

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-95135; File No. SR-NYSEAMER-2022-26)

June 21, 2022

Self-Regulatory Organizations; NYSE American, LLC.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend Rule 902NY to Remove an Obsolete Reference

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 June 16, 2022, NYSE American, LLC (“NYSE American” or the “Exchange”) filed with the Securities and Exchange Commission (the “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 902NY(c) (Admission and Conduct on the Options Trading Floor) to remove an obsolete reference. 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 received on the proposed rule change. The text of those statements may be examined at the places

¹ 15 U.S.C.78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

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 Rule 902NY(c) regarding that Standards of Dress and Conduct on the Exchange to remove an obsolete reference

Rule 902NY specifies the requirements for conduct and dress for person to follow while on the Options Trading Floor.⁴ Rule 902NY(c) “Standards of Dress and Conduct”, as follows:

All ATP Holders are required to act in a manner consistent with a fair and orderly market and with the maintenance of public confidence in the Exchange. All persons on the Options Trading Floor shall comply with the standards of dress and conduct in Chapter 13, Floor Conduct Policy, of the NYSE Floor Officials Manual.⁵

The reference to Chapter 13, Floor Conduct Policy, of the NYSE Floor Officials Manual is obsolete. Historically, the behavior and conduct of NYSE members on the NYSE equities trading Floor was regulated by Floor Conduct and Safety Guidelines administered by NYSE Floor Officials. In 2021, however, the NYSE eliminated the role and function of NYSE Floor Officials and adopted a new Rule 37, setting forth standards of dress and conduct for the NYSE

⁴ The terms “Floor” and “Trading Floor” are defined in Rule 900.2NY(30) to mean “the options trading floor located at 11 Wall Street, New York, NY.”

⁵ See Rule 902NY(c).

equities trading Floor modeled on Rule 902NY.⁶ As such, the second sentence of current Rule 902NY(c) is no longer applicable and the Exchange proposes to eliminate it.

In place of the obsolete reference, the Exchange proposes to revise Rule 902NY(c) to mirror language set forth in the analogous rule in place on the Exchange's affiliate NYSE Arca ("Arca"). Arca Rule 6.2-O (Admission to and Conduct on the Options Trading Floor), is substantially similar to Rule 902NY(c) in establishing standards of conduct and dress for persons while on the Arca options trading floors.⁷ Consistent with Arca Rule 6.2-O(c), proposed 902NY(c), regarding "Standards of Dress and Conduct," would establish that:

All ATP Holders are required to act in a manner consistent with a fair and orderly market and with the maintenance of public confidence in the Exchange. *Accordingly, appropriate standards pertaining to dress and conduct on the Options Trading Floor, including, but not limited to, the following standards shall be observed:*" (emphasis added).⁸

The Exchange is not proposing any other changes to the standards of dress and conduct expected of ATP Holders when on the Options Trading Floor.

2. Statutory Basis

⁶ See Securities Exchange Act Release No. 94217 (February 10, 2022), 87 FR 8901 (February 16, 2022) (SR-NYSE-2021-73) (Order).

⁷ See Rule 6.2-O(c) establishing the Standards of Dress and Conduct and requirement that "[a]ll OTP Holders and OTP Firms are required to act in a manner consistent with a fair and orderly market and with the maintenance of public confidence in the Exchange. Accordingly, appropriate standards pertaining to dress and conduct on the Options Trading Floor, including, but not limited to, the following standards shall be observed:"

⁸ See proposed Rule 902NY(c).

For the reasons set forth above, the Exchange believes the proposed rule change is consistent with Section 6(b) of the Act⁹ in general, and furthers the objectives of Sections 6(b)(4) and (5) of the Act,¹⁰ in that it is designed to promote just and equitable principles of trade, 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 removing an obsolete reference (to the no longer used NYSE Floor Conduct Policy) and replacing this text with substantially identical text in the analogous rule on Arca, the Exchange affiliate options market. Moreover, the Exchange believes that by providing greater harmonization between Exchange rules and those of its affiliates that also have trading floors regarding access, conduct and decorum, the proposed rule change will foster cooperation and coordination with persons engaged in facilitating transactions in securities and will remove impediments to and perfect the mechanism of a free and open market and a national market system.

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 is not designed to address any competitive issues but rather relates to the removal of an outdated reference contained in rules regarding access, conduct and decorum on the Exchange's trading floor and replacing such reference with language that is consistent with

⁹ 15 U.S.C. 78f(b).

¹⁰ 15 U.S.C. 78f(b)(4) and (5).

that of the Exchange's affiliate options exchange --NYSE Arca, thus harmonizing rules across these exchanges.

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 Act¹¹ and Rule 19b-4(f)(6) thereunder.¹² 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.¹³

A proposed rule change filed under Rule 19b-4(f)(6)¹⁴ normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),¹⁵ the Commission may 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

¹¹ 15 U.S.C. 78s(b)(3)(A)(iii).

¹² 17 CFR 240.19b-4(f)(6).

¹³ 15 U.S.C. 78s(b)(3)(A)(iii). Rule 19b-4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file 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. The Commission notes that the Exchange satisfied this requirement.

¹⁴ 17 CFR 240.19b-4(f)(6).

¹⁵ 17 CFR 240.19b-4(f)(6)(iii).

waive the 30-day operative delay so it can immediately remove an obsolete reference in Rule 902NY. The Commission is waiving the 30-day operative delay as the proposal raises no new or novel issue and would allow the Exchange to immediately update its rule text to avoid potential investor confusion. Thus, the Commission believes waiving the operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission hereby waives the operative delay and designates the proposed rule change operative upon filing.¹⁶

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 under Section 19(b)(2)(B) of the Act¹⁷ 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-2022-26 on the subject line.

¹⁶ For purposes only of waiving the 30-day operative delay, the Commission also has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

¹⁷ 15 U.S.C. 78s(b)(2)(B).

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-NYSEAMER-2022-26. 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-2022-26 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.¹⁸

J. Matthew DeLesDernier,
Assistant Secretary,

¹⁸ 17 CFR 200.30-3(a)(12).