)(6).

<sup>27</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>28</sup> See SR-CboeBZX-2022-37 (July 8, 2022).

<sup>29</sup> For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

### 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](mailto:rule-comments@sec.gov). Please include File Number SR-CboeEDGX-2022-031 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-CboeEDGX-2022-031. 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-CboeEDGX-2022-031 and should be submitted on or before August 11, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>30</sup>

**J. Matthew DeLesDernier,**

*Assistant Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-95297; File No. SR-NYSEArca-2022-40]

### Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Make a Non-Substantive Change to Rule 7.31-E(a)(2)(B) Regarding Limit Order Price Protection

July 15, 2022.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on July 8, 2022, NYSE Arca, Inc. ("NYSE Arca" or the "Exchange") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a "non-controversial" proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>3</sup> and Rule 19b-4(f)(6) thereunder.<sup>4</sup> 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 the Substance of the Proposed Rule Change

The Exchange proposes to make a non-substantive change to Rule 7.31-E(a)(2)(B) regarding Limit Order Price Protection. 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

<sup>30</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> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>4</sup> 17 CFR 240.19b-4(f)(6).

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 to make a non-substantive change to Rule 7.31–E(a)(2)(B) regarding Limit Order Price Protection.

Rule 7.31–E(a)(2)(B) (“Limit Order Price Protection”) provides that a Limit Order to buy (sell) will be rejected if it is priced at or above (below) the greater of \$0.15 or a specified percentage away from the National Best Offer (National Best Bid) (“NBO” and “NBB,” respectively). The rule currently states that the “specified percentage is equal to the corresponding ‘numerical guideline’ percentage set forth in paragraph (c)(1) of Rule 7.10–E (Clearly Erroneous Executions) for the Core Trading Session.” Pursuant to Rule 7.10–E(c)(1), those numerical guidelines are as follows: 10% for securities with a reference price up to and including \$25.00, 5% for securities with a reference price greater than \$25.00 and up to and including \$50.00, and 3% for securities with a reference price greater than \$50.00.

The Exchange proposes to amend Rule 7.31–E(a)(2)(B) to delete the cross-reference to Rule 7.10–E(c)(1) and instead include the specified percentages from Rule 7.10–E(c)(1) as a table in the text of Rule 7.31–E(a)(2)(B) itself, as follows:

Reference price	Specified percentage
Greater than \$0.00 up to and including \$25.00 .....	10%
Greater than \$25.00 up to and including \$50.00 .....	5
Greater than \$50.00 .....	3

The Exchange does not propose any change to the percentages themselves or when they would apply. The proposal would not change the operation of the rule. Accordingly, the proposed change would be non-substantive and would raise no novel issues.

**2. Statutory Basis**

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,<sup>5</sup> in general, and

with Section 6(b)(5),<sup>6</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 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.

The Exchange believes that the proposed change to Rule 7.31–E(a)(2)(B) would remove impediments to and perfect the mechanism of a free and open market and a national market system, and in general, protect investors and the public interest because deleting the cross-reference to Rule 7.10–E(c)(1) and instead including the relevant percentages from Rule 7.10–E(c)(1) in the text of Rule 7.31–E(a)(2)(B) itself will enhance the clarity of the rule. The proposed change would not change the operation of the rule.

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

The Exchange believes that the proposed rule change will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is not intended to address competitive issues but rather would be a non-substantive change to delete the cross-reference to Rule 7.10–E(c)(1) and instead include the relevant percentages from Rule 7.10–E(c)(1) in the text of Rule 7.31–E(a)(2)(B) itself.

*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)(iii) of the Act<sup>7</sup> and Rule 19b–4(f)(6) thereunder.<sup>8</sup> Because the 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 prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.

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)<sup>9</sup> 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](mailto:rule-comments@sec.gov). Please include File Number SR–NYSEArca–2022–40 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–NYSEArca–2022–40. 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

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

<sup>6</sup> 15 U.S.C. 78f(b)(5).

<sup>7</sup> 15 U.S.C. 78s(b)(3)(A)(iii). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its 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.

<sup>8</sup> 17 CFR 240.19b–4(f)(6).

<sup>9</sup> 15 U.S.C. 78s(b)(2)(B).

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 such 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-NYSEArca-2022-40, and should be submitted on or before August 11, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>10</sup>

**J. Matthew DeLesDernier,**

*Assistant Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-95296; File No. SR-NYSEAMER-2022-29]

### Self-Regulatory Organizations; NYSE American LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Rule 952NY

July 15, 2022.

Pursuant to Section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934 ("Act")<sup>2</sup> and Rule 19b-4 thereunder,<sup>3</sup> notice is hereby given that on July 7, 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 Items I and II 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 proposal to amend Rule 952NY (Opening Process) regarding the option for ATP Holders to instruct the Exchange to cancel Marketable orders if a series is not opened within a specified time period. 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 Exchange proposes to amend Rule 952NY (Opening Process) regarding the option for ATP Holders to instruct the Exchange to cancel Marketable<sup>4</sup> orders if a series is not opened within a specified time period. Specifically, the Exchange proposes to exclude Good-Til-Cancelled (GTC) Orders.<sup>5</sup>

Rule 952NY sets forth the Exchange's process for opening and reopening a series for trading. Rule 952NY(d) provides ATP Holders with an option to instruct the Exchange to cancel their Marketable orders if an option series has not been opened within a specified time period.<sup>6</sup> Per subparagraph (d) to Rule

<sup>4</sup> The term "Marketable" is defined in Rule 900.2NY(39) to mean, for a Limit Order, the price matches or crosses the NBBO on the other side of the market and that market orders are always considered marketable.

<sup>5</sup> See Rule 900.3NY(n) (defining GTC Orders as "[a]n order to buy or sell that remains in force until the order is filled, cancelled or the option contract expires; provided, however, that GTC Orders will be cancelled in the event of a corporate action that results in an adjustment to the terms of an option contract").

<sup>6</sup> The Exchange announced on February 17, 2022, that the applicable time period utilized during the Opening Process would be two seconds, as announced here: <https://www.nyse.com/trader-update/history#110000412424>.

952NY, an ATP Holder has the option to instruct the Exchange to cancel all Marketable orders in a series, including GTC Orders, if that series has not opened within a designated time period after the Exchange receives notification that the primary market for the underlying security has disseminated a quote and a trade that is at or within the quote. Because the current rule explicitly includes GTC Orders, once an ATP Holder opts to utilize the "bulk" cancellation feature provided by Rule 952NY(d), this feature also applies to its GTC Orders. The Exchange specifically included GTC Orders when it adopted the "bulk" cancellation feature in Rule 952NY(d) to make clear to market participants that such order would be included in that functionality.

The Exchange now proposes to modify paragraph (d) to Rule 952NY to explicitly exclude GTC Orders on the basis that such orders are designed to remain in force until executed or specifically cancelled by the order sender. The Exchange believes this proposal would take into account that GTC Order senders tend to be more focused on obtaining an execution thus are willing to wait for the opening of a series rather than cancelling their order. As such, the proposed change would allow the GTC instructions to persist rather than be included in the "bulk cancel" under this paragraph (*i.e.*, persist until executed or specifically cancelled by the GTC order sender). The Exchange believes this proposed treatment is consistent with the properties of the order type and the intentions of market participants who utilize GTC Orders, which intent is for an (eventual) execution unless cancelled. This does not mean, however, that such orders cannot be cancelled if a series has not opened per Rule 952NY(d). Rather, ATP Holders (whether they utilize this optional "bulk" cancel functionality or not) would still have the option to submit specific requests to cancel certain (or all) of its GTC Orders themselves if a series has not opened on the Exchange per Rule 952NY(d).

The Exchange will announce via Trader Update when this proposed rule change would be implemented, which, subject to effectiveness of this proposed rule change, the Exchange anticipates will be in early August 2022, but no later than September 2022.

###### 2. Statutory Basis

For the reasons set forth above, the Exchange believes the proposed rule change is consistent with Section 6(b) of

<sup>10</sup> 17 CFR 200.30-3(a)(12).

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

<sup>2</sup> 15 U.S.C. 78a.

<sup>3</sup> 17 CFR 240.19b-4.