

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-93399; File No. SR-NYSE-2021-62)

October 21, 2021

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend the NYSE Proprietary Market Data Fee Schedule

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 October 14, 2021, 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 the NYSE Proprietary Market Data Fee Schedule (“Market Data Fee Schedule”) to delete reference to the NYSE Alerts market data product and associated fees from the Market Data Fee Schedule effective immediately. 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

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

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 to amend the Market Data Fee Schedule to delete reference to the NYSE Alerts market data product and associated fees from the Market Data Fee Schedule effective immediately.

In 2004, pursuant to Securities and Exchange Commission approval, the Exchange adopted the NYSE Alerts market data product.⁴ In 2019, the Exchange discontinued offering the NYSE Alerts market data product.⁵ As a result, reference on the Market Data Fee Schedule to the NYSE Alerts market data product and fees associated with the NYSE Alerts market data product have both become obsolete. Therefore, the Exchange proposes to remove reference to NYSE Alerts and fees associated with NYSE Alerts from the Market Data Fee Schedule. The

⁴ See Securities Exchange Act Release No. 50844 (Dec. 13, 2004), 69 FR 76806 (Dec. 22, 2004) (SR-NYSE-2004-53) (Order Granting Approval to Proposed Rule Change and Amendment Nos. 1 and 2 Relating to a Fee for the NYSE Alerts Datafeed); see also Securities Exchange Act Release No. 50639 (November 5, 2004), 69 FR 65488 (November 12, 2004) (Notice of Filing of Proposed Rule Change and Amendment Nos. 1 and 2 by New York Stock Exchange, Inc. Relating to a Fee for the NYSE Alerts Datafeed). In 2016, the Exchange adopted a multiple data feed fee for NYSE Alerts. See Securities Exchange Act Release No. 76972 (Jan. 26, 2016), 81 FR 5143 (Feb. 1, 2016) (SR-NYSE-2016-08) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Amending the Fees for NYSE Order Imbalances and NYSE Alerts).

⁵ See Securities Exchange Act Release No. 86492 (Jul. 26, 2019), 84 FR 37702 (Aug. 1, 2019) (SR-NYSE-2019-42) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Discontinue the NYSE Alerts Market Data Product Offering).

proposed rule change is intended to streamline the Market Data Fee Schedule by eliminating obsolete rule text.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,⁶ in general, and furthers the objectives of Sections 6(b)(4) and (5) of the Act,⁷ 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 believes that the proposed rule change would remove impediments to and perfect the mechanism of a free and open market and a national market system because it would eliminate rule text that is now obsolete, thereby improving the clarity of the Exchange's rules and enabling market participants to more easily navigate the Market Data Fee Schedule. The Exchange also believes that the proposed change would protect investors and the public interest because the deletion of obsolete text would make the Market Data Fee Schedule more accessible and transparent and facilitate market participants' understanding of the fees charged for services currently offered by the Exchange. The Exchange believes the proposed rule change is reasonable because it would streamline the Market Data Fee Schedule by deleting obsolete rule text. The Exchange believes deleting obsolete rule text would promote clarity to the Fee Schedule and reduce confusion to market participants as to which fees are applicable to them.

The Exchange believes deleting obsolete rule text would also simplify the Market Data Fee Schedule. The Exchange believes that deleting obsolete rule text from the Market Data Fee

⁶ 15 U.S.C. 78f(b).

⁷ 15 U.S.C. 78f(b)(4) and (5).

Schedule is equitable and not unfairly discriminatory because the resulting streamlined Market Data Fee Schedule would continue to apply to all market participants as it does currently because the Exchange is not adopting any new fees or removing any current fees from the Market Data Fee Schedule. All market participants would continue to be subject to the same fees that currently apply to them.

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

In accordance with Section 6(b)(8) of the Act,⁸ the Exchange believes that the proposed rule change would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Instead, as discussed above, the proposal relates solely to elimination of obsolete fees and, as such, would not have any impact on intra- or inter-market competition because the proposed change is solely designed to accurately reflect the services that the Exchange currently offers, thereby adding clarity to the Market Data Fee Schedule.

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)⁹ of the Act and subparagraph (f)(2) of Rule 19b-4¹⁰ thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

⁸ 15 U.S.C. 78f(b)(8).

⁹ 15 U.S.C. 78s(b)(3)(A).

¹⁰ 17 CFR 240.19b-4(f)(2).

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)¹¹ 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. Please include File Number SR-NYSE-2021-62 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-2021-62. 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

¹¹ 15 U.S.C. 78s(b)(2)(B).

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-NYSE-2021-62 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.¹²

J. Matthew DeLesDernier
Assistant Secretary

¹² 17 CFR 200.30-3(a)(12).