

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-92308; File No. SR-NYSE-2021-37)

July 1, 2021

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Reformat the Section of the NYSE Price List Setting Forth Credits Applicable to Supplemental Liquidity Providers

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 June 21, 2021, 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 reformat the section of the NYSE Price List setting forth Credits Applicable to Supplemental Liquidity Providers (“SLPs”) without any substantive changes. The Exchange proposes to implement the fee changes effective immediately. 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 reformat the section of the NYSE Price List setting forth Credits Applicable to SLPs without any substantive changes. The Exchange proposes to implement the fee changes effective immediately.

The Exchange proposes the following non-substantive changes to reorganize and enhance the presentation in the Price List in order to add clarity and transparency, thereby making the Price List easier to navigate.

First, the Exchange would delete the current presentation of the SLP rates and requirements except for the basic rate, which would remain unchanged. The Exchange would also delete footnotes **, 8 and + that, as discussed below, would be relocated to new section marked "General." Footnote 8 would be marked "Reserved" to preserve the current footnote numbering in the Price List. Footnotes 9 and 10, which do not appear in the current SLP section of the Price List, would remain unchanged.

Second, the Exchange proposes a table presentation of the current SLP rates and requirements. The proposed changes would appear in the Price List in two tables. The first table would appear under the new heading "SLP Adding Tiers" and the phrase "For SLP symbols that meet the 10% average quoting requirement in an assigned security pursuant to Rule 107B, other than MPL Orders, in securities with a per share price of \$1.00 or more:" from the current Price List. The table would summarize the current rates and requirements for SLP Tiers for Adding

Liquidity (SLP Step Up, SLP Tier 5, SLP Tier 4, SLP Tier 3, SLP Tier 2, SLP Tier 1A and SLP Tier [sic]) and set forth the requirements and the tiered display credits and non-tiered display credits. The requirements and credits are unchanged. The proposed changes would appear as follows in the Price List:

	Minimum Requirements			
Tier for Adding Liquidity	SLP Adding ADV % Tape A CADV		Tiered Display Credit	Tiered Non Display Credit
SLP Step Up	0.085% over April 2018 Baseline		\$(0.0018)	\$(0.0001)
SLP Tier 5	0.65% and 0.85% including Non SLP and 250,000 ADV in Retail Price Improvement Orders		\$(0.00310)	\$(0.00120)
SLP Tier 4	First 2 calendar months as an SLP OR	0.03% and averaging less than 0.01% in each of the prior 3 months	\$(0.0029)	\$(0.00105)
SLP Tier 3	0.20%		\$(0.0023)	\$(0.0006)
SLP Tier 2	0.45%		\$(0.0026)	\$(0.0009)
SLP Tier 1A	0.60%		\$(0.00275)	\$(0.00105)
SLP Tier 1	0.90%	0.75% if qualifying for SLP Cross Tape Incentive Tier 1	\$(0.0029)	\$(0.0012)

Following the proposed chart, the Exchange would include three bullets, as follows.

Bullet 1 would clarify that for SLPs that are also DMMs and subject to Rule 107B(i)(2)(A), the above SLP Tier 1, Tier 1A, Tier 2, Tier 3, Tier 4, Tier 5 and Step Up Tier requirements are after a discount of the percentage for the prior quarter of NYSE CADV in DMM assigned securities as of the last business day of the prior month. This is unchanged from the current Price List.

Bullet 2 would include text clarifying that SLPs that meet the requirements of one of the above tiers (Tiers 1A, 2, 3, 4 and the SLP Step Up Tier) and add liquidity in Tapes B and C securities of at least 0.25% of Tape B and Tape C CADV combined, will receive an additional credit of \$0.0001 if at SLP Step Up Tier, SLP Tier 3, SLP Tier 2, SLP Tier 1A OR \$0.00005 if at SLP Tier 1, SLP Tier 4 and SLP Tier 5. This is unchanged from the current Price List.

Bullet 3 would provide that in SLP Tier 1 and Tier 5, SLPs will receive an additional \$0.00005 per share for adding liquidity, other than MPL and Non-Display Reserve orders, in securities where they are not assigned as an SLP or do not meet the 10% average or more quoting requirement in an assigned security pursuant to Rule 107B. This information will be transposed without change from current SLP Tiers 1 and 5 in the Price List.

Following this proposed text, the Exchange would summarize the current Incremental SLP Step Up Tiers 1, 2 and 3 credits and requirements, renamed “SLP Incremental Tier,” in the following chart:

Tier	SLP Adding ADV % Tape A CADV Step Up over Baseline	Tiered Display Incremental Credit*
SLP Incremental Tier 3	0.100%	\$(0.00010)
SLP Incremental Tier 2	0.150%	\$(0.00020)
SLP Incremental Tier 1	0.250%	\$(0.00030)

The requirements and tiered displayed incremental credits applicable to each incremental step up are unchanged from the current Price List.

Proposed footnote * in the proposed chart would provide that the combined SLP credits shall not exceed \$0.0032 per share in a billing month, which is the same languages used in the current Price List. The footnote would also clarify that the Baseline for SLP Incremental Step Up Tiers is the second quarter of 2018, third quarter of 2018, or the month of January 2021, whichever is lowest.

The Exchange would next set forth the current SLP NBBO Setter Tier Credits” and requirements in the following chart under a new heading titled “SLP NBBO Setter Tier Credits:

Minimum Requirements for Tapes A, B and C				
SLP NBBO Setter Tier Credit Tier for Adding Liquidity	Adding ADV % Tape ABC CADV, including DMM ADV	NBBO Setting ADV % Tape ABC CADV, including DMM ADV	Tiered Credit for Setting NBBO (ASP)	Tiered Credit for Other Displayed Add
Setter Tier 4	0.55%	0.05%	\$(0.00350)	\$(0.00305)
Setter SLP Tier 3	0.65%	0.09%	\$(0.00360)	\$(0.00310)
Setter SLP Tier 2	0.95%	0.18%	\$(0.00370)	\$(0.00320)
Setter SLP Tier 1	1.25%	0.30%	\$(0.00380)	\$(0.00330)

Once again, the rates and requirements are unchanged from the current Price List.

The Exchange would transpose the last two current credits and requirements in the SLP section of the Price List for SLPs adding liquidity with orders designated as “retail” and in all assigned SLP securities without change under a new heading titled “Other Credits.”

Finally, the Exchange would introduce a section titled “General” that would summarize information from the current Price List in the form of the following four bullets.

Bullet 1 would provide that Adding shares of both an SLP-Prop and an SLMM of the same or an affiliated member organization are aggregated and that quotes of an SLP-Prop and an SLMM of the same member organization are not be aggregated. This information will also be transposed without change from the current SLP tiers.

Bullet 2 would provide that affiliated member organizations that are SLPs are eligible for the most favorable rate for any such security traded in an applicable month provided that one or both affiliated member organizations request and are approved for aggregation of eligible activity pursuant to the requirements set forth in this Price List. This information will also be transposed without change from current footnote +, which the Exchange proposes to delete.

Bullet 3 would provide that in a month where NYSE CADV equals or exceeds 5.5 billion shares per day for the billing month, NYSE CADV for that month will be subject to a cap of 5.5 billion shares per day for the billing month. In a month where Tape B and Tape C CADV combined equals or exceeds 6.0 billion shares per day for the billing month, Tape B and Tape C CADV combined for that month will be subject to a cap of 6.0 billion shares per day for the billing month. This information will also be transposed without change from current footnote **, which will be deleted as redundant.

Finally, bullet 4 would provide that SLPs becoming DMMs after the beginning of a billing month would not be eligible until the next full billing month. This information will also be transposed without change from current footnote 8 of the Price List. As noted, current footnote 8 will be deleted and marked “Reserved” to maintain the current footnote numbering.

As noted above, the Exchange is not proposing any substantive change to any current SLP fee, credit or requirement. The purpose of the proposed rule change is to make a non-

substantive change to reorganize the presentation of the Price List in order to enhance its clarity and transparency, thereby making the Price List easier to comprehend and navigate.

The proposed changes are not otherwise intended to address any 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 the proposed rule change is consistent with the Securities Exchange Act of 1934 (the “Act”) and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.⁴ Specifically, the Exchange believes the proposed rule change is consistent with Section 6(b)(4) of the Act,⁵ which provides that Exchange rules may provide for the equitable allocation of reasonable dues, fees, and other charges among its members and other persons using its facilities. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)⁶ requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that the proposed changes are reasonable and equitable because they are clarifying and non-substantive, and the Exchange is not changing any current fees or credits that apply to SLP trading activity on the Exchange or to routed executions. The changes are designed to make the Price List easier to read and more user-friendly. The Exchange believes that this proposed format will provide additional transparency of Exchange fees and credits for SLPs, to the benefit of market participants and the investing public. The Exchange

⁴ 15 U.S.C. 78f(b).

⁵ 15 U.S.C. 78f(b)(4).

⁶ 15 U.S.C. 78f(b)(5).

believes the change is 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.

The Exchange also believes that the proposal is non-discriminatory because it applies uniformly to all member organizations that are SLPs, and again, the Exchange is not making any changes to existing fees and credits. Finally, the Exchange believes that the reformatted Price List, as proposed, will be clearer and less confusing for investors and will eliminate potential confusion, thereby removing impediments to and perfecting the mechanism of a free and open market and a national market system, and, in general, protecting investors and the public interest.

The Exchange believes that the proposed reformatted the Price List is equitable and not unfairly discriminatory because the resulting streamlined Price List would continue to apply to all SLPs as it does currently because the Exchange is not adopting any new fees or credits or removing any current fees or credits that impact SLPs. All SLPs would continue to be subject to the same fees and credits that currently apply to them.

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,⁷ 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.

Intramarket Competition. The Exchange's proposal to reformat its Price List will not place any undue burden on intramarket competition that is not necessary or appropriate in

⁷ 15 U.S.C. 78f(b)(8).

furtherance of the purposes of the Act because all SLPs would continue to be subject to the same fees and credits that currently apply to them. The Exchange notes that the proposal does not change the amount of any current fees or rebates, but rather makes clarifying and formatting changes, and therefore does not raise any competitive issues. To the extent the proposed rule change places a burden on competition, any such burden would be outweighed by the fact that a streamlined Price List would promote clarity and reduce confusion with respect to the fees and credits that SLPs would be subject to. As noted, the proposal would apply to all similarly situated member organizations on the same and equal terms, who would benefit from the changes on the same basis. Accordingly, the proposed change would not impose a disparate burden on competition among market participants on the Exchange.

Intermarket Competition. The Exchange believes the proposed rule change does not impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange operates in a highly competitive market in which market participants can readily choose to send their orders to other exchanges and off-exchange venues if they deem fee levels at those other venues to be more favorable. Market share statistics provide ample evidence that price competition between exchanges is fierce, with liquidity and market share moving freely from one execution venue to another in reaction to pricing changes.

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)⁸ of the Act and subparagraph (f)(2) of Rule 19b-4⁹ 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 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)¹⁰ 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-2021-37 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.

⁸ 15 U.S.C. 78s(b)(3)(A).

⁹ 17 CFR 240.19b-4(f)(2).

¹⁰ 15 U.S.C. 78s(b)(2)(B).

All submissions should refer to File Number SR-NYSE-2021-37. 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-2021-37 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.¹¹

J. Matthew DeLesDernier
Assistant Secretary

¹¹ 17 CFR 200.30-3(a)(12).