

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-82923; File No. SR-NYSEAMER-2018-10)

March 22, 2018

Self-Regulatory Organizations; NYSE American LLC; Notice of Filing and Immediate Effectiveness of Proposed Change Amending Certain Governing Documents of the Exchange and NYSE Market, Inc. to Make a Technical Change Updating the Entities' Registered Offices and Registered Agents and Update the Date as Required

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 March 13, 2018, NYSE American LLC (the "Exchange" or "NYSE American") 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 certain of governing documents of the Exchange and NYSE Market (DE), Inc. ("NYSE Market (DE)") to make a technical change updating the entities' registered offices and registered agents and update the date as required. In addition, the Exchange proposes to amend the Eleventh Amended and Restated Operating Agreement of the New York Stock Exchange LLC ("NYSE LLC"). The proposed 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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend certain of governing documents of the Exchange and NYSE Market (DE) to make a technical change updating the entities’ registered offices and registered agents and update the date as required. As discussed below, the Exchange proposes to amend the following documents (together, the “Governing Documents”):

- Certificate of Formation of the Exchange (“Certificate of Formation”);
- Eleventh Amended and Restated Operating Agreement of the Exchange (“NYSE American Operating Agreement”); and
- Third Amended and Restated Certificate of Incorporation of NYSE Market (DE), Inc. (the “NYSE Market (DE) Certificate”).

The changes are non-substantive technical administrative changes.

The NYSE LLC is an affiliate of the Exchange, and NYSE Market (DE) is a wholly-owned subsidiary of NYSE LLC. NYSE Market (DE) in turn owns a majority interest in NYSE Amex Options LLC (“NYSE Amex Options”), a facility of the Exchange. The Exchange and

NYSE Market (DE) are the only members of NYSE Amex Options.⁴ The Exchange filed the NYSE Market (DE) Certificate as a “rule of the exchange” under Section 3(a)(27) of the Exchange Act because NYSE Market (DE) has a majority interest in a facility of the Exchange.⁵

In addition, because of NYSE LLC’s ownership of NYSE Market (DE), the Exchange filed the Eleventh Amended and Restated Operating Agreement of the NYSE LLC (“NYSE Operating Agreement”) as a “rule of the Exchange” under Section 3(a)(27) of the Exchange Act.⁶ The Exchange proposes to amend the NYSE Operating Agreement (as amended, the “Amended NYSE Operating Agreement”) to update the registered office and registered agent in the state of New York and to make a conforming change to the date.

Exchange Governing Documents

The Exchange is a limited liability company organized under the laws of the State of Delaware. As such, it is required to have and maintain a registered office and registered agent in Delaware.⁷

⁴ See Exchange Act Release No. 75301 (June 25, 2015), 80 FR 37695 (July 1, 2015) (SR-NYSEMKT-2015-44) (notice of filing and immediate effectiveness of proposed rule change amending the members’ schedule of the Amended and Restated Limited Liability Company Agreement of NYSE Amex Options LLC).

⁵ See 15 U.S.C. 78c(a)(27); Securities Exchange Act Release No. 75984 (September 25, 2015), 80 FR 59213, 59214 (October 1, 2015) (SR-NYSEMKT-2015-71) (notice of filing and immediate effectiveness of proposed rule change adding to the rules of the Exchange the Third Amended and Restated Certificate of Incorporation of NYSE Market, Inc., and the Eighth Amended and Restated Operating Agreement of New York Stock Exchange LLC).

⁶ See 15 U.S.C. 78c(a)(27); Securities Exchange Act Release No. 79232 (November 3, 2016), 81FR 78873, 78874 (November 9, 2016) (SR-NYSEMKT-2016-96) (notice of filing and immediate effectiveness of proposed rule change to add the NYSE Operating Agreement to the rules of the Exchange).

⁷ See Del. Code tit. 6, §18-104(a).

Pursuant to Delaware law,⁸ the Certificate of Formation is amended by filing a “State of Delaware Certificate of Amendment Changing Only the Registered Office or Registered Agent of a Limited Liability Company,” as set forth in Exhibit 5A to the proposed rule change.

The Exchange proposes to amend Article I, Sections 1.05 and 1.06 of the NYSE American Operating Agreement and to make a conforming change to update the date of the NYSE American Operating Agreement.

Article I, Section 1.05 of the NYSE American Operating Agreement provides that the address of the registered office of the Exchange in the State of Delaware is c/o The Corporation Trust Company located at the Corporation Trust Center, 1209 Orange Street, City of Wilmington, County of New Castle, State of Delaware 19801. The Exchange proposes to amend such provision to provide that the address is c/o United Agent Group Inc. located at 3411 Silverside Road, Tatnall Building No. 104, Wilmington, County of New Castle, State of Delaware 19810.

Article I, Section 1.06 of the NYSE American Operating Agreement provides that the name and address of the registered agent of the Exchange for service of process on the Exchange in the State of Delaware is The Corporation Trust Company located at the Corporation Trust Center, 1209 Orange Street, City of Wilmington, County of New Castle, State of Delaware 19801. The Exchange proposes to amend such provision to provide that the name and address is United Agent Group Inc. located at 3411 Silverside Road, Tatnall Building No. 104, Wilmington, County of New Castle, State of Delaware 19810.

NYSE Market (DE) Certificate

NYSE Market (DE) is a corporation organized under the laws of the State of Delaware.

⁸ See Del. Code tit. 6, §18-202(a).

As such, it is required to have and maintain a registered office and registered agent in Delaware.⁹

Article II of the NYSE Market (DE) Certificate provides that the address of NYSE Market (DE)'s registered office in the State of Delaware is c/o National Registered Agents, Inc., 160 Greentree Drive, in the City of Dover, Suite 101, County of Kent, State of Delaware, 19904, and provides that the name of its registered agent at such address is National Registered Agents, Inc. The Exchange proposes to amend the NYSE Market (DE) Certificate to identify United Agent Group Inc. as the registered agent, and to provide that the address of the registered office is 3411 Silverside Road, Tatnall Building No. 104, Wilmington, County of New Castle, Delaware 19810.

Pursuant to Delaware law,¹⁰ the NYSE Market (DE) Certificate is amended by filing a "State of Delaware Certificate of Change of Registered Agent and/or Registered Office," as attached in the proposed rule change.

NYSE Operating Agreement

On March 12, 2018, the NYSE LLC amended the NYSE Operating Agreement to make a technical change updating the registered office and registered agent in the state of New York and to make a conforming change to the date.¹¹ Consistent with that change, the Exchange proposes to amend the NYSE Operating Agreement. The Amended NYSE Operating Agreement will be a "rule of the Exchange" under Section 3(a)(27) of the Exchange Act.¹²

⁹ See Del. Code tit 8, §§131 and 132.

¹⁰ See Del. Code tit 8, §133.

¹¹ See SR-NYSE-2018-09 (March 12, 2018).

¹² See 15 U.S.C. 78c(a)(27); Securities Exchange Act Release No. 75984 (September 25, 2015), 80 FR 59213, 59214 (October 1, 2015) (SR-NYSEMKT-2015-71) (notice of filing and immediate effectiveness of proposed rule change adding to the rules of the Exchange the Third Amended and Restated Certificate of Incorporation of NYSE Market, Inc., and the Eighth Amended and Restated Operating Agreement of New York Stock Exchange

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Exchange Act¹³ in general, and with Section 6(b)(1)¹⁴ in particular, in that it enables the Exchange to be so organized as to have the capacity to be able to carry out the purposes of the Exchange Act and to comply, and to enforce compliance by its exchange members and persons associated with its exchange members, with the provisions of the Exchange Act, the rules and regulations thereunder, and the rules of the Exchange.

The proposed rule change is a non-substantive administrative change that does not impact the governance or ownership of the Exchange, its facility NYSE Amex Options, or NYSE Amex Options' direct and indirect parent entities. The Exchange believes that the proposed rule change would enable the Exchange to continue to be so organized as to have the capacity to carry out the purposes of the Exchange Act and comply and enforce compliance with the provisions of the Exchange Act by its members and persons associated with its members, because ensuring that the Governing Documents identify the registered agent and registered office in Delaware would contribute to the orderly operation of the Exchange by adding clarity and transparency to its rules and complying with Delaware requirements for limited liability companies and corporations to have such agents and offices. Similarly, the proposed conforming change to the date of the NYSE American Operating Agreement would contribute to the orderly operation of the Exchange by adding clarity and transparency to its rules.

Amending the previously filed NYSE Operating Agreement would enable the Exchange to continue to be so organized as to have the capacity to carry out the purposes of the Exchange

LLC).

¹³ 15 U.S.C. 78f(b).

¹⁴ 15 U.S.C. 78f(b)(1).

Act and comply and enforce compliance with the provisions of the Exchange Act by its members and persons associated with its members because the Exchange would be ensuring that its rules remain consistent with the NYSE LLC operating agreement in effect. The Exchange notes that, as with the NYSE Operating Agreement, it would be required to file any changes to the Amended NYSE Operating Agreement with the Commission as a proposed rule change.¹⁵ In addition, the Exchange believes that the proposed changes, including the amendments to the NYSE Market (DE) Certificate, are consistent with and will facilitate an ownership structure of the Exchange's facility NYSE Amex Options that will provide the Commission with appropriate oversight tools to ensure that the Commission will have the ability to enforce the Exchange Act with respect to NYSE Amex Options and its direct and indirect parent entities.

For similar reasons, the Exchange also believes that the proposed rule change is consistent with Section 6(b)(5) of the Exchange Act,¹⁶ in that 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 change would remove impediments to and perfect the mechanism of a free and open market and a national market system by ensuring that market participants can more easily navigate, understand and comply with its rules. The Exchange believes that, by ensuring that the Governing Documents accurately identify the registered agent and registered office in Delaware, and by making a conforming change to the

¹⁵ The Exchange notes that any amendment to the Amended NYSE Operating Agreement would require that NYSE LLC file a proposed rule change with the Commission.

¹⁶ 15 U.S.C. 78f(b)(5).

date of the NYSE American Operating Agreement, the proposed rule change would reduce potential investor or market participant confusion.

The Exchange believes that amending the NYSE Operating Agreement would remove impediments to the operation of the Exchange by ensuring that its rules remain consistent with the NYSE LLC operating agreement in effect. The Amended NYSE Operating Agreement would be a “rule of the exchange” under Section 3(a)(27) of the Exchange Act.¹⁷ The Exchange notes that, as with the NYSE Operating Agreement, no amendment to the Amended NYSE Operating Agreement could be made without the Exchange filing a proposed rule change with the Commission. For the same reasons, the proposed rule change is also designed to protect investors as well as the public interest.

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 Exchange Act. The proposed rule change is not designed to address any competitive issue but rather is concerned solely with making a technical change updating the registered office and registered agent of the Exchange and NYSE Market (DE), Inc. and ensuring that the Commission will have the ability to enforce the Exchange Act with respect to NYSE Amex Options and its direct and indirect parent entities.

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.

¹⁷ 15 U.S.C. 78c(a)(27).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act¹⁸ and Rule 19b-4(f)(3)¹⁹ thereunder in that the proposed rule change is concerned solely with the administration of the Exchange.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may 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)²⁰ 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-NYSEAMER-2018-10 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.

¹⁸ 15 U.S.C. 78s(b)(3)(A).

¹⁹ 17 CFR 240.19b-4(f)(3).

²⁰ 15 U.S.C. 78s(b)(2)(B).

All submissions should refer to File Number SR-NYSEAMER-2018-10. 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-NYSEAMER-2018-10, 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.²¹

Eduardo A. Aleman
Assistant Secretary

²¹ 17 CFR 200.30-3(a)(12).