

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-101457; File No. SR-NYSEAMER-2024-61)

October 29, 2024

Self-Regulatory Organizations; NYSE American LLC; Notice of Filing of Proposed Change Amending Section 1003 of the NYSE American LLC Company Guide to Provide for the Suspension and Delisting of Any Company that: (i) Has Effected One or More Reverse Stock Splits Over the Prior Two-Year Period with a Cumulative Ratio of 200 Shares or More to One; or (ii) Has Effectuated a Reverse Stock Split and the Effectuation of such Reverse Stock Split Results in the Company's Security Falling Below any of the Continued Listing Requirements of Section 1003

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 October 16, 2024, NYSE American LLC ("NYSE American" or "Exchange") filed with the Securities and Exchange Commission ("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 amend Section 1003 of the NYSE American LLC Company Guide to provide for the suspension and delisting of any company that: (i) has effected one or more reverse stock splits over the prior two-year period with a cumulative ratio of 200 shares or more to one; or (ii) has effectuated a reverse stock split and the effectuation of such reverse stock split results in the company's security falling below any of the continued listing requirements of Section 1003. The proposed rule change is available on the Exchange's website at

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<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.

[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 subsection (f) ("Other Events") of Section 1003 ("Application of Policies") of the Company Guide to add two additional circumstances under which the Exchange would have the authority to suspend and delist a listed company. Specifically, proposed Section 1003(f)(vi) would give the Exchange the authority to suspend and delist any listed company that has effected one or more reverse stock splits over the prior two-year period with a cumulative ratio of 200 shares or more to one. In addition, proposed Section 1003(f)(vii) would give the Exchange the authority to suspend and delist any listed company that has effected a reverse stock split if the effectuation of such reverse stock split results in the company's security falling below any of the continued listing requirements of Section 1003. Any action taken by a listed company that is governed by proposed Sections 1003(f)(vi) and 1003(f)(vii) would result in the immediate commencement of suspension and delisting

procedures in accordance with the procedures set out in Section 1010 of the Company Guide.<sup>4</sup> A listed issuer would not be eligible to follow the procedures outlined in Section 1009 with respect to any action in violation of proposed Sections 1003(f)(vi) or (vii).

Section 1003(f)(v) ("Low Selling Price Issues") of the Company Guide provides that, in the case of a common stock selling for a substantial period of time at a low price per share, the Exchange may suspend and delist a company if such company shall fail to effect a reverse split of such shares within a reasonable time after being notified that the Exchange deems such action to be appropriate under all the circumstances. In its review of the question of whether it deems a reverse split of a given issue to be appropriate, the Exchange will consider all pertinent factors including, market conditions in general, the number of shares outstanding, plans which may have been formulated by management, applicable regulations of the state or country of incorporation or of any governmental agency having jurisdiction over the issuer, the relationship to other Exchange policies regarding continued listing, and, in respect of securities of foreign issuers, the general practice in the country of origin of trading in low-selling price issues. Proposed Section 1003(f)(vii) is consistent with the provisions of Section 1003(f)(v) as described above, as well as with the Exchange's consistent policy that it would immediately suspend and delist a listed company if the company effects a reverse stock split to cure a low selling price issue under Section 1003(f)(v) and the company would fall below another quantitative continued listing standard as a direct result of effecting that reverse stock split.

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<sup>4</sup> Part 12 of the Company Guide provides that these companies can seek review of a delisting determination from the Committee for Review of the Board of Directors of the Exchange.

Many companies seek to address low selling price issues under Section 1003(f)(v) by effectuating a reverse stock split. However, the Exchange has observed that some companies, typically those in financial distress or experiencing a prolonged operational downturn, engage in a pattern of repeated reverse stock splits. The Exchange believes that such behavior is often indicative of deep financial or operational distress within such companies rendering them inappropriate for trading on the Exchange for investor protection reasons. In these situations, the Exchange has observed that the challenges facing such companies, generally, are not temporary and may be so severe that the company is not likely to regain compliance on a sustained basis.

The Exchange believes that it is consistent with the protection of investors and the public interest to delist any company that (i) has effected one or more reverse stock splits over the prior two-year period with a cumulative ratio of 200 shares or more to one or (ii) takes a deliberate action that causes it to fall below an Exchange listing standard, including as in the current proposal, the effectuation of a reverse split that causes a company to fall below a quantitative continued listing standard.

## 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 furthers the objectives of Section 6(b)(5) of the Act,<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 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

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

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

a national market system, and, in general, to protect investors and the public interest. Specifically, the Exchange believes that the proposal is consistent with the protection of investors and the public interest because it enhances the Exchange's listing requirements and limits the ability of listed companies with a history of having a low stock price to use reverse stock splits as a means to remain qualified for listing. In that regard, the Exchange has observed that the challenges facing such companies generally are not temporary and may be so severe that the company is not likely to remain compliant with Exchange listing standards after curing its low selling price by means of a reverse stock split. Moreover, the price concerns with these companies can be a leading indicator of other listing compliance concerns, and these companies often become subject to delisting for other reasons within a short period of time. The Exchange believes that it is consistent with the protection of investors and the public interest to immediately commence suspension and delisting procedures with respect to any company that (i) has effected one or more reverse stock splits over the prior two-year period with a cumulative ratio of 200 shares or more to one or (ii) takes a deliberate action that causes it to fall below an Exchange listing standard, including as in the current proposal, the effectuation of a reverse split that causes a company to fall below a quantitative continued listing standard.

The Exchange believes the proposed rule change furthers the objectives of Section 6(b)(7) of the Act<sup>7</sup> in that the Exchange continues to provide a fair procedure for companies subject to these enhanced listing requirements. Part 12 of the Company Guide provides that these companies can seek review of a delisting determination from the Committee for Review of the Board of Directors of the Exchange. As a result, the Exchange believes that the proposed rule

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<sup>7</sup> 15 U.S.C. 78f(b)(7).

appropriately balances the need for appropriate listing standards with the statutory requirement to protect investors and the public interest.

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>8</sup>

While the Exchange does not believe there will be any impact on competition from the proposed change, any impact on competition that does arise will be necessary to better protect investors, in furtherance of a central purpose of the Act.

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 protect investors and facilitate a fair and orderly market, which are both important purposes of the Act. To the extent that there is any impact on intermarket competition, it is incidental to these objectives.

The Exchange does not believe that the proposed rule change imposes a burden on intra-market competition because the provisions apply to all market participants and issuers on the Exchange equally.

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

Within 45 days of the date of publication of this notice in the Federal Register or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer

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

period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

- (A) by order approve or disapprove the proposed rule change, or
- (B) institute proceedings to determine whether the proposed rule change should be 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-NYSEAMER-2024-61 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-2024-61. 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-NYSEAMER-2024-61 and should be submitted on or before [INSERT DATE 21 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>9</sup>

**Sherry R. Haywood,**

*Assistant Secretary.*

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<sup>9</sup> 17 CFR 200.30-3(a)(12).