SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-95296; File No. SR-NYSEAMER-2022-29)

July 15, 2022

Self-Regulatory Organizations; NYSE American LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend Rule 952NY

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 ("Act")[2] and Rule 19b-4 thereunder,[3] notice is hereby given that on July 7, 2022, NYSE American LLC ("NYSE American" 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 proposal to amend Rule 952NY (Opening Process) regarding the option for ATP Holders to instruct the Exchange to cancel Marketable orders if a series is not opened within a specified time period. 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

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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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Rule 952NY (Opening Process) regarding the option for ATP Holders to instruct the Exchange to cancel Marketable[4] orders if a series is not opened within a specified time period. Specifically, the Exchange proposes to exclude Good-Til-Cancelled (GTC) Orders.[5]

Rule 952NY sets forth the Exchange's process for opening and reopening a series for trading. Rule 952NY(d) provides ATP Holders with an option to instruct the Exchange to cancel their Marketable orders if an option series has not been opened within a specified time period.[6] Per subparagraph (d) to Rule 952NY, an ATP Holder has the option to instruct the Exchange to cancel all Marketable orders in a series, including GTC Orders, if that series has not opened within a designated time period after the Exchange receives notification that the primary market for the underlying security has disseminated a quote and a trade that is at or within the quote.

4 The term "Marketable" is defined in Rule 900.2NY(39) to mean, for a Limit Order, the price matches or crosses the NBBO on the other side of the market and that market orders are always considered marketable.

5 See Rule 900.3NY(n) (defining GTC Orders as "[a]n order to buy or sell that remains in force until the order is filled, cancelled or the option contract expires; provided, however, that GTC Orders will be cancelled in the event of a corporate action that results in an adjustment to the terms of an option contract").

6 The Exchange announced on February 17, 2022, that the applicable time period utilized during the Opening Process would be two seconds, as announced here: https://www.nyse.com/trader-update/history#110000412424.

Because the current rule explicitly includes GTC Orders, once an ATP Holder opts to utilize the "bulk" cancellation feature provided by Rule 952NY(d), this feature also applies to its GTC Orders. The Exchange specifically included GTC Orders when it adopted the "bulk" cancellation feature in Rule 952NY(d) to make clear to market participants that such order would be included in that functionality.

The Exchange now proposes to modify paragraph (d) to Rule 952NY to explicitly exclude GTC Orders on the basis that such orders are designed to remain in force until executed or specifically cancelled by the order sender. The Exchange believes this proposal would take into account that GTC Order senders tend to be more focused on obtaining an execution thus are willing to wait for the opening of a series rather than cancelling their order. As such, the proposed change would allow the GTC instructions to persist rather than be included in the "bulk cancel" under this paragraph (i.e., persist until executed or specifically cancelled by the GTC order sender). The Exchange believes this proposed treatment is consistent with the properties of the order type and the intentions of market participants who utilize GTC Orders, which intent is for an (eventual) execution unless cancelled. This does not mean, however, that such orders cannot be cancelled if a series has not opened per Rule 952NY(d). Rather, ATP Holders (whether they utilize this optional "bulk" cancel functionality or not) would still have the option to submit specific requests to cancel certain (or all) of its GTC Orders themselves if a series has not opened on the Exchange per Rule 952NY(d).

The Exchange will announce via Trader Update when this proposed rule change would be implemented, which, subject to effectiveness of this proposed rule change, the Exchange anticipates will be in early August 2022, but no later than September 2022.

2. Statutory Basis

For the reasons set forth above, the Exchange believes the proposed rule change is consistent with Section 6(b) of the Act[7] in general, and furthers the objectives of Section 6(b)(5) of the Act,[8] in that it is designed to promote just and equitable principles of trade, 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.

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 is designed to exclude GTC Orders from the bulk cancel operation of Rule 952NY(d), which would allow the GTC instructions to persist rather than be included in the "bulk cancel" under this paragraph (i.e., persist until executed or specifically cancelled by the GTC order sender). The Exchange believes this proposal would take into account that GTC Order senders tend to be more focused on obtaining an execution thus are willing to wait for the opening of a series rather than cancelling their order. As such, the Exchange believes this proposed treatment is consistent with the properties of the order type and the intentions of market participants who utilize GTC Orders, which intent is for an (eventual) execution unless cancelled. This does not mean, however, that such orders cannot be cancelled if a series has not opened per Rule 952NY(d). Rather, ATP Holders (whether they utilize this optional "bulk" cancel functionality or not) would still have the option to submit specific requests to cancel certain (or all) of its GTC Orders themselves if a series has not opened on the Exchange per Rule 952NY(d).

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7 15 U.S.C. 78f(b).

8 15 U.S.C. 78f(b)(5).

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 Exchange does not believe the proposed rule change would impose any burden on intermarket competition, as the proposed rule change is designed to exclude GTC Orders from the bulk cancel operation of Rule 952NY(d), which would allow the GTC instructions to persist rather than be included in the "bulk cancel" under this paragraph (i.e., persist until (eventually) executed or specifically cancelled by the GTC order sender). ATP Holders would still have the option to submit specific requests to cancel certain (or all) of its GTC Orders themselves if a series has not opened on the Exchange per Rule 952NY(d).

The Exchange does not believe that the proposed rule change would impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because the proposed rule change relates to the exclusion of GTC Orders from optional functionality, which functionality ATP Holders are not required to utilize.

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 Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[9] and Rule 19b-4(f)(6) thereunder.[10] 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 from the date on which

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9 15 U.S.C. 78s(b)(3)(A)(iii).

10 17 CFR 240.19b-4(f)(6).

it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act[11] and subparagraph (f)(6) of Rule 19b-4 thereunder.[12]

A proposed rule change filed under Rule 19b-4(f)(6)[13] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),[14] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange asked that the Commission waive the 30 day operative delay so that the proposal may become operative immediately upon filing. The Exchange states that such waiver would be consistent with the protection of investors and the public interest because the proposed rule change would allow GTC Orders to be treated in a manner that is consistent with the properties of the order type and the intentions of market participants who utilize GTC Orders. Market participants continue to be able to decide when their GTC Orders should be canceled. For these reasons, the Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Therefore, the Commission hereby waives the 30-day operative delay and designates the proposed rule change as operative upon filing.[15]

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[11] 15 U.S.C. 78s(b)(3)(A)(iii).

[12] 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of 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.

[13] 17 CFR 240.19b-4(f)(6).

[14] 17 CFR 240.19b-4(f)(6)(iii).

[15] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

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 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-NYSEAMER-2022-29 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-2022-29. 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, D.C. 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-NYSEAMER-2022-29 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.[16]

J. Matthew DeLesDernier,
Assistant Secretary.

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[16] 17 CFR 200.30-3(a)(12).