

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-101676; File No. SR-NYSEAMER-2024-72)

November 21, 2024

Self-Regulatory Organizations; NYSE American LLC; Notice of Filing and Immediate Effectiveness of Proposed Change to harmonize NYSE American Rule 4530

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 November 12, 2024, 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, 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 harmonize NYSE American Rule 4530 (Reporting Requirements) with certain changes by the Financial Industry Regulatory Authority, Inc. (“FINRA”) to FINRA Rule 4530. 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

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

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 harmonize NYSE American Rule 4530 (Reporting Requirements) with certain changes by FINRA to FINRA Rule 4530.⁴

Background and Proposed Rule Change

NYSE American Rule 4530 requires member organizations to promptly report to the Exchange specified events, such as statutory disqualifications and quarterly statistical and summary information regarding written customer complaints. The Exchange adopted the text of FINRA Rule 4530 in 2011 to replace comparable provisions in its legacy reporting Rule 351.⁵

In 2013, FINRA amended Rule 4530(e) to provide an exception from the reporting requirement for information disclosed on the Form U4 (Uniform Application for Securities Industry Registration or Transfer) in order to avoid duplicative reporting.⁶ In addition, in 2013, FINRA added Supplementary Material .10 to FINRA Rule 4530 to provide that, for purposes of

⁴ This proposed change aligns with NYSE Rule 4530, which was recently updated to conform with FINRA 4530 regarding Reporting Requirements. See Securities Exchange Act Release No. 100168 (May 17, 2024), 89 FR 45712 (May 23, 2024) (SR-NYSE-2024-28). See also NYSE Rule 4530.

⁵ See Securities Exchange Act Release No. 64784 (June 30, 2011), 76 FR 39947 (July 7, 2011) (SR-NYSEAMEX-2011-42). FINRA Rule 4530, adopted in 2010, was modeled after NYSE American Rule 351(a)-(d) and NASD Rule 3070. See Securities Exchange Act Release No. 63260 (November 5, 2010), 75 FR 69508 (November 12, 2010) (SR-FINRA-2010-034). See also Securities Exchange Act Release No. 64560 (May 27, 2011), 76 FR 32246 (June 3, 2011) (SR-FINRA-2011-024).

⁶ See Securities Exchange Act Release No. 68701 (January 18, 2013), 78 FR 5532 (January 25, 2013) (SR-FINRA-2013-006) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to FINRA Rule 4530 (Reporting Requirements)).

FINRA Rules 4530(a)(1)(A), (C) and (D) only, members are not required to report findings and actions by FINRA.⁷

In 2015, FINRA again amended FINRA Rule 4530 to provide an exception from the reporting requirements of paragraph (a)(1)(H) of the rule for dealings with a member or associated person subject to statutory disqualification, if that member or associated person has been approved (or is otherwise permitted pursuant to FINRA rules and the federal securities laws) to be a member or to be associated with a member.⁸

The Exchange proposes to incorporate each of these amendments into NYSE American Rule 4530, as follows.

NYSE American Rule 4530(a)(1)(H)

NYSE American Rule 4530(a)(1)(H) requires member organizations to promptly report whenever the member organization or an associated person of the member organization is subject to a “statutory disqualification” as defined in the Act.⁹ The rule also requires a member organization to report whenever the member organization or an associated person thereof is involved in the sale of any financial instrument, the provision of any investment advice or the financing of any such activities with any person that is subject to a “statutory disqualification” as defined in the Act. The report must include the name of the person subject to the statutory disqualification and details concerning the disqualification.

⁷ See id. FINRA Rule 4530(a)(1)(A) requires a member to report external findings regarding the member or an associated person. FINRA Rules 4530(a)(1)(C) and (D) require a member to report regulatory actions against the member or an associated person. FINRA Rules 4530(a)(1)(A), (C) and (D) do not expressly exclude findings and actions by FINRA. See generally id. NYSE American Rules 4530(a)(1)(A), (C) and (D) are virtually identical to the FINRA rules.

⁸ See Securities Exchange Act Release No. 74953 (May 13, 2015), 80 FR 28740 (May 19, 2015) (SR–FINRA–2015–011) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to the Reporting Requirements of FINRA Rule 4530(a)(1)(H)).

⁹ See 15 U.S.C. 78c(a)(39).

The Exchange proposes, consistent with current FINRA Rule 4530(a)(1)(H), to exclude activities with a disqualified member or associated person that has been approved (or is otherwise permitted pursuant to FINRA rules and the federal securities laws) to be a member organization or associated with a member organization. To effectuate this change, the Exchange proposes to add the following deletions (bracketed) and additions (italicized) to NYSE American Rule 4530(a)(1)(H):

(H) is (i) subject to a “statutory disqualification” as that term is defined in the Exchange Act[,] or [is](ii) involved in the sale of any financial instrument, the provision of any investment advice or the financing of any such activities with any person [who]that is[,] subject to a “statutory disqualification” as that term is defined in the Exchange Act, provided, however, that this requirement shall not apply to activities with a member organization or an associated person that has been approved (or is otherwise permitted pursuant to Exchange rules and the federal securities laws) to be a member organization or to be associated with a member organization. The report shall include the name of the person subject to the statutory disqualification and details concerning the disqualification; or

With the exception of conforming changes reflecting the Exchange’s membership, the proposed text is identical to FINRA’s counterpart rule.

NYSE American Rule 4530(e)

NYSE American Rule 4530(e) currently provides that a member organization is not required to report a specified event under the rule if it reports that event on the Form U5 (Uniform Termination Notice for Securities Industry Registration), consistent with the requirements of that form. The exception does not extend to the reporting of quarterly statistical

and summary customer complaint information under the rule. In order to eliminate duplicative reporting of information disclosed on a Form U4, and consistent with FINRA's current rule, the Exchange proposes to provide a similar exception for certain specified events reported on the Form U4. To effectuate this change, the Exchange proposes to add the following deletions (bracketed) and additions (italicized) to NYSE American Rule 4530(e):

(e) Nothing contained in this Rule shall eliminate, reduce or otherwise abrogate the responsibilities of a member organization or person associated with a member organization to promptly disclose required information on the Forms BD, U4 or U5, as applicable, to make any other required filings or to respond to the Exchange with respect to any customer complaint, examination or inquiry. In addition, member organizations are required to comply with the reporting obligations under paragraphs (a), (b) and (d) of this Rule, regardless of whether the information is reported or disclosed pursuant to any other rule or requirement, including the requirements of the Form[s] BD [or U4]. However, a member organization need not report an event otherwise required to be reported under (1) paragraph (a)(1) of this Rule if the member organization discloses the event on the Form U4, consistent with the requirements of that form, and indicates, in such manner and format that the Exchange may require, that such disclosure satisfies the requirements of paragraph (a)(1) of this Rule, as applicable; or (2) paragraphs (a) or (b) of this Rule if the member organization discloses the event on the Form U5, consistent with the requirements of that form.

With the exception of conforming changes reflecting the Exchange's membership, the proposed text is identical to FINRA's counterpart rule.

NYSE American Rule 4530, Supplementary Material .11

Finally, the Exchange proposes to adopt the text of FINRA Rule 4530, Supplementary Material .10, as new NYSE American Rule 4530, Supplementary Material .11.

NYSE American Rule 4530(a)(1)(A) requires a member organization to report that the member organization or an associated person has been found to have violated any securities-, insurance-, commodities-, financial- or investment-related laws, rules, regulations or standards of conduct of any domestic or foreign regulatory body, self-regulatory organization or business or professional organization.

NYSE American Rule 4530(a)(1)(C) requires a member organization to report that the member organization or an associated person thereof has been named as a defendant or respondent in any proceeding brought by a domestic or foreign regulatory body or self-regulatory organization alleging the violation of any provision of the Act, or of any other federal, state or foreign securities, insurance or commodities statute, or of any rule or regulation thereunder, or of any provision of the by-laws, rules or similar governing instruments of any securities, insurance or commodities domestic or foreign regulatory body or self-regulatory organization.

Finally, NYSE American Rule 4530(a)(1)(D) requires a member organization to report that the member organization or associated person thereof has been denied registration or is expelled, enjoined, directed to cease and desist, suspended or otherwise disciplined by any securities, insurance or commodities industry domestic or foreign regulatory body or self-regulatory organization or is denied membership or continued membership in any such self-regulatory organization; or is barred from becoming associated with any member organization of any such self-regulatory organization.

Since NYSE American Rules 4530(a)(1)(A), (C) and (D) do not expressly exclude findings and actions by the Exchange or FINRA, the Exchange proposes to add the following new Supplementary Material .11 to NYSE American Rule 4530 (additions italicized):

.11 For purposes of paragraphs (a)(1)(A), (C) and (D) of this Rule only, member organizations are not required to report findings and actions by the Exchange or by FINRA.

With the exception of adding findings and actions by the Exchange, the proposed Supplementary Material .11 to NYSE American Rule 4530 is identical to FINRA Rule 4530.10.

Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act,¹⁰ in general, and furthers the objectives of Section 6(b)(5),¹¹ 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.

The Exchange believes that the proposed rule changes support the objectives of the Act by eliminating unnecessary reporting of information to the Exchange and allowing the Exchange to use its resources more efficiently. The Exchange believes that harmonizing Exchange rules modeled on FINRA's rules would result in less burdensome and more efficient regulatory compliance without compromising the regulatory information available to the Exchange. As previously noted, except for changes reflecting the Exchange's membership, the proposed

¹⁰ 15 U.S.C. 78f(b).

¹¹ 15 U.S.C. 78f(b)(5).

additional text for NYSE American Rule 4530 is identical to the text in FINRA Rule 4530. As such, the proposed rule change would facilitate rule harmonization among self-regulatory organizations with respect to the reporting requirements, thereby fostering cooperation and coordination with persons engaged in facilitating transactions in securities and will remove impediments to and perfect the mechanism of a free and open market and a national market system.

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 rather would reduce potential compliance burdens on member organizations by eliminating potentially duplicative information under NYSE American Rule 4530. Specifically, the proposed rule change would reduce potential compliance burdens on firms by eliminating the requirements under NYSE American Rule 4530(a)(1)(H) to report to the Exchange each instance where a member organization or an associated person is involved in a financial activity with a disqualified member organization or associated person that has been approved or is otherwise permitted to be a member organization or associated with a member organization. Similarly, the proposed amendment to NYSE American Rule 4530(e) to provide an exception for information disclosed on the Form U4 will eliminate the burden on member organizations of having to report the same event twice. Finally, the addition of Supplementary Material .11 to NYSE American Rule 4530 eliminates the burden on member organizations of having to report findings and actions by the Exchange or by FINRA for purposes of NYSE American Rules 4530(a)(1)(A), (C) and (D).

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 Act¹² and Rule 19b-4(f)(6) thereunder.¹³ Because the 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 prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b-4(f)(6)(iii) thereunder.¹⁴

A proposed rule change filed under Rule 19b-4(f)(6)¹⁵ normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),¹⁶ the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest.

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

¹² 15 U.S.C. 78s(b)(3)(A)(iii).

¹³ 17 CFR 240.19b-4(f)(6).

¹⁴ 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.

¹⁵ 17 CFR 240.19b-4(f)(6).

¹⁶ 17 CFR 240.19b-4(f)(6)(iii).

Commission shall institute proceedings under Section 19(b)(2)(B)¹⁷ 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-NYSEAMER-2024-72 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-2024-72. 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

¹⁷ 15 U.S.C. 78s(b)(2)(B).

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-NYSEAMER-2024-72 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.¹⁸

Sherry R. Haywood,

Assistant Secretary.

¹⁸ 17 CFR 200.30-3(a)(12).