

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34- 88408; File No. SR-NYSE-2020-16)

March 18, 2020

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend Section 902.08 of the NYSE Listed Company Manual to Waive Initial Listing Fees and First Partial Year of Annual Listing Fees for NYSE Bonds Securities That List in Conjunction with Voluntary Delisting from a Regulated Foreign Exchange

Pursuant to Section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934 (the “Act”)<sup>2</sup> and Rule 19b-4 thereunder,<sup>3</sup> notice is hereby given that on March 5, 2020, New York Stock Exchange LLC (“NYSE” 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 amend Section 902.08 of the NYSE Listed Company Manual (the “Manual”) to waive initial listing fees and the first partial year of annual fees in relation to bonds listed in conjunction with their voluntary delisting from a regulated foreign exchange. 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.

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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.

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 Section 902.08 of the Manual to waive initial listing fees and the first partial year of annual fees in relation to NYSE Bonds Securities<sup>4</sup> listed in conjunction with their voluntary delisting<sup>5</sup> from a regulated foreign exchange. The proposed waiver is identical to a waiver currently applied under Section 902.08 in connection with the listing of NYSE Bonds Securities transferred from another national securities exchange.<sup>6</sup>

In adopting this waiver in relation to NYSE Bonds Securities whose listing was being transferred from another national securities exchange, the Exchange noted that companies transferring in mid-year would already have paid listing fees for that year to the exchange on

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<sup>4</sup> As defined in Section 902.08, NYSE Bonds Securities include structured products listed under Section 703.19 and traded on NYSE Bonds and all debt securities listed under Sections 102.03 and 103.05 (excluding non-listed debt of NYSE issuers and affiliate companies and domestic listed debt of issuers exempt from registration under the Act).

<sup>5</sup> A voluntary delisting for this purpose occurs where the securities in question are not subject to delisting on the foreign regulated exchange for any regulatory reason but are being delisted solely by the choice of the issuer.

<sup>6</sup> See Securities Exchange Act Release No. 87832 (December 20, 2019); 84 FR 72047 (December 30, 2019) (SR–NYSE–2019–63).

which they were previously listed and that the double payment the Exchange's initial listing fee and prorated annual fee would impose on them would impose a significant financial burden and act as a disincentive to transferring. The Exchange also noted that the proposed waivers were consistent with the approach taken by the NYSE itself and the other national securities exchanges with respect to the waiver of fees in connection with the transfer of common equity securities from another national securities exchange. As the Exchange competes with foreign regulated exchanges for the listing of bonds and structured products in the same way it competes with other national securities exchanges, the costs of initial listing and the potential duplication of fee payments in the first part year of listing on the NYSE represent a similar impediment to the Exchange successfully competing with foreign regulated exchanges for the transfer of the listing of those securities. As such, the Exchange believes it is appropriate to apply the same waivers in relation to issuers voluntarily delisting their securities from a regulated foreign exchange in connection with listing them on the Exchange for trading on NYSE Bonds.

The proposed rule change would not affect the Exchange's commitment of resources to its regulatory oversight of the listing process or its regulatory programs.

The Exchange also proposes to remove text from Section 902.08 that is no longer relevant as it ceased to be operative on January 1, 2020.

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,<sup>7</sup> in general, and furthers the objectives of Section 6(b)(4)<sup>8</sup> of the Act, in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other

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

<sup>8</sup> 15 U.S.C. 78f(b)(4).

charges. The Exchange also believes that the proposed rule change is consistent with Section 6(b)(5) of the Act,<sup>9</sup> in that it is designed 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 is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

#### The Proposed Change is Reasonable

The Exchange operates in a highly competitive marketplace for the categories of securities listed and traded on NYSE Bonds. The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets.

The Exchange believes that the ever shifting market share among the exchanges with respect to new listings and the transfer of existing listings between competitor exchanges demonstrates that issuers can choose different listing markets in response to fee changes. Accordingly, competitive forces constrain exchange listing fees. Stated otherwise, changes to exchange listing fees can have a direct effect on the ability of an exchange to compete for new listings and retain existing listings.

Given this competitive environment, the Exchange believes that the proposal to waive initial listing fees and the first year's prorated annual fees for NYSE Bonds Securities listing in conjunction with their voluntary delisting from a foreign regulated exchange is reasonable

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<sup>9</sup> 15 U.S.C. 78f(b)(5).

because the cost of paying listing fees to both the NYSE and the predecessor exchange imposes a significant financial burden and acts as a disincentive to transferring.

The Proposal is an Equitable Allocation of Fees

The Exchange believes that the waiver of initial listing fees and the prorated annual fee for the first year of listing for NYSE Bonds Securities listing 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 not to 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.

The proposed removal of text relating to fees that are no longer applicable is ministerial in nature and has no substantive effect.

For the foregoing reasons, the Exchange believes that the proposal is consistent with the Act.

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 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.

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 can impose 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 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)<sup>10</sup> of the Act and subparagraph (f)(2) of Rule 19b-4<sup>11</sup> 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

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<sup>10</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>11</sup> 17 CFR 240.19b-4(f)(2).

Commission shall institute proceedings under Section 19(b)(2)(B)<sup>12</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 e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-NYSE-2020-16 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-2020-16. This file number should be included on the subject line if e-mail 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

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

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-NYSE-2020-16 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

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

J. Matthew DeLesDernier  
Assistant Secretary

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<sup>13</sup> 17 CFR 200.30-3(a)(12).