

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-99592; File No. SR-NYSE-2024-07)

February 23, 2024

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend its Price List

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 February 12, 2024, 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 to amend its Price List to eliminate obsolete Crossing Session pricing. 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 C below, of the most significant parts of such statements.

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

A. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this filing is to eliminate obsolete Crossing Session I (“CS I”) and Crossing Session II (“CS II”) pricing.

The Exchange proposes to implement these changes to its Price List effective February 12, 2024.

Background

CS I permitted execution, at the Exchange’s closing price, of single-stock, single-sided closing price orders and crosses of single-stock, closing price buy and sell orders. The Exchange did not charge for CS I executions. CS I was eliminated in 2009.⁴

CS II ran on the Exchange from 4:00 p.m. to 6:30 p.m. Eastern Time and handled member organization crosses of baskets of securities of aggregate-priced buy and sell orders.⁵ Currently, the Exchange charges a fee of \$0.0004 per share (both sides) for executions in CS II. Fees for executions in CS II are capped at \$300,000 per month per member organization. In

⁴ In 2009, in connection with certain technology upgrades and the launch of NYSE MatchPoint, an electronic equity-trading facility that was later decommissioned, the Exchange eliminated all CS I order types and migrated that business to NYSE MatchPoint. See Securities Exchange Act Release No. 59570 (March 12, 2009), 74 FR 11800, 11800-01 (March 19, 2009) (SR-NYSE-2009-28) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Amending NYSE Rules 13, 902, 903, 904, 905 and Rule 906 To Eliminate Certain Order Types From the Off-Hours Trading Facility). Aggregate-priced coupled orders were retained in Rules 900-907, which were the rules governing the Exchange’s Off-Hours Trading Facility at the time. As noted below, aggregate-priced coupled orders were entered and executed in CS II. See *id.*, at 11801, n. 8. Rules 900-907 were deleted in 2022 and replaced by current NYSE Rule 7.39. See Securities Exchange Act Release No. 95498 (August 12, 2022), 87 FR 50906, 50906-07 (August 18, 2022) (SR-NYSE-2022-37) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Adopt a New Rule 7.39 and Delete Current Rules 900-907). See also notes 4 & 5, infra.

⁵ See NYSE Rule 7.39.

2023, the Exchange determined to cease offering CS II and decommissioned the Off-Hours Trading Facility, effective January 31, 2024. The Exchange announced the implementation date by Trader Update.⁶

Proposed Rule Change

The Exchange proposes to delete CS I and II fee pricing in its entirety. Both crossing sessions are no longer operative. As noted above, CS I was eliminated in 2009 and CS II was decommissioned at the end of January 2024. Since the Exchange no longer offers after hours crossing sessions, the Exchange proposes to delete the section of the Price List titled “Crossing Sessions I and II” in its entirety as obsolete.

The proposed changes are not otherwise intended to address any other issues, and the Exchange is not aware of any problems that member organizations would have in complying with the proposed change.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,⁷ in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,⁸ 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.

⁶ On June 30, 2023, the Exchange announced that it would cease offering CS II and decommission the Off-Hours Trading Facility on December 29, 2023. On August 3, 2023, the Exchange announced that it would cease offering CS II and decommission the Off-Hours Trading Facility on January 31, 2024. In connection with the effective decommissioning of the Off-Hours Trading Facility, the Exchange recently filed with the Commission to delete Rule 7.39. See SR-NYSE-2024-06. See generally note 4, supra.

⁷ 15 U.S.C. 78f(b).

⁸ 15 U.S.C. 78f(b)(4) & (5).

The Proposed Change Is Reasonable

The Exchange believes that the proposed elimination of crossing session fees is reasonable because the fees are no longer being charged. The Exchange believes it is reasonable to delete obsolete fees from the Price List because it would streamline the Price List and reduce confusion as to which fees are applicable on the Exchange. The Exchange believes that amending the Price List to remove fees that are no longer charged would promote the protection of investors and the public interest because it would promote clarity and transparency in the Price List, thereby enabling market participants to navigate the Exchange's Price List more easily.

The Proposal Is an Equitable Allocation of Fees

The Exchange believes the proposal equitably allocates fees among its market participants because the obsolete crossing session fees that the Exchange proposes to eliminate would be eliminated in their entirety, and would no longer be available to any member organization in any form. Similarly, the Exchange believes the proposal equitably allocates fees among its market participants because elimination of obsolete fees would apply to all similarly-situated member organizations on an equal basis. All such member organizations would continue to be subject to the same fee structure, and access to the Exchange's market would continue to be offered on fair and nondiscriminatory terms.

The Proposal Is Not Unfairly Discriminatory

The Exchange believes that the proposal is not unfairly discriminatory because it neither targets nor will it have a disparate impact on any particular category of market participant. The Exchange believes that the proposal is not unfairly discriminatory because the proposed elimination of the obsolete fees would affect all similarly-situated market participants on an

equal and non-discriminatory basis. The Exchange believes that eliminating obsolete fees would no longer be available to any member organization on an equal basis. The Exchange also believes that the proposed change would protect investors and the public interest because the deletion of obsolete fees would make the Price List more accessible and transparent and facilitate market participants' understanding of the fees charged for services currently offered by the Exchange.

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.

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,⁹ 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 an obsolete crossing session 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 Price List.

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.

⁹ 15 U.S.C. 78f(b)(8).

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)¹⁰ of the Act and subparagraph (f)(2) of Rule 19b-4¹¹ thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

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)¹² 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 (<https://www.sec.gov/rules/sro.shtml>);
- or
- Send an email to rule-comments@sec.gov. Please include file number SR-NYSE-2024-07 on the subject line.

Paper Comments:

¹⁰ 15 U.S.C. 78s(b)(3)(A).

¹¹ 17 CFR 240.19b-4(f)(2).

¹² 15 U.S.C. 78s(b)(2)(B).

- 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-2024-07. 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-NYSE-2024-07 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.¹³

Sherry R. Haywood,
Assistant Secretary.

¹³ 17 CFR 200.30-3(a)(12).