

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-93802; File No. SR-NYSE-2021-72)

December 16, 2021

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change for Non-Substantive Conforming Changes to Rule 18

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 December 9, 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 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 proposes non-substantive conforming changes to Rule 18. 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 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

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

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 non-substantive conforming changes to Rule 18 (Compensation in Relation to Exchange System Failure).

Earlier this year, the Exchange eliminated member and non-member employee Floor Officials and transited the duties and responsibilities of Floor Officials to newly created Trading Officials, who are Exchange employees appointed by the NYSE CEO or his or her designee.⁴ As part of this change, the Exchange amended, among other rules, Rule 18, which sets forth the process for member organizations to seek reimbursement for losses resulting from system failures. Specifically, former Rule 18(d) established a Compensation Review Panel consisting of three Floor Governors and three Exchange employees to determine the eligibility of a claim for payment. Since elimination of Floor Governors left Exchange employees as the sole members of the Compensation Review Panel, the Exchange eliminated the Compensation Review Panel and amended Rule 18(d) to provide that the Exchange will review claims submitted pursuant to Rule 18 and determine eligibility of a claim for payment.⁵

As part of that filing, the Exchange inadvertently failed to amend subsections (e) and (f) of Rule 18, which describe the workings of the Compensation Review Panel, as well the deleting the references to the Compensation Review Panel in subsections (c) and (d) of Supplementary

⁴ See Securities Exchange Act Release No. 92193 (June 16, 2021), 86 FR 33001 (June 23, 2021) (SR-NYSE-2020-105) (Order).

⁵ See *id.*, 86 FR at 33002. As described in the previous filing, claims under Rule 18(d) would continue to be validated and reviewed by Exchange employees but retention of the Compensation Review Panel was unnecessary given that elimination of Floor Officials, which would leave the panels composed solely of Exchange employees.

Material .10, which governs Rule 18 claims by the Exchange’s affiliate NYSE American LLC. The Exchange accordingly proposes the following conforming changes to Rule 18.

Rule 18(e) provides that Compensation Review Panel determinations are by majority vote and that in the event of a deadlock the final determination will be made by the Chief Executive Officer of the Exchange (“CEO”) or his or her designee. Consistent with the previous filing, the Exchange proposes to delete subsection (e) as obsolete. Current subsection (f), which provides that all determinations made pursuant to Rule 18 by the Compensation Review Panel, the CEO or his or her designee are final, would become new subsection (e). The phrase “the Compensation Review Panel, the CEO or his or her designee” in subsection (f) would also be deleted. Proposed Rule 18(f) would accordingly provide that all determinations made pursuant to the Rule are final. Finally the references to Compensation Review Panel in subsections (c) and (d) of Supplementary Material .10 would be replaced with the Exchange.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act,⁶ in general, and furthers the objectives of Section 6(b)(5),⁷ 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.

In particular, the Exchange believes that the proposed non-substantive conforming changes would remove impediments to and perfect the mechanism of a free and open market and

⁶ 15 U.S.C. 78f(b).

⁷ 15 U.S.C. 78f(b)(5).

a national market system and, in general, protect investors and the public interest because the proposed non-substantive changes would add clarity, transparency and consistency to the Exchange's rules. The Exchange believes that market participants would benefit from the increased clarity, thereby reducing potential confusion and ensuring that persons subject to the Exchange's jurisdiction, regulators, and the investing public can more easily navigate and understand the Exchange's rules.

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. The proposed rule change is not intended to address competitive issues but is rather concerned with making non-substantive conforming changes to the Exchange rules. Since the proposal does not substantively modify system functionality or processes on the Exchange, the proposed changes will not impose any burden on 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

Because the foregoing 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 for 30 days after the date of the filing, or such shorter time as the

Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act⁸ and Rule 19b-4(f)(6)⁹ thereunder.

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 under Section 19(b)(2)(B)¹⁰ of the Act to determine whether the proposed rule 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-2021-72 on the subject line.

Paper comments:

- Send paper comments in triplicate to: Secretary, Securities and Exchange Commission,

⁸ 15 U.S.C. 78s(b)(3)(A).

⁹ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file 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.

¹⁰ 15 U.S.C. 78s(b)(2)(B).

100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-NYSE-2021-72. 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 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-2021-72 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.¹¹

J. Matthew DeLesDernier
Assistant Secretary

¹¹ 17 CFR 200.30-3(a)(12).