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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-85945; File No. SR-NYSE-2019-29]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend NYSE Rules 7.6, 7.31, 7.34, 98, 107B and 131A, to Specify Order Behavior for Orders Entered Via the Pillar Phase II Protocols

May 28, 2019

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 May 15, 2019, New York Stock Exchange LLC (“NYSE” or “Exchange”) filed with the Securities and Exchange Commission (“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 Rules 7.6, 7.31, 7.34, 98, 107B and 131A to specify order behavior for orders entered via the Pillar phase II protocols. 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

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 Rules 7.6 (Trading Differentials), 7.31 (Orders and Modifiers), 7.34 (Trading Sessions), 98 (Operation of a DMM Unit), 107B (Supplemental Liquidity Providers) and 131A (A Member Organization Shall Use Its Own Mnemonic When Entering Orders) to specify order behavior for orders entered via the Pillar phase II protocols.

Background

Currently, the Exchange trades UTP Securities on its Pillar trading platform, subject to Pillar Platform Rules 1P - 13P.⁴ In the next phase of Pillar, the Exchange proposes to transition trading of Exchange-listed securities to the Pillar trading platform.⁵ Once transitioned to Pillar, such securities will also be subject to the Pillar Platform Rules 1P - 13P.

Member organizations enter orders and order instructions by using communication protocols that map to the order types and modifiers described in Exchange rules. Currently, all member organizations communicate with the Exchange using Pillar phase I protocols, which support trading both under the Pillar Platform Rules and in Exchange-listed securities. In

⁴ "UTP Security" is defined as a security that is listed on a national securities exchange other than the Exchange and that trades on the Exchange pursuant to unlisted trading privileges. See Rule 1.1.

⁵ The Exchange has announced that, subject to rule approvals, the Exchange will begin transitioning Exchange-listed securities to Pillar on July 15, 2019, available here: https://www.nyse.com/publicdocs/nyse/markets/nyse/NYSE_Pillar_Update_NGW.pdf. The Exchange will publish by separate Trader Update a complete symbol migration schedule.

anticipation of the transition of NYSE-listed securities to Pillar, the Exchange is introducing new technology to support how member organizations communicate with the Exchange when trading on the Pillar trading platform (“Pillar phase II protocols”). Because Pillar phase II protocols will support new order functionality, the Exchange proposes to revise its rules to reflect these changes.

During this implementation, there will be a period when both the Pillar phase I and Pillar phase II protocols will be available to member organizations other than designated market makers (“DMM”).⁶ Accordingly, the Exchange proposes to amend its rules to describe how a member organization’s orders would behave depending on the protocol a member organization chooses to use. Once Exchange-listed securities transition to Pillar, DMMs will be required to connect to the Exchange using Pillar phase II protocols for trading in their assigned securities.

Proposed Amendment to Rule 7.6

Rule 7.6 sets forth the Exchange’s Trading Differentials, also referred to as the minimum price variation (“MPV”) for quoting and entry of securities traded on the Exchange. The rule currently provides that the MPV for quoting and entry of orders in securities traded on the Exchange is \$0.01, with the exception of securities that are priced less than \$1.00 for which the MPV for quoting and entry of orders is \$0.0001. On the Pillar trading platform, when using Pillar phase I protocols, orders with a limit price of less than \$1.00 in securities that trade in prices of \$100,000 or above, must be entered in no more than two decimal places, e.g., \$0.01, and when using Pillar phase II protocols, such orders must be entered in no more than three

⁶ The Exchange’s affiliate, NYSE Arca, Inc. (“NYSE Arca”), similarly offered a parallel period when both Pillar phase I and Pillar phase II protocols were available to ETP Holders. See Securities Exchange Act Release No. 79588 (December 23, 2016), 81 FR 96534 (December 30, 2016) (SR-NYSEArca-2016-170) (Notice of filing and immediate effectiveness of proposed rule change).

decimal places, e.g., \$0.001. The Exchange notes that this functionality is only applicable to one security traded on the Exchange. The Exchange proposes to codify this functionality in proposed Commentary .01 to Rule 7.6. As proposed, Commentary .01 to Rule 7.6 would provide that on Pillar, when using Pillar phase I protocols, the MPV for orders with a limit price of less than \$1.00 in securities that trade in prices of \$100,000 or above is \$0.01, and when using Pillar phase II protocols, the MPV for such orders is \$0.001.

Proposed Amendment to Rule 7.31

The Exchange proposes to amend Rule 7.31 to reflect that under the Pillar phase II protocols, the Exchange would use a member organization's MPID, rather than a Client ID, to assess whether to apply Self-Trade Prevention Modifiers ("STP") against two matching orders. To reflect this change, the Exchange proposes to add new subsection (D) to Rule 7.31(i)(2) that would provide that for purposes of STP, references to Client ID mean a Client ID when using Pillar phase I protocols to communicate with the Exchange or an MPID when using Pillar phase II protocols to communicate with the Exchange. This proposed rule change is based in part on the rules of the Exchange's affiliated exchanges, NYSE Arca, NYSE American LLC ("NYSE American"), and NYSE National, Inc. ("NYSE National"), which also require the use of an MPID for their respective rules relating to STP.⁷

Proposed Amendment to Rule 7.34

The Exchange proposes to amend Rule 7.34 to reflect that under the Pillar phase II protocols, the Exchange would reject orders that do not include a designation for which trading session(s) the order will remain in effect. Current Rule 7.34(b)(1) provides that any order entered before or during the Early or Core Trading Session will be deemed designated for the

⁷ See NYSE Arca Rule 7.31-E(i)(2), NYSE American Rule 7.31E(i)(2), and NYSE National Rule 7.31(i)(2).

Early Trading Session and the Core Trading Session. Further, current Rule 7.34(b)(2) provides that an order without a time-in-force designation will be deemed designated with a day time-in-force modifier.

The Exchange proposes that when member organizations use Pillar phase II protocols to enter an order, the Exchange would reject any order that does not include a trading session designation. To reflect this functionality, the Exchange proposes to add the following sentence to Rule 7.34(b)(1): “For member organizations that communicate with the Exchange using Pillar phase II protocols, orders entered without a trading session will be rejected.” This proposed rule text is based on the rules of the Exchange’s affiliates that use Pillar phase II protocols, and which also reject orders that do not include a trading session designation.⁸ To specify that the current rule processing is available only for orders entered via the Pillar phase I protocols, the Exchange proposes to add the following introductory text to Rule 7.34(b)(2): “For member organizations that communicate with the Exchange using Pillar phase I protocols.”

Proposed Amendment to Rule 98

Rule 98(c) sets forth specified restrictions to operating a DMM unit.⁹ Among other requirements, Rule 98(c)(4) provides that any proprietary interest entered into Exchange systems by a DMM unit in DMM Securities¹⁰ must be identifiable as DMM unit interest, unless such proprietary interest is for the purposes of facilitating the execution of an order received from a

⁸ See NYSE Arca Rule 7.34-E(b)(1), NYSE American Rule 7.34E(b)(1), and NYSE National Rule 7.34(b)(1).

⁹ For purposes of Rule 98, the term “DMM unit” means a trading unit within a member organization that is approved pursuant to Rule 103 to act as a DMM unit. See Rule 98(b)(1). The term “Designated Market Maker” means an individual member, officer, partner, employee or associated person of a Designated Market Maker who is approved by the Exchange to act in the capacity of a DMM. See Rule 2(i).

¹⁰ The term “DMM securities” means any securities allocated to the DMM unit pursuant to Rule 103B or other applicable rules. See Rule 98(b)(2).

customer (whether the DMM's own customer or the customer of another broker-dealer) and is on a riskless principal basis, or on a principal basis to provide price improvement to the customer. The Exchange does not specify which system(s) a DMM unit must use because, as the Exchange's trading systems continue to evolve, the manner by which interest would be identified as DMM interest could change. However, Rule 98(c)(4) requires that a DMM use a unique mnemonic that identifies to the Exchange its customer-driven orders in DMM securities and that such mnemonic may not be used for trading activity on the Exchange in DMM securities that are not customer-driven orders. Because mnemonics will not be supported on Pillar phase II protocols, the Exchange will instead require DMMs to use a unique identifier that is not a mnemonic to identify its customer-driven orders in DMM securities. The Exchange proposes to amend Rule 98(c)(4) to reflect this change by replacing the term “mnemonic” in Rule 98(c)(4) with the term “identifier.”

Proposed Amendment to Rule 107B

Rule 107B provides for a class of market participants referred to as Supplemental Liquidity Providers or “SLPs.” Approved Exchange member organizations are eligible to be an SLP. SLPs supplement the liquidity provided by DMMs. SLPs have monthly quoting requirements that may qualify them to receive SLP rebates. Rule 107B requires that an SLP use a unique mnemonic that identify the SLP trading activity of each SLP in assigned SLP securities.¹¹ Because all order flow in an assigned SLP security using that mnemonic is treated as SLP volume, a member organization may not use such identified mnemonics for trading activity at the Exchange in assigned SLP securities that is not SLP trading activity. However, to enable the member organization to use the same mnemonic for both SLP and non-SLP trading

¹¹ See Rule 107B(c)(2).

activity in different securities, an SLP may use mnemonics used for SLP trading for trading activity in securities not assigned to the SLP. Additionally, the rule specifies that if a member organization does not identify such mnemonics to the Exchange, the member organization would not receive credit for such SLP trading.

The Exchange proposes to amend Rule 107B to provide that SLPs may continue to use mnemonics when communicating with the Exchange using Pillar phase I protocols, but that if an SLP uses Pillar Phase II protocols, it would be required to use MMID in lieu of a mnemonic. The Exchange proposes to adopt this distinction in current Rules 107B(c)(2), 107B(d)(3), and 107B(g)(2). This proposed rule change would not alter any of the substantive requirements of Rule 107B and instead would reflect the new communication protocol to comply with the existing rule requirements.

Proposed Amendment to Rule 131A

The Exchange proposes to amend Rule 131A, which set forth the requirements relating to mnemonics, to reflect that the rule would not be applicable to trading on the Pillar platform. Specifically, since the Exchange would use MPIDs under Pillar phase II protocols and would not use mnemonics, the Exchange proposes to adopt the following preamble to the current rule: This rule is not applicable to member organizations using Pillar phase II protocols to communicate with the Exchange.

Because of the technology changes associated with this proposed rule change, the Exchange will announce the implementation date by Trader Update. The Exchange anticipates implementing these changes in the second quarter, before the Exchange begins the transition of Exchange-listed securities to Pillar.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Securities Exchange Act of 1934 (the “Act”),¹² in general, and furthers the objectives of Section 6(b)(5),¹³ 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 change to Rule 7.6 to reject orders with a limit price of less than \$1.00 in securities that trade in prices of \$100,000 or above if not entered with an MPV of \$0.01 when using Pillar phase I protocols, and to reject such orders if not entered with an MPV of \$0.001 when using Pillar phase II protocols, would remove impediments to and perfect the mechanism of a free and open market and a national market system because it provides transparency of the circumstances when orders would be rejected depending on the communication protocol used by the member organization and the MPV in which they are entered.

The Exchange believes that the proposed change to Rule 7.31 to specify that a member organization’s MPID rather than Client ID would be used for STP purposes when a member organization uses Pillar phase II protocols would remove impediments to and perfect the mechanism of a free and open market and a national market system by providing notice to member organizations of which orders would be matched for purposes of STP, depending on the communication protocol that they use.

¹² 15 U.S.C. 78f(b).

¹³ 15 U.S.C. 78f(b)(5).

The Exchange believes that the proposed change to Rule 7.34 to reject orders that do not include a trading session designation would remove impediments to and perfect the mechanism of a free and open market and a national market system because it provides transparency and uniformity of the circumstances when an order would be rejected depending on the communication protocol used by the member organization.

The Exchange believes that the proposed change to Rule 98 would remove impediments to and perfect the mechanism of a free and open market by providing greater specificity in Rule 98 regarding the manner by which DMMs would be required to send customer-driven orders in DMM securities.

The Exchange further believes that amending Rule 107B to specify whether a mnemonic or MMID should be used, depending on communication protocol, would remove impediments to and perfect the mechanism of a free and open market and a national market system by providing transparency to SLPs of how they must comply with the requirements of Rule 107B when using Pillar phase II protocols.

Finally, the Exchange believes that it would remove impediments to and perfect the mechanism of a free and open market and a national market system to specify which current rules would not be applicable to trading on the Pillar trading platform. The Exchange believes that adding a legend which clearly states that a rule would not be applicable to trading on the Pillar trading platform would promote transparency regarding which rules would govern trading on the Exchange once it transitions to Pillar.

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 believes the proposed rule change to reject orders in high priced securities depending on the communication protocol used by the member organization and the MPV in which they are entered would not impose any burden on competition because the proposed change is not designed to address any competitive issues, but rather, would promote transparency in the Exchange's rules. The Exchange believes that the proposed rule change to specify that a member organization's MPID rather than Client ID would be used for STP purposes when a member organization uses Pillar phase II protocols is not designed to address any competitive issues, but rather, would provide clarity regarding when the STP functionality would be available to a member organization, depending on the communication protocol that they use.

Additionally, the Exchange believes that the proposed rule change to reject orders if they do not include a trading session designation would not impose any burden on competition because the proposed change is not designed to address any competitive issues, but rather, would promote transparency and uniformity by specifying when an order would be rejected depending on the communication protocol used by a member organization. Finally, the Exchange believes that amending Exchange rules to specify how orders must be identified depending on which Pillar protocol is used to communicate with the Exchange is intended to provide transparency regarding how orders would be processed depending on the communication protocol used by a member organization.

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 Act¹⁴ and Rule 19b-4(f)(6) thereunder.¹⁵ 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.

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 Commission shall institute proceedings under Section 19(b)(2)(B)¹⁶ 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-2019-29 on the subject line.

Paper comments:

¹⁴ 15 U.S.C. 78s(b)(3)(A)(iii).

¹⁵ 17 CFR 240.19b-4(f)(6).

¹⁶ 15 U.S.C. 78s(b)(2)(B).

- 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-2019-29. 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, 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-2019-29 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.¹⁷

Eduardo A. Aleman,
Deputy Secretary.

¹⁷ 17 CFR 200.30–3(a)(12).

