

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-83498; File No. SR-NYSEAMER-2018-30)

June 22, 2018

Self-Regulatory Organizations; NYSE American LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend Rule 7.35E

Pursuant to Section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934 (the “Act”)<sup>2</sup> and Rule 19b-4 thereunder,<sup>3</sup> notice is hereby given that on June 18, 2018, NYSE American LLC (the “Exchange” or “NYSE American”) filed with the Securities and Exchange Commission (“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 Rule 7.35E (Auctions) to revise the securities for which it will report an Official Closing Price. 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 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

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

<sup>2</sup> 15 U.S.C. 78a.

<sup>3</sup> 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 amend Exchange Rule 7.35E (Auctions) to revise the securities for which it will report an Official Closing Price.<sup>4</sup> Rule 7.35E(d)(4) currently states that the Exchange reports an Official Closing Price for all securities that trade on the Exchange. This includes not only securities for which the Exchange is the primary listing market, but also all UTP Securities that are traded on the Exchange.<sup>5</sup> Because the Exchange does not calculate an Official Closing Price for UTP Securities when the Exchange reports an Official Closing Price for such securities, the Exchange uses either the closing price calculated by the primary listing market or, if no closing price has been disseminated by the primary listing market, the last consolidated last-sale price for such security.

The Exchange proposes to amend Rule 7.35E(d)(4) to provide that the Exchange would disseminate an Official Closing Price for Auction-Eligible Securities only. An Auction-Eligible Security is defined as all “securities for which the Exchange is the primary listing market and UTP Securities designated by the Exchange.”<sup>6</sup> As a result, the Exchange would report an Official Closing Price for only those securities for which the Exchange calculates an Official Closing Price pursuant to Rule 1.1E(gg). The Exchange believes that, by ceasing reporting an Official Closing Price in securities that are not auction-eligible on the Exchange, it would reduce

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<sup>4</sup> The term “Official Closing Price” is defined in Exchange Rule 1.1E(gg)(1).

<sup>5</sup> The term “UTP Securities” is defined in Rule 1.1E(ii).

<sup>6</sup> See Exchange Rule 7.35E(a)(1). To date, the Exchange has not designated any UTP Securities as an Auction-Eligible Security.

the likelihood of disparate or duplicative prices being disseminated and identified as a UTP Security's formal closing price.

## 2. Statutory Basis

The Exchange believes that the proposal is consistent with Section 6(b) of the Act,<sup>7</sup> in general, and furthers the objectives of Sections 6(b)(5) of the Act,<sup>8</sup> 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 regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to, and perfect the mechanisms of, a free and open market and a national market system and, in general, to protect investors and the public interest and because it is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that the proposed rule change would remove impediments to, and perfect the mechanisms of, a free and open market and a national market system and, in general, protect investors and the public interest because the Exchange would cease disseminating a closing price for UTP Securities and only disseminate an Official Closing Price for Auction-Eligible Securities. The Exchange believes that this proposed rule change would reduce the likelihood of disparate or duplicative prices being disseminated and identified as a UTP Security's formal closing price. Therefore, the proposed rule change would reduce potential investor confusion by ensuring that the Exchange does not contribute to the dissemination of duplicative or disparate closing prices for UTP Securities. For these reasons, the Exchange believes that the proposal is consistent with the Act.

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<sup>7</sup> 15 U.S.C. 78f(b).

<sup>8</sup> 15 U.S.C. 78f(b)(5).

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,<sup>9</sup> 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 because the proposed rule change is not designed to have a competitive impact. It is simply intended to amend the Exchange's rules to state that it would disseminate an Official Closing Price for Auction-Eligible Securities only. As a result, the Exchange would no longer disseminate an Official Closing Price for UTP Securities, reducing the likelihood of disparate or duplicative prices being disseminated and identified as a UTP Security's formal closing price.

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

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 for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>10</sup> and Rule 19b-4(f)(6) thereunder.<sup>11</sup>

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<sup>9</sup> 15 U.S.C. 78f(b)(8).

<sup>10</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>11</sup> 17 CFR 240.19b-4(f)(6). As required under Rule 19b-4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the 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.

A proposed rule change filed pursuant to Rule 19b-4(f)(6) under the Act<sup>12</sup> normally does not become operative for 30 days after the date of its filing. However, Rule 19b-4(f)(6)(iii)<sup>13</sup> permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposed rule change may become operative upon filing. The Exchange states that waiver of the operative delay would be consistent with the protection of investors and the public interest because the proposed rule change would reduce potential investor confusion regarding the Official Closing Price for a UTP Security. The Exchange states that it anticipates being able to implement the technology changes supporting the proposed rule change within 30 days from filing.

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. Therefore, the Commission hereby waives the operative delay and designates the proposal as operative upon filing.<sup>14</sup>

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.

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<sup>12</sup> 17 CFR 240.19b-4(f)(6).

<sup>13</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>14</sup> 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).

#### 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-NYSEAMER-2018-30 on the subject line.

##### Paper comments:

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, D.C. 20549-1090.

All submissions should refer to File Number SR-NYSEAMER-2018-30. 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-2018-30 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>15</sup>

Eduardo A. Aleman  
Assistant Secretary

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<sup>15</sup> 17 CFR 200.30-3(a)(12).