



Martha Redding  
Corporate Secretary

February 18, 2022

**VIA E-MAIL**

Secretary  
Securities and Exchange Commission  
100 F Street, N.E.  
Washington, DC 20549-1090

Re: Securities Exchange Act Rel. 34-92428 (SR-NYSE-2021-40)

Dear Secretary

NYSE LLC, Inc. filed the attached Partial Amendment No. 1 to the above-referenced filing on February 18, 2022.

Sincerely,

A handwritten signature in blue ink, appearing to be the initials "MR" or similar, written in a cursive style.

Encl. (Partial Amendment No. 1 to SR-NYSE-2021-40)

Required fields are shown with yellow backgrounds and asterisks.

Page 1 of \* 8

SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549  
Form 19b-4

F e No. \* SR 2021 \* 40

Amendment No. (req. for Amendments \*) 1

F ng by New York Stock Exchange LLC

Pursuant to Ru e 19b 4 under the Secur tes Exchange Act of 1934

<b>Int a *</b> <input type="checkbox"/>	<b>Amendment *</b> <input checked="" type="checkbox"/>	<b>W thdrawa</b> <input type="checkbox"/>	<b>Sect on 19(b)(2) *</b> <input checked="" type="checkbox"/>	<b>Sect on 19(b)(3)(A) *</b> <input type="checkbox"/>	<b>Sect on 19(b)(3)(B) *</b> <input type="checkbox"/>
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<b>P ot</b> <input type="checkbox"/>	<b>Extens on of T me Per od for Comm ss on Act on *</b> <input type="checkbox"/>	<b>Date Exp res *</b> <input type="text"/>	<b>Ru e</b>
			<input type="checkbox"/> 19b 4(f)(1) <input type="checkbox"/> 19b 4(f)(4) <input type="checkbox"/> 19b 4(f)(2) <input type="checkbox"/> 19b 4(f)(5) <input type="checkbox"/> 19b 4(f)(3) <input type="checkbox"/> 19b 4(f)(6)

Not ce of proposed change pursuant to the Payment, C ear ng, and Sett ement Act of 2010

Sect on 806(e)(1) \*

Sect on 806(e)(2) \*

Secur ty Based Swap Subm ss on pursuant to the Secur tes Exchange Act of 1934

Sect on 3C(b)(2) \*

Exh b t 2 Sent As Paper Document

Exh b t 3 Sent As Paper Document

### Description

Prov de a br ef descr pt on of the act on ( m t 250 characters, requ red when Int a s checked \*).

Proposa to adopt on a permanent bas s the p ot program for Market W de C rcu t Breakers n Ru e 7.12

### Contact Information

Prov de the name, te ephone number, and e ma address of the person on the staff of the se f regu atory organ zat on prepared to respond to quest ons and comments on the act on.

F rst Name \* Sarah Last Name \* Zg n ec

T te \* Sen or Course , NYSE Group Inc.

E ma \* [REDACTED]

Te ephone \* [REDACTED] Fax [REDACTED]

### Signature

Pursuant to the requ rements of the Secur tes Exchange of 1934, New York Stock Exchange LLC has duty caused th s f ng to be s gned on ts beha f by the unders gned thereunto duty author zed.

Date 02/18/2022

( tle \*)

By Dav d De Gregor o

Assoc ate Genera Course

(Name \*)

NO E Clicking the signature block at right will initiate digitally signing the orm A digital signature is as legally binding as a physical signature and once signed this orm cannot be changed

David De Gregorio	Digitally signed by David De Gregorio Date 2022 02 18 15 45 49 -05'00'
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Required fields are shown with yellow backgrounds and astericks.

SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

For complete Form 19b-4 instructions please refer to the EDFS website.

**Form 19b-4 Information \***

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The self-regulatory organization must provide a required information, presented in a clear and comprehensible manner, to enable the public to provide meaningful comment on the proposal and for the Commission to determine whether the proposals consistent with the Act and applicable rules and regulations under the Act.

**Exhibit 1 - Notice of Proposed Rule Change \***

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The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR [SRO] xx xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3).

**Exhibit 1A - Notice of Proposed Rule Change, Security-Based Swap Submission, or Advanced Notice by Clearing Agencies \***

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The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR [SRO] xx xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3).

**Exhibit 2- Notices, Written Comments, Transcripts, Other Communications**

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Copies of notices, written comments, transcripts, other communications. If such documents cannot be filed electronically in accordance with Instruction F, they shall be filed in accordance with Instruction G.

Exhibit Sent As Paper Document

**Exhibit 3 - Form, Report, or Questionnaire**

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Copies of any form, report, or questionnaire that the self-regulatory organization proposes to use to help implement or operate the proposed rule change, or that is referred to by the proposed rule change.

Exhibit Sent As Paper Document

**Exhibit 4 - Marked Copies**

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The full text shall be marked, in any convenient manner, to indicate additions to and deletions from the immediately preceding filing. The purpose of Exhibit 4 is to permit the staff to identify immediately the changes made from the text of the rule with which it has been working.

**Exhibit 5 - Proposed Rule Text**

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The self-regulatory organization may choose to attach as Exhibit 5 proposed changes to rule text in place of providing them in Item I and which may otherwise be more easily readable if provided separately from Form 19b-4. Exhibit 5 shall be considered part of the proposed rule change.

**Partial Amendment**

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If the self-regulatory organization is amending only part of the text of a lengthy proposed rule change, it may, with the Commission's permission, file only those portions of the text of the proposed rule change in which changes are being made (i.e. part amendments) so clearly understandable on its face. Such part amendments shall be clearly identified and marked to show deletions and additions.

SEC Sub for Part a Am. 1 of NYSE 19

## SR-NYSE-2021-40, Partial Amendment No. 1

New York Stock Exchange LLC (“NYSE” or the “Exchange”) hereby submits this Partial Amendment No. 1 to the above-referenced filing (“Filing”), in connection with its proposal to adopt on a permanent basis the pilot program for Market-Wide Circuit Breakers in Rule 7.12. With this Partial Amendment No. 1, the Exchange proposes, among other things, to add text to proposed paragraph (e) of Rule 7.12, add proposed paragraphs (f) and (g) to Rule 7.12, and amend the expiration date of the pilot program governing the Pilot Rules, which was extended after the Filing was submitted.

The Exchange proposes the following amendments to the Filing:

**1. The Exchange proposes to add a new footnote on page 10 of the Filing (page 49 of the Exhibit 1):**

The Exchange proposes to add a new footnote on page 10 of the Filing (page 49 of the Exhibit 1) as follows (subsequent footnotes would be renumbered in a conforming change) (new text is underlined):

When the Regulatory Halt messages reached the options markets, consistent with their respective rules that require the options markets to halt if there is a MWCB Halt in the cash equities market, they halted trading in approximately 900,000 options series. A total of approximately 5,000 options trades that were sent to OPRA after the time of the four MWCB Halts were nullified. Specifically, the Nasdaq options markets (BX, PHLX, NOM, ISE, GEMX, MRX) nullified approximately 4,800 trades and the two NYSE options markets (NYSE American and NYSE Arca) nullified approximately 180 trades pursuant to those markets’ “obvious error” rules.<sup>22/23</sup>

<sup>22/23</sup> The Exchange understands that following the March 2020 MWCB events, the Nasdaq options markets made a number of enhancements to internal systems to eliminate latency in the Nasdaq options markets’ response to MWCB halt messages.

**2. The Exchange proposes to update the expiration date of the pilot period on page 33 of the Filing (page 81 of the Exhibit 1):**

During the pendency of the Filing, the expiration of the pilot period for the Pilot Rules was extended to March 18, 2022 from October 18, 2021. In the second sentence under the heading “Proposal to Make the Pilot Rules Permanent” on page 33 of the Filing (page 81 of the Exhibit 1), the Exchange proposes to update the October 18, 2021 date to March 18, 2022, as follows (deleted text is [bracketed] and new text is underlined):

To accomplish this, the Exchange proposes to remove the preamble to Rule 7.12, which currently provides that the rule is in effect during a pilot period that expires at the close of business on [October 18, 2021] March 18, 2022.

**3. The Exchange proposes additions to the second paragraph under the heading “Proposal to Make the Pilot Rules Permanent” on page 33 of the Filing (page 81 of the Exhibit 1):**

In the second paragraph under the heading “Proposal to Make the Pilot Rules Permanent” on page 33 of the Filing (page 81 of the Exhibit 1), the Exchange proposes to add the following text and new footnote (subsequent footnotes would be renumbered in a conforming change) (deleted text is [bracketed] and new text is underlined):

Regarding the Working Group’s additional recommendation that SROs adopt a rule requiring all designated Regulation SCI firms to participate in at least one MWCB test each year, the Exchange already requires such participation, as specified in Rule 48(c). In light of the Working Group’s recommendation, with which the Exchange agrees, that such MWCB testing rules contain additional specificity about a member organization’s attestation regarding such testing, the Exchange proposes to both move this testing obligation from Rule 48(c) to new paragraph (e) of Rule 7.12 and incorporate the recommendations of the Working Group, as [follows] indicated below. Proposed paragraph (e) also addresses topics discussed by Commission staff, the Exchange, and the Working Group following the Commission’s issuance of an Order Instituting Proceedings (“OIP”) regarding this Proposal.<sup>70/71</sup>

<sup>70/71</sup> See Securities Exchange Act Release No. 93212 (September 30, 2021), 86 FR 55066 (October 5, 2021) (SR-NYSE-2021-40) (Order Instituting Proceedings to Determine Whether to Approve or Disapprove a Proposed Rule Change to Adopt on a Permanent Basis the Pilot Program for Market-Wide Circuit Breakers in Rule 7.12).

**4. The Exchange proposes additions to subparagraph 1 of proposed paragraph (e) of Rule 7.12 on page 33 of the Filing (page 81 of the Exhibit 1):**

The Exchange proposes the following additions to subparagraph 1 of proposed paragraph (e) of Rule 7.12 on page 33 of the Filing (page 81 of the Exhibit 1) (new text is underlined):

1. The Exchange will participate in all industry-wide tests of the MWCB mechanism. Member organizations designated pursuant to paragraphs (b)(1) and (3) of Rule 48 to participate in Exchange Backup Systems and Mandatory Testing are required to participate in at least one industry-wide MWCB test each year and to verify their participation in that test by attesting that they are able to or have attempted to:

**5. The Exchange proposes to add a new subparagraph to proposed paragraph (e) of Rule 7.12 on page 33 of the Filing (page 82 of the Exhibit 1):**

The Exchange proposes to add a new subparagraph 2 to proposed paragraph (e) of Rule 7.12 on page 33 of the Filing (page 82 of the Exhibit 1), and to renumber the existing subparagraph 2 as subparagraph 3, as follows (new text is underlined):

2. To the extent that a member organization participating in a MWCB test is unable to receive and process any of the messages identified in paragraph (e)(1)(A)-(D) of this Rule, its attestation should notify the Exchange which messages it was unable to process and, if known, why.
3. Member organizations not designated pursuant to standards established in paragraphs (b)(1) and (3) of Rule 48 are permitted to participate in any MWCB test.

**6. The Exchange proposes to add the following text and proposed subparagraphs (f) and (g) to the end of the section under the heading “Proposal to Make the Pilot Rules Permanent” on page 33 of the Filing (page 82 of the Exhibit 1):**

The Exchange proposes to add the following text and proposed subparagraphs (f) and (g) to the end of the section under the heading “Proposal to Make the Pilot Rules Permanent” on page 33 of the Filing (page 82 of the Exhibit 1) (new text is underlined):

After discussions with Commission staff and the Working Group following the issuance of the OIP, the Exchange proposes to add the following paragraphs (f) and (g) to Rule 7.12:

(f) In the event that a halt is triggered under this Rule following a Level 1, Level 2, or Level 3 Market Decline, the Exchange, together with other SROs and industry representatives (the “MWCB Working Group”), will review such event. The MWCB Working Group will prepare a report that documents its analysis and recommendations and will provide that report to the Commission within 6 months of the event.

(g) In the event that there is (1) a Market Decline of more than 5%, or (2) an SRO implements a rule that changes its reopening process following a MWCB Halt, the Exchange, together with the MWCB Working Group, will review such event and consider whether any modifications should be made to this Rule. If the MWCB Working Group recommends that a modification should be made to this Rule, the MWCB Working Group will prepare a report that documents its analysis and recommendations and provide that report to the Commission.

**7. The Exchange proposes to update the implementation date of the proposal on page 33 of the Filing (page 82 of the Exhibit 1):**

During the pendency of the Filing, the expiration of the pilot period for the Pilot Rules was extended to March 18, 2022 from October 18, 2021. The Exchange proposes to accordingly update the implementation date of the proposal on page 33 of the Filing (page 82 of the Exhibit 1) to reflect the fact that the proposal would go into effect on March 19, 2022, the day after the expiration of the Pilot Rules (deleted text is [bracketed] and new text is underlined):

The Exchange proposes that these changes would go into effect on [October 19, 2021] March 19, 2022, the day after the expiration of the pilot status of the Pilot Rules.

**8. The Exchange proposes to amend the first full paragraph on page 36 of the Filing (first full paragraph on page 86 of the Exhibit 1):**

The Exchange proposes to amend the first full paragraph on page 36 of the Filing (first full paragraph on page 86 of the Exhibit 1) to add new text and a new footnote (subsequent footnotes would be renumbered in a conforming change), as follows (new text is underlined):

The Exchange believes that moving this testing obligation from Rule 48(c) to proposed Rule 7.12(e) and updating it to reflect the recommendations of the Working Group would remove impediments to and perfect the mechanism of a free and open market and a national market system by highlighting the MWCB testing obligation as a part of the MWCB rules at Rule 7.12. In addition, the Exchange believes that adding specificity, as recommended by the Working Group, that such Regulation SCI firms must attest to their participation in the MWCB testing would promote the stability of the markets and enhance investor confidence in the MWCB mechanism and the protections that it provides to the markets and to investors. The Exchange further believes that requiring firms participating in a MWCB test to identify any inability to process messages pertaining to such MWCB test would contribute to a fair and orderly market by flagging potential issues that should be corrected. The Exchange would preserve such attestations, as well as the Exchange's own records regarding such MWCB tests, pursuant to its obligations to retain books and records of the Exchange.<sup>74/75</sup>

<sup>74/75</sup> See 17 CFR § 240.17a-1.

**9. The Exchange proposes to add the following text immediately before the paragraph that reads “For the foregoing reasons, the Exchange believes that the proposed change is consistent with the Act.” on page 36 of the Filing (page 86 of the Exhibit 1):**

The Exchange proposes to add the following text immediately before the paragraph that reads “For the foregoing reasons, the Exchange believes that the proposed change is consistent with the Act.” on page 36 of the Filing (page 86 of the Exhibit 1) (new text is underlined):

The Exchange believes that proposed paragraph (f) would benefit market participants, promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system, and protect investors and the public interest. Having the MWCB Working Group review any halt triggered under Rule 7.12 and prepare a report of its analysis and recommendations would permit the Exchange, along with other market participants and the Commission, to evaluate such event and determine

whether any modifications should be made to Rule 7.12 in the public interest. Preparation of such a report within 6 months of the event would permit the Exchange, along with the MWCB Working Group, sufficient time to analyze such halt and prepare their recommendations.

The Exchange believes that proposed paragraph (g) would benefit market participants, promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system, and protect investors and the public interest. Having the MWCB Working Group review instances of a Market Decline of more than 5% or an SRO implementing a rule that changes its reopening process following a MWCB Halt would allow the MWCB Working Group to identify situations where it recommends that Rule 7.12 be modified in the public interest. In such situations where the MWCB Working Group recommends that a modification should be made to Rule 7.12, the MWCB Working Group would prepare a report that documents its analysis and recommendations and provide that report to the Commission, thereby removing impediments to and perfecting the mechanism of a free and open market and a national market system while protecting investors and the public interest.

**10. The Exchange proposes to update the expiration date of the pilot period on page 137 of the Exhibit 5:**

During the pendency of the Filing, the expiration of the pilot period for the Pilot Rules was extended to March 18, 2022 from October 18, 2021. The Exchange proposes to update that date on page 137 of the Exhibit 5, as follows (new deletions are ~~struck through~~, new text is double underlined):

[This Rule shall be in effect during a pilot period that expires at the close of business on ~~October 18, 2021~~ March 18, 2022. If the pilot is not either extended or approved permanently at the end of the pilot period, the prior version of Rule 80B shall be in effect.]

**11. The Exchange proposes to add text to subparagraph 1 of proposed paragraph (e) on page 137 of the Exhibit 5:**

The Exchange proposes the following additions to subparagraph 1 of proposed paragraph (e) of Rule 7.12 on page 137 of Exhibit 5 (new text is double underlined):

1. The Exchange will participate in all industry-wide tests of the MWCB mechanism. Member organizations designated pursuant to paragraphs (b)(1) and (3) of Rule 48 to participate in Exchange Backup Systems and Mandatory Testing are required to participate in at least one industry-wide MWCB test each year and to verify their participation in that test by attesting that they are able to or have attempted to:



**12. The Exchange proposes to add a new subparagraph to proposed paragraph (e) of Rule 7.12 on page 127 of the Exhibit 5:**

The Exchange proposes to add a new subparagraph 2 to proposed paragraph (e) of Rule 7.12 on page 137 of the Exhibit 5 and to renumber the existing subparagraph 2 as subparagraph 3, as follows (new text is double underlined):

2. To the extent that a member organization participating in a MWCB test is unable to receive and process any of the messages identified in paragraph (e)(1)(A)-(D) of this Rule, its attestation should notify the Exchange which messages it was unable to process and, if known, why.
3. Member organizations not designated pursuant to standards established in paragraphs (b)(1) and (3) of Rule 48 are permitted to participate in any MWCB test.

**13. The Exchange proposes to add the following text and proposed subparagraphs (f) and (g) to the end of the section under the heading “Proposal to Make the Pilot Rules Permanent” on page 33 of the Filing (page 82 of the Exhibit 1):**

The Exchange proposes to add the following text and proposed subparagraphs (f) and (g) to the end of the section under the heading “Proposal to Make the Pilot Rules Permanent” on page 33 of the Filing (page 82 of the Exhibit 1) (new text is double underlined):

- (f) In the event that a halt is triggered under this Rule following a Level 1, Level 2, or Level 3 Market Decline, the Exchange, together with other SROs and industry representatives (the “MWCB Working Group”), will review such event. The MWCB Working Group will prepare a report that documents its analysis and recommendations and will provide that report to the Commission within 6 months of the event.
- (g) In the event that there is (1) a Market Decline of more than 5%, or (2) an SRO implements a rule that changes its reopening process following a MWCB Halt, the Exchange, together with the MWCB Working Group, will review such event and consider whether any modifications should be made to this Rule. If the MWCB Working Group recommends that a modification should be made to this Rule, the MWCB Working Group will prepare a report that documents its analysis and recommendations and provide that report to the Commission.

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All other representations in the Filing remain as stated therein and no other changes are being made.