

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-79639; File No. SR-NYSE-2016-88)

December 21, 2016

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Adopt a Trading License Fee for Calendar Year 2017

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on December 15, 2016, the New York Stock Exchange LLC (“NYSE” or “Exchange”) filed with the Securities and Exchange Commission (“SEC” or “Commission”) the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. 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 adopt a trading license fee for calendar year 2017. The Exchange proposes to make the rule change operative on January 3, 2017. The proposed rule change is available on the Exchange’s website at [www.nyse.com](http://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 Exchange 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 these statements may be examined at the places specified in

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<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects 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 its Price List to adopt a trading license fee for calendar year 2017. The Exchange proposes to make the rule change operative on January 3, 2017.

NYSE Rule 300(b) provides that, in each annual offering, up to 1366 trading licenses for the following calendar year will be sold annually at a price per trading license to be established each year by the Exchange pursuant to a rule filing submitted to the Securities and Exchange Commission (“Commission”) and that the price per trading license will be published each year in the Exchange’s price list.

The Exchange proposes to leave the current trading license fee in place for 2017: \$50,000 for the first license held by a member organization and no charge for additional licenses held by a member organization. Such trading license fees have been in place since July 1, 2016.<sup>3</sup> Fees will continue to be prorated for any portion of the year that a license may be outstanding. For a trading license that is in place for 10 calendar days or less in a calendar month, proration for that month will continue to be at a flat rate of \$100 per day with no tier pricing involved. For a trading license that is in place for 11 calendar days or more in a calendar month, proration for that month will continue to be computed based on the number of days as applied to the applicable annual fee for the license.

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<sup>3</sup> See Securities Exchange Act Release No. 78233 (July 6, 2016), 81 FR 45190 (July 12, 2016) (SR-NYSE-2016-47).

The proposed changes are not otherwise intended to address any other problem, and the Exchange is not aware of any significant problem that the affected market participants would have in complying with the proposed changes.

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,<sup>4</sup> in general, and Section 6(b)(4) of the Act,<sup>5</sup> in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among its members and other persons using its facilities. The Exchange believes that the trading license fee is reasonable because it maintains the existing fee schedule, which has been in place since July 1, 2016. The Exchange also believes that the proposal to maintain the current fee schedule is equitable and not unfairly discriminatory because all similarly situated member organizations would continue to be subject to the same trading license fee structure and because access to the Exchange's market would continue to be offered on fair and non-discriminatory terms. The Exchange also believes that the proposal to maintain the current fee schedule is equitable and not unfairly discriminatory because all member organizations would continue to have the opportunity to enjoy the benefits of the fee relief with respect to additional trading licenses.

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 Exchange Act.

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<sup>4</sup> 15 U.S.C. 78f(b).

<sup>5</sup> 15 U.S.C. 78f(b)(4).

**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 will keep trading license fees the same as they have been since July 1, 2016. As a result, the Exchange does not believe that the proposed rule change will place an unreasonable burden on current members because their trading license fees will remain the same. In addition, the Exchange does not believe that the proposed rule change will place an unreasonable burden on potential members because a potential member's fees will be the same as for a current member and pro-rated for licenses held for less than a year.

Finally, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive or rebate opportunities available at other venues to be more favorable. In such an environment, the Exchange must continually adjust its fees and rebates to remain competitive with other exchanges and with alternative trading systems that have been exempted from compliance with the statutory standards applicable to exchanges. Because competitors are free to modify their own fees and credits in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited. As a result of all of these considerations, the Exchange does not believe that the proposed changes will impair the ability of member organizations or competing order execution venues to maintain their competitive standing in the financial markets.

**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)<sup>6</sup> of the Act and subparagraph (f)(2) of Rule 19b-4<sup>7</sup> 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: (i) necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) 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](mailto:rule-comments@sec.gov). Please include File Number SR-NYSE-2016-88 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.

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<sup>6</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>7</sup> 17 CFR 240.19b-4(f)(2).

All submissions should refer to File Number SR-NYSE-2016-88. 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; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NYSE-2016-88 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.<sup>8</sup>

Eduardo A. Aleman  
Assistant Secretary

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<sup>8</sup> 17 CFR 200.30-3(a)(12).