

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-86784; File No. SR-NYSE-2019-45)

August 28, 2019

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend Its Price List to Revise the Remove and Adding Liquidity Tiers for Tape B and C Securities

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 August 15, 2019, 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, 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 amend its Price List to (1) revise the Remove Tier for Tape B and C securities to add a new Tier charge for removing liquidity, and (2) increase the credits available to Supplemental Liquidity Providers (“SLPs”) under SLP Provide Tier 1 for adding displayed and non-displayed liquidity to the Exchange in Tapes B and C securities. The Exchange proposes to implement the fee changes effective August 15, 2019. 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.

¹ 15 U.S.C.78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

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.

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 revise pricing available for trading in Tape B and C securities as follows:

- (1) Revise the Remove Tier for Tape B and C securities to add a new Tier charge of \$0.0026 per share for removing liquidity. A member organization would be able to qualify for this rate either by (i) meeting a specified percentage of average daily volume of orders in Tape B and C securities executed on the Exchange that remove liquidity ("Removing ADV") as a percentage of consolidated average daily volume ("CADV") in Tape B and C securities ("Tape B and C CADV"),⁴ or (ii) meeting a lower specified percentage of Removing ADV as a percentage of Tape B and C CADV and meeting specified closing auction volume thresholds in Tape A securities, and
- (2) Increase the credits available to SLPs under SLP Provide Tier 1 for adding displayed and non-displayed liquidity to the Exchange in Tapes B and C securities

⁴ The term "CADV" is defined in footnote * of the Price List.

from \$0.0031 per share to \$0.0033 per share (for displayed orders) and from \$0.0014 per share to \$0.0015 per share (for non-displayed orders).

The proposed changes respond to the current competitive environment where order flow providers have a choice of where to direct liquidity-providing orders by offering further incentives for member organizations to send additional displayed liquidity to the Exchange.

The Exchange proposes to implement the fee changes effective August 15, 2019.⁵

Competitive Environment

The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system “has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.”⁶

As the Commission itself recognized, the market for trading services in NMS stocks has become “more fragmented and competitive.”⁷ Indeed, equity trading is currently dispersed across 13 exchanges,⁸ 31 alternative trading systems,⁹ and numerous broker-dealer internalizers

⁵ The Exchange originally filed to amend the Fee Schedule on August 1, 2019 (SR-NYSE-2019-43). SR-NYSE-2019-43 was subsequently withdrawn and replaced by this filing.

⁶ See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37495, 37499 (June 29, 2005) (S7-10-04) (Final Rule) (“Regulation NMS”).

⁷ See Securities Exchange Act Release No. 51808, 84 FR 5202, 5253 (February 20, 2019) (File No. S7-05-18) (Transaction Fee Pilot for NMS Stocks Final Rule) (“Transaction Fee Pilot”).

⁸ See Cboe Global Markets, U.S. Equities Market Volume Summary, available at http://markets.cboe.com/us/equities/market_share/. See generally <https://www.sec.gov/fast-answers/divisionsmarketregmrexchangesshtml.html>.

⁹ See FINRA ATS Transparency Data, available at <https://otctransparency.finra.org/otctransparency/AtsIssueData>. Although 54 alternative

and wholesalers, all competing for order flow. Based on publicly-available information, no single exchange has more than 18% market share (whether including or excluding auction volume).¹⁰ Therefore, no exchange possesses significant pricing power in the execution of equity order flow. More specifically, in June 2019, the Exchange had 2.2% market share of executed volume of equity trades in Tape B and C securities (excluding auction volume), which was down from 2.8% in March 2019.¹¹

The Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can move order flow, or discontinue or reduce use of certain categories of products, in response to fee changes. With respect to non-marketable order flow that would provide displayed liquidity on an Exchange, member organizations can choose from any one of the 13 currently operating registered exchanges to route such order flow. Accordingly, competitive forces constrain exchange transaction fees that relate to orders that would provide liquidity on an exchange.

Proposed Rule Change

To respond to this competitive environment, the Exchange has established incentives for its member organizations who submit orders that provide and remove liquidity on the Exchange, including cross-tape incentives for member organizations and SLPs based on submission of orders that provide displayed and non-displayed liquidity in Tapes B and C securities.

trading systems were registered with the Commission as of July 29, 2019, only 31 are currently trading. A list of alternative trading systems registered with the Commission is *available at* <https://www.sec.gov/foia/docs/atlist.htm>.

¹⁰ See Cboe Global Markets U.S. Equities Market Volume Summary, available at http://markets.cboe.com/us/equities/market_share/.

¹¹ See id.

For Tape B and C securities, the Exchange currently offers a Remove Tier for securities at or above \$1.00 for member organizations that have a minimum amount of Adding ADV in non-SLP and Floor broker order flow.¹² Further, the Exchange offers several levels of credits for SLP orders that provide displayed and non-displayed liquidity to the Exchange in Tape B and C securities priced at or above \$1.00 based on the volume of orders that member organizations send to the Exchange. The SLP Provide Tier credits (Non Tier, Tier 2, Tier 1 and Tape A Tier) range from \$0.00005 to \$0.0031.

The proposed fee change is designed to attract additional order flow to the Exchange by introducing a new Tier rate for removing liquidity from the Exchange and increasing the incentive for SLPs that provide displayed and non-displayed liquidity in Tape B and C securities, as described below.

Remove Tiers Fee For Securities At or Above \$1.00

Currently, for securities at or above \$1.00 in Tape B and C securities, the Exchange charges a per tape fee of \$0.00285 per share to remove liquidity from the Exchange for member organizations with an Adding ADV of at least 50,000 shares per respective tape.

The Exchange proposes to retain this charge and introduce a new, lower fee of \$0.0026 per share for removing liquidity from the Exchange in both Tapes B and C for member organizations that either have:

¹² See footnote 4 to the current Price List. The Exchange proposes a non-substantive amendment to replace the term “Client” as used in the Adding Tiers and Remove Tiers for Tape B and C securities by specifying that this refers to member organization order flow that is not from SLPs or Floor brokers, as the rates for such order flow are specified elsewhere on the Price List. See Securities Exchange Act Release No. 83113 (April 26, 2018), 83 FR 19376 (May 2, 2018) (SR-NYSE-2018-15) (Notice) (adopting new pricing for trading Tape B and C securities on the Pillar trading platform).

- 0.175% of Removing ADV¹³ in Tapes B and C combined as a percentage of Tape B and C CADV, or
- 0.075% of Removing ADV in Tapes B and C combined as a percentage of Tape B and C CADV, and execute an ADV of Market-on-Close (MOC) and Limit-on-Close (LOC) Orders combined on the NYSE in Tape A securities of at least 0.35% of NYSE CADV.

The proposed tier would be designated Tier 1 while the existing tier would be designated Tier 2 and aligned accordingly in the Price List.

The term “ADV” in proposed Tier 1 would have a citation to footnote 4 in the current Price List, which provides “For purposes of transaction fees and Supplemental Liquidity Provider liquidity credits, ADV calculations exclude early closing days.” The text of current footnote 4 would remain unchanged.

For example, if a member organization averaged a Removing ADV in Tape B and C securities of 6 million shares in a month where the Tape B and C CADV is 3 billion shares, that member organization would have a Removing ADV of 0.20% of Tape B and C CADV and would qualify for the reduced fee of \$0.0026 per share for removing liquidity from the Exchange in both Tapes B and C.

If that member instead averaged a Removing ADV in Tape B and C securities of 3 million shares in a month where the Tape B and C CADV is 3 billion shares, the member organization’s removing ADV would be 0.10% of Tape B and C CADV. That Removing ADV alone would not qualify for the new fee. But if that member organization also averaged an ADV

¹³ The Exchange proposes to define the term “Removing ADV” in a new footnote on the Price List to mean the average daily volume of orders executed on the Exchange during the billing month that removed liquidity.

of MOC and LOC Orders in Tape A securities of 14 million shares in a month where NYSE CADV was 3.5 billion shares, its MOC and LOC ADV would be 0.40% of NYSE CADV and that member organization would qualify for the reduced remove fee of \$0.0026 per share. However, if that member organization averaged an MOC and LOC ADV of less than 12.25 million shares in that same month, or under 0.35% of NYSE CADV, the member organization would not qualify for the reduced \$0.0026 fee per share.¹⁴

Displayed Liquidity under SLP Provide Tier 1

Under current SLP Provide Tier 1, SLPs that add displayed liquidity to the Exchange in securities with a per share price at or above \$1.00 and that:

- add liquidity for all assigned Tape B securities of a CADV of at least 0.10% for Tape B or for all assigned Tape C Securities of a CADV of at least 0.075% for Tape C,
- meet the 10% average or more quoting requirement in 400 or more assigned securities in Tapes B and C combined pursuant to Rule 107B, and
- meet the 10% average or more quoting requirement in an assigned Tape B or C security pursuant to Rule 107B

are eligible for a \$0.0031 per share credit per tape in an assigned Tape B or C security.

The Exchange proposes to increase the credit to \$0.0033. The qualification requirements would remain unchanged.

¹⁴ The Exchange proposes minor, non-substantive changes to the Price List. First, the Exchange would add an “s” to “fee” in the first entry under the third column titled “Removing Liquidity” and to “Tier” in the heading of the first column titled “Remove Tier For Securities At or Above \$1.00.” Second, the Exchange would delete “Per-Tape” and “Client Adding ADV⁴” and add “Rate” under the Remove Tiers heading in the first column. Finally, under the new Tier 2 heading, the Exchange would add “Per Tape of Non-SLP and Floor broker” after “50,000 shares” and before “Adding ADV.”

Non-Displayed Liquidity under SLP Provide Tier 1

Under current SLP Provide Tier 1, SLPs that add non-displayed liquidity to the Exchange on a per Tape basis in securities with a per share price at or above \$1.00 and that:

- add liquidity for all assigned Tape B securities of a CADV of at least 0.10% for Tape B or for all assigned Tape C Securities of a CADV of at least 0.075% for Tape C,
- meet the 10% average or more quoting requirement in 400 or more assigned securities in Tapes B and C combined pursuant to Rule 107B, and
- meet the 10% average or more quoting requirement in an assigned Tape B or C security pursuant to Rule 107B

are eligible for a credit of \$0.0014 per share per tape credit and a \$0.0025 per share per tape credit for MPL orders in the Tape where they qualify for SLP Provider Tier 1.

The Exchange proposes to increase the credit to \$0.0015. The qualification requirements would remain unchanged and the rate for MPL Orders would remain unchanged.

Application and Impact of Transition Period Pricing

The purpose of these proposed changes are to incentivize member organizations to trade on the Exchange in Tape B and C securities. The proposed Remove Tier fee would incentivize member organizations to remove additional liquidity from the Exchange, thereby increasing the number of orders adding liquidity that are executed on the Exchange and improving overall liquidity on a public exchange. The Exchange believes that including an alternate way to qualify for this requirement to include MOC and LOC ADV in Tape A securities would encourage the additional submission of both Tape B and C order flow and auction order flow in Tape A securities to the Exchange.

For example, if an SLP adds liquidity for all assigned Tape B securities in the aggregate of a CADV of at least 0.10% for Tape B and met the 10% average or more quoting requirement in 400 or more assigned securities in Tape B and C securities, that SLP would receive a credit of \$0.0033 per share for providing displayed liquidity and a credit of \$0.0015 per share for providing non-displayed liquidity in Tape B securities.

The proposed change to SLP Provide Tier 1 would incentivize member organizations that are SLPs to increase the liquidity-providing orders in Tape B and C securities they send to the Exchange, which would support the quality of price discovery on the Exchange and provide additional price improvement opportunities for incoming orders. The Exchange believes that by correlating the amount of the credit to the level of orders sent by a member organization that add displayed and non-displayed liquidity, the Exchange's fee structure would incentivize member organizations to submit more orders that add liquidity to the Exchange, thereby increasing the potential for price improvement and execution opportunities to incoming marketable orders submitted to the Exchange.

As noted above, the Exchange operates in a competitive and fragmented market environment, particularly as it relates to attracting non-marketable orders, which add liquidity to the Exchange. The Exchange believes that the proposed higher credits would provide an incentive for member organizations to route additional displayed and non-displayed liquidity to the Exchange in order to qualify for them.

Without having a view of a member organization's activity on other markets and off-exchange venues, the Exchange believes the proposed Remove Tier with a lower rate and alternative ways to qualify would provide an incentive for member organizations to remove additional liquidity from the Exchange in Tape B and C securities. Currently, six firms (out of a

total 145 member firms) can qualify for the Remove Tier fee. Based on the profile of liquidity-removing firms generally, the Exchange believes that five additional member organizations could qualify for the new tiered rate under either proposed criteria if they choose to direct order flow to, and increase quoting on, the Exchange.

Similarly, the proposed higher rates under SLP Provide Tier 1 would provide an incentive for member organizations to submit additional adding displayed and non-displayed liquidity to the Exchange in Tape B and C securities. Currently, there are 15 SLPs¹⁵ on the Exchange out of a total of 145 member organizations. Of these, four firms are qualifying for the SLP Provide Tier 1 credit in both Tape B and C for adding displayed liquidity, and adding non-displayed liquidity. Based on the profile of liquidity-providing SLPs generally, the Exchange believes that three additional SLPs could qualify for the displayed and non-displayed SLP Provide Tier 1 credits if they choose to direct order flow to, and increase quoting on, the Exchange.

The proposed changes are not otherwise intended to address other issues, and the Exchange is not aware of any significant problems that 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,¹⁶ in general, and furthers the objectives of Sections 6(b)(4) and (5) of the Act,¹⁷ in particular, because it provides for the equitable allocation of reasonable dues, fees, and other

¹⁵ Under Rule 107B, an SLP can be either a proprietary trading unit of a member organization (“SLP-Prop”) or a registered market maker at the Exchange (“SLMM”). Currently, there are three SLMMs on the NYSE.

¹⁶ 15 U.S.C. 78f(b).

¹⁷ 15 U.S.C. 78f(b)(4) & (5).

charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

The Proposed Change is Reasonable

As discussed above, the Exchange operates in a highly fragmented and competitive market. The Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can move order flow, or discontinue or reduce use of certain categories of products, in response to fee changes. With respect to non-marketable orders that provide liquidity on an Exchange, member organizations can choose from any one of the 13 currently operating registered exchanges to route such order flow.

Accordingly, competitive forces constrain exchange transaction fees that relate to orders that would provide displayed liquidity on an exchange. Stated otherwise, changes to exchange transaction fees can have a direct effect on the ability of an exchange to compete for order flow.

Given this competitive environment, the proposal represents a reasonable attempt to attract additional order flow to the Exchange. As noted, the Exchange's market share of intraday trading (*i.e.*, excluding auctions) declined from March 2019 to June 2019.

Specifically, the Exchange believes that a new, lower fee of \$0.0026 per share for removing liquidity from the Exchange in both Tapes B and C securities is reasonable because it would incentivize member organizations to remove additional liquidity from the Exchange, thereby increasing the number of orders adding liquidity that are executed on the Exchange and improving overall liquidity on a public exchange and resulting in lower costs for member organizations that qualify for the rate. The Exchange also believes that the proposal is reasonable because it provides alternative ways for member organizations to qualify for the tier, thereby increasing potential participation at the tier. Moreover, the Exchange believes that by

requiring as part of the second qualification criteria an ADV of MOC and LOC activity combined on the Exchange in Tape A securities, the proposal would encourage greater liquidity at the close.

Without having a view of a member organization's activity on other markets and off-exchange venues, the Exchange believes the proposed Remove Tier with a lower rate and alternative ways to qualify would provide an incentive for member organizations to remove additional liquidity from the Exchange in Tape B and C securities. As previously noted, a number of firms can qualify for the Remove Tier fee and additional member organizations could qualify for the new tiered rate under either proposed criteria if they choose to direct order flow to, and increase quoting on, the Exchange.

Further, the Exchange believes that increasing the proposed credits for member organizations that are SLPs that add displayed and non-displayed liquidity in Tape B and C securities on the Exchange is reasonable because it would provide further incentives for such member organizations to provide additional liquidity to a public exchange in Tape B and C securities, thereby promoting price discovery and transparency and enhancing order execution opportunities for member organizations. All member organizations would benefit from the greater amounts of liquidity that will be present on the Exchange, which would provide greater execution opportunities.

The Exchange believes the proposal would provide an incentive for member organizations that are SLPs to route additional liquidity-providing orders to the Exchange in Tape B and C securities. As noted above, the Exchange operates in a highly competitive environment, particularly for attracting non-marketable order flow that provides liquidity on an

exchange. The Exchange believes it is reasonable to provide a higher credit for orders that provide additional liquidity.

Without having a view of a member organization's activity on other markets and off-exchange venues, the Exchange believes the proposed higher rates would provide an incentive for member organizations to submit additional adding liquidity to the Exchange in Tape B and C securities. As previously noted, a number of SLPs are qualifying for the SLP Provide Tier 1 credit for adding displayed liquidity and adding non-displayed liquidity. Based on the profile of liquidity-providing SLPs generally, the Exchange believes additional SLPs could qualify for the displayed and non-displayed SLP Provide Tier 1 credits if they choose to direct order flow to, and increase quoting on, the Exchange.

The Exchange notes that the proposed credits remains in line with the credits the Exchange currently credits SLPs for adding displayed and non-displayed liquidity in Tape A securities.¹⁸ The Exchange notes that SLPs qualifying for the Tier 1 Adding Credit in UTP securities in both Tapes B and C would also be eligible for a lower adding liquidity requirement of 0.75% for SLP Tier 1 in Tape A. The Exchange further notes that SLPs that currently meet Tier 1 in both Tape B and Tape C receive a credit of \$0.00005 per share in addition to the Tape A SLP credit in Tape A assigned securities where the SLP meets the 10% quoting requirement pursuant to Rule 107B.

Finally, the Exchange also believes the proposed non-substantive changes are reasonable and would not be inconsistent with the public interest and the protection of investors because investors will not be harmed and in fact would benefit from increased clarity and transparency on the Price List, thereby reducing potential confusion.

¹⁸ See page 5 of the current NYSE Price List, available at https://www.nyse.com/publicdocs/nyse/markets/nyse/NYSE_Price_List.pdf.

The Proposal is an Equitable Allocation of Fees

The Exchange believes its proposal equitably allocates its fees among its market participants by fostering liquidity provision and stability in the marketplace. Moreover, the proposal is an equitable allocation of fees because it would reward SLPs for their increased risks and heightened quoting and other obligations.

The Exchange believes that, for the reasons discussed above, the proposed Remove Tier fee would incentivize member organizations to remove additional liquidity from the Exchange, thereby increasing the number of orders adding liquidity that are executed on the Exchange and improving overall liquidity on a public exchange and that increasing the credits for SLPs for adding displayed and non-displayed liquidity to the Exchange in Tapes B and C securities will encourage the SLPs to add liquidity to the market in Tape B and C securities, thereby providing customers with a higher quality venue for price discovery, liquidity, competitive quotes and price improvement. The proposed change will thereby encourage the submission of additional liquidity to a national securities exchange, thus promoting price discovery and transparency and enhancing order execution opportunities for member organizations from the substantial amounts of liquidity present on the Exchange. All member organizations would benefit from the greater amounts of liquidity that will be present on the Exchange, which would provide greater execution opportunities.

The Exchange also believes that a lower fee for removing liquidity with a lower rate and alternative ways to qualify would encourage member organizations to remove additional liquidity from the Exchange in Tape B and C securities. As previously noted, a number of member organizations are qualifying for the Remove Tier fee. Based on the profile of liquidity-removing firms generally, the Exchange believes additional member organizations could qualify

for the new tiered rate under either proposed criteria if they choose to direct order flow to, and increase quoting on, the Exchange. The proposed lower rate is also equitable because it would apply equally to all existing member organizations that remove liquidity from the Exchange in Tape B and C securities.

Further, the Exchange believes that higher credits for adding liquidity in Tape B and C securities will encourage participation from a greater number of current and new SLPs which would promote additional liquidity in Tape B and C securities. As the Exchange previously noted that, a number of the current SLP firms are qualifying for the SLP Provide Tier 1 credit based on adding displayed liquidity and adding non-displayed liquidity. Based on the profile of liquidity-providing SLPs generally, the Exchange believes that additional SLPs could qualify for the displayed and non-displayed SLP Provide Tier 1 credits if they choose to direct order flow to, and increase quoting on, the Exchange.

The proposed rebate is also equitable because it would apply equally to all existing and potential SLPs. The Exchange believes the proposed higher rebates could provide an incentive for other market participants to become SLPs on the Exchange. The Exchange believes that the proposal would provide an equal incentive to all member organizations to become SLPs, and that the proposal constitutes an equitable allocation of fees because all similarly situated member organizations would be eligible for the same rebates.

The Proposal is Not Unfairly Discriminatory

The Exchange believes that the proposal is not unfairly discriminatory. In the prevailing competitive environment, member organizations are free to disfavor the Exchange's pricing if they believe that alternatives offer them better value.

The proposal does not permit unfair discrimination because the lower rate for removing liquidity in Tape B and C securities and the higher credits for adding liquidity in Tape B and C securities would be applied to all similarly situated member organizations and other market participants, who would all be eligible for the same credit on an equal basis. Accordingly, no member organization already operating on the Exchange would be disadvantaged by this allocation of fees.

The Exchange believes it is not unfairly discriminatory to provide a lower fee for removing liquidity and higher credits for adding displayed and non-displayed liquidity as the proposed fee and credits would be provided on an equal basis to all member organizations that remove liquidity by meeting the tiered requirements. Further, the Exchange believes the proposed fee would provide an incentive for member organizations to remove additional liquidity from the Exchange in Tape B and C securities and, for member organizations that seek to qualify for the proposed fee under the second criteria based on adding ADV in MOC and LOC activity, would encourage greater liquidity at the Exchange close, to the benefit of all market participants. Similarly, the Exchange believes that the proposed credits would incentivize member organizations that are SLPs and meet the current tiered requirements to send more orders to the Exchange to qualify for higher credits. The Exchange also believes that the proposed change is not unfairly discriminatory because it is reasonably related to the value to the Exchange's market quality associated with higher volume. Finally, the submission of orders to the Exchange is optional for member organizations in that they could choose whether to submit orders to the Exchange and, if they do, the extent of its activity in this regard.

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,¹⁹ 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 Exchange believes that the proposed changes would encourage the submission of additional liquidity to a public exchange, thereby promoting market depth, price discovery and transparency and enhancing order execution opportunities for member organizations. As a result, the Exchange believes that the proposed change furthers the Commission's goal in adopting Regulation NMS of fostering integrated competition among orders, which promotes "more efficient pricing of individual stocks for all types of orders, large and small."²⁰

Intramarket Competition. The proposed changes are designed to attract additional order flow to the Exchange. The Exchange believes that the proposed changes would continue to incentivize market participants to direct order flow to the Exchange. Greater liquidity benefits all market participants on the Exchange by providing more trading opportunities and encourages member organizations to send orders, thereby contributing to robust levels of liquidity, which benefits all market participants on the Exchange. The proposed credits would be available to all similarly-situated market participants, and, as such, the proposed change would not impose a disparate burden on competition among market participants on the Exchange.

Intermarket Competition. The Exchange operates in a highly competitive market in which market participants can readily choose to send their orders to other exchange and off-

¹⁹ 15 U.S.C. 78f(b)(8).

²⁰ Regulation NMS, 70 FR at 37498-99.

exchange venues if they deem fee levels at those other venues to be more favorable. As noted, the Exchange's market share of intraday trading in Tape B and C securities (excluding auction volume) declined from March to June 2019. In such an environment, the Exchange must continually adjust its fees and rebates to remain competitive with other exchanges and with off-exchange venues. 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 does not believe its proposed fee change can impose any burden on intermarket competition.

The Exchange believes that the proposed change could promote competition between the Exchange and other execution venues, including those that currently offer similar order types and comparable transaction pricing, by encouraging additional orders to be sent to the Exchange for execution. The Exchange also believes that the proposed change is designed to provide the public and investors with a Price List that is clear and consistent, thereby reducing burdens on the marketplace and facilitating investor protection.

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)²¹ of the Act and subparagraph (f)(2) of Rule 19b-4²² thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

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

²¹ 15 U.S.C. 78s(b)(3)(A).

²² 17 CFR 240.19b-4(f)(2).

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)²³ 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 (<http://www.sec.gov/rules/sro.shtml>);
or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-NYSE-2019-45 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-NYSE-2019-45. 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

²³ 15 U.S.C. 78s(b)(2)(B).

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-2019-45 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.²⁴

Jill M. Peterson
Assistant Secretary

²⁴ 17 CFR 200.30-3(a)(12).