comments on the proposed rule change.4
Section 19(b)(2) of the Act5 provides that within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day after publication of the notice for this proposed rule change is July 11, 2021. The Commission is extending this 45-day time period.

The Commission finds that it is appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change and the comments received. Accordingly, pursuant to Section 19(b)(2) of the Act,6 the Commission designates August 25, 2021, as the date by which the Commission shall either approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change (File No. SR-NYSEArca–2021–37).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.7
J. Matthew DeLesDernier, Assistant Secretary.

[FR Doc. 2021–14790 Filed 7–12–21; 8:45 am]
BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION


Self-Regulatory Organizations; NYSE American LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Rule 903 To Limit Short Term Options Series Intervals

July 7, 2021.

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 25, 2021, NYSE American LLC ("NYSE American" or the "Exchange") 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 903 (Series of Options Open for Trading) in connection with limiting the number of strikes listed for Short Term Option Series which are available for quoting and trading on the Exchange. 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 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 Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Rule 903 (Series of Options Open for Trading). Specifically, this proposal seeks to widen the intervals between strikes in order to limit the number of strikes listed for multiple listed equity options classes (excluding options on Exchange-Traded Funds ("ETFs") and Section 107 Securities (as described herein, see infra n. 13) within the Short Term Option Series program that have an expiration date more than 21 days from the listing date.

Background

Current Rule 903 permits the Exchange, after a particular class of options has been approved for listing and trading on the Exchange, to open for trading series of options therein. The Exchange may list series of options for trading on a weekly,4 monthly5 or quarterly6 basis. Rule 903 (c) sets forth the intervals between strike prices of series of options on individual stocks generally7 and Rule 903 Commentary (d) specifically sets forth intervals between strike prices Short Term Option Series. Additionally, the Exchange may list series of options pursuant to the $1 Strike Price Interval Program,8 the $0.50 Strike Program,9 the $2.50 Strike Price Program,10 and the $5 Strike Program.11 The Exchange’s proposal seeks to amend the listing of weekly series of options (i.e. Short Term Option Series) by adopting new Rule 903 Commentary (e), which widens the permissible intervals between strikes, thereby limiting the number of strikes listed, for multiply listed equity options (excluding options

4 The weekly listing program is known as the Short Term Option Series Program and is described within Rule 903, Commentary .10.
5 The Exchange will open at least one expiration month for each class of options open for trading on the Exchange. See Rule 903(a). The monthly expirations are subject to certain listing criteria for underlying securities described within Rule 915. Monthly listings expire the third Friday of the month See The Options Clearing Corporation ("OCC") By-Laws at Section 1.
6 The quarterly listing program is known as the Quarterly Options Series Program and is described within Rule 903.
7 The interval between strike prices of series of options on individual stocks may be $2.50 or greater where the strike price is $25 or less, provided however, that the Exchange may not list $2.50 intervals below $50 (e.g. $12.50, $17.50) for any class included within the $1 Strike Price Program, as detailed below in Rule 903 Commentary .06 if the addition of $2.50 intervals would cause the class to have strike price intervals that are $0.50 apart. For series of options on Exchange-Traded Fund Shares that satisfy the criteria set forth in Rule 915 Commentary .06, the interval of strike prices may be $1 or greater where the strike price is $200 or less or $5 or greater where the strike price is over $200. Exceptions to the strike price intervals above are set forth in Rule 903, Commenta...
8 The $1 Strike Interval Program is described within Rule 903, Commentary .06
9 The $0.50 Strike Program is described within Rule 903, Commentary .13
10 The $2.50 Strike Price Program is described within Rule 903, Commentary .07
11 The $5 Strike Program is described within Rule 903, Commentary .12
12 As a result, the proposed rule change subsequently updates current Rule 903, Commentary .10(e) to (f). In this regard, the Exchange also proposes to update a cross-reference to this newly re-labeled paragraph .10(g) that appears in Rule 903(h). See proposed Rule 903(h).

The term "ETF" (Exchange-Traded Fund) or "Fund Shares") has the same meaning as the term "exchange-traded fund" as defined in Rule 6c-11 under the Investment Company Act of 1940. See Rule 903, Commentary. There are three types of options: call options, put options, and spread options. Call options give the holder the right, but not the obligation, to buy the underlying asset at a specified price within a specified time period. Put options give the holder the right, but not the obligation, to sell the underlying asset at a specified price within a specified time period. Spread options involve combinations of call and put options on the same underlying asset. For example, a bull call spread consists of buying a call option and writing another call option with a higher strike price. The long call has a lower strike price and is purchased with the intention of making a profit if the underlying asset rises in price while the short call has a higher strike price and is sold with the intention of limiting the maximum potential loss.

The above information provides a basic overview of the types of options available in the options market. However, it is important to note that the options market is complex and involves various strategies and techniques. It is recommended that investors conduct thorough research and seek advice from a financial advisor before making any decisions related to options trading.


domestic securities that provide for the payment at maturity of a cash amount based on the performance of the underlying asset, such as fixed income securities, equity securities, and commodity futures. Option contracts are agreements between two parties to buy or sell an asset at a predetermined price on a future date. The buyer of an option contract, known as the buyer, has the right, but not the obligation, to exercise the option and buy the underlying asset at the strike price. The seller of an option contract, known as the seller, has the obligation to sell the underlying asset at the strike price if the buyer chooses to exercise the option. The value of an option contract is determined by various factors, including the price of the underlying asset, the strike price, the time until expiration, and the volatility of the underlying asset.

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The Exchange notes that listings in the weekly program comprise a significant part of the standard listing in options markets and that the industry has observed a notable increase over approximately the last five years in compound annual growth rate ("CAGR") of weekly strikes as compared to CAGR for standard third-Friday expirations.16

Proposed Rule 903, Commentary .10 (e)(1) provides that the Share Price is the closing price on the primary market on the last day of the calendar quarter. This value is used to derive the column from which to apply strike intervals throughout the next calendar quarter. Also, proposed Rule 903, Commentary .10 (e)(1) provides that in the event of a corporate action, the Share Price of the surviving company is utilized.20

Proposed Rule 903, Commentary .10 (e)(2) provides that the Average Daily Volume is the total number of option contracts traded in a given security for the applicable calendar quarter divided by the number of trading days in the applicable calendar quarter. Beginning on the second trading day in the first month of each calendar quarter, the Average Daily Volume is calculated by utilizing data from the prior calendar quarter based on Customer-cleared volume at OCC. For options listed on the first trading day of a given calendar quarter, the Average Daily Volume is calculated using the calendar quarter prior to the last trading calendar quarter.21 Pursuant to current Rule 903, Commentary .10, if the Exchange is not open for business on the respective Thursday or Friday, the Short Term Option Opening Date will be the first business day immediately prior to that respective Thursday or Friday.

By way of example, if the Share Price for a symbol was $142 at the end of a calendar quarter, with an Average Daily Volume greater than 5,000, thereby, requiring strike intervals to be listed $1.00 apart, that strike interval would apply for the calendar quarter, regardless of whether the Share Price changed to $150 or greater during that calendar quarter.22 The proposed table within Rule 903, Commentary .10(e) takes into account the notional value of a security, as well as Average Daily Volume in the underlying stock, in order to widen the intervals between strike prices for series in that same option class that expire in accordance with the normal monthly expiration cycle. During the expiration week of an option class that is selected for the Short Term Option Series Program pursuant to this rule ("Short Term Option"), the strike price intervals for the related non-Short Term Option ("Related non-Short Term Option") shall be the same as the strike price intervals for the Short Term Option.


21 For example, options listed as of April 1, 2021 would be calculated on April 2, 2021 using the Average Daily Volume from October 1, 2020 to December 31, 2020.

22 The Exchange notes that any strike intervals imposed by the Exchange’s Rules will continue to apply. In this example, the strikes would be in $1 intervals up to but not including $150, which is the upper limit imposed by Rule 903, Commentary .10(d).
The proposed strike intervals are intended to widen permissible strike intervals in multiply listed equity options (excluding options on ETFs and Section 107 Securities) where there is less volume as measured by the Average Daily Volume tiers. Therefore, the lower the Average Daily Volume, the greater the proposed spread between strike intervals. Options classes with higher volume contain the most liquid symbols and strikes, which the Exchange believes makes the finer proposed spread between strike intervals for those symbols appropriate. Additionally, lower-priced shares have finer strike intervals than higher-priced shares when comparing the proposed spread between strike intervals. Today, weeklies are available on 16% of underlying products. The proposal limits the density of strikes listed in series of options, without reducing the classes of options available for trading on the Exchange. Short Term Option Series with an expiration date greater than 21 days from the listing date currently equate to 7.5% of the total number of strikes in the options market, which equals 81,000 strikes.

The Exchange expects this proposal to result in the limitation of approximately 20,000 strikes within the Short Term Option Series, which is approximately 2% of the total strikes in the options markets. The Exchange understands there has been an inconsistency of demand for series of options beyond 21 calendar days. The proposal takes into account customer demand for certain options classes, by considering both the Share Price and the Average Daily Volume, in order to remove certain strike intervals where there exist clusters of strikes whose characteristics closely resemble one another and, therefore, do not serve different trading needs. Rendering these strikes less useful, the Exchange also notes that the proposal focuses on strikes in multiply listed equity options, and excludes ETFs and Section 107 Securities, as the majority of strikes reside within equity options.

Additionally, proposed Rule 903, Commentary .07(e)(3) provides that options that are newly eligible for listing pursuant to Rule 915 and designated to participate in the Short Term Option Program pursuant to Rule 903, Commentary .10(e) will not be subject to subparagraph (e) (as proposed) until after the end of the first full calendar quarter following the date the option class was first listed for trading on any options market. As proposed, the Exchange is permitted to list options on newly eligible listings, without having to apply the wider strike intervals, until the end of the first full calendar quarter after such options were listed. The proposal thereby permits the Exchange to add strikes to meet customer demand in a newly listed options class. A newly eligible option class may fluctuate in price after its initial listing; such volatility reflects a natural uncertainty about the security. By deferring the application of the proposed wider strike intervals until after the end of the first full calendar quarter, additional information on the underlying security will be available to market participants and public investors, as the price of the underlying has an opportunity to settle based on the price discovery that has occurred in the primary market during this deferment period. Also, the Exchange has the ability to list as many strikes as are permissible for the Short Term Option Series once the expiry is no more than 21 days. The Exchange understands that a new strike interval will only be utilized if the Exchange believes that it will improve overall market quality on the market.29 With an increasing number of strikes being listed across options exchanges, Market Makers must expend their capital to ensure that they have the appropriate infrastructure to meet their quoting obligations on all options markets in which they are assigned in option classes. The Exchange believes that by widening the intervals between strikes listed for equity options (excluding options on ETFs and Section 107 Securities), thus reducing the number of strikes listed on the Exchange, the proposal will likewise reduce the number of weekly strikes in which Specialists and Market Makers are required to quote and, as a result, allow Specialists and Market Makers to expend their capital in the options market in a more efficient manner. Due to this increased efficiency, the Exchange believes that the proposal may improve overall market quality on the Exchange by widening the intervals between strikes in multiply listed equity options (excluding options on ETFs and Section 107 Securities) that have an expiration date more than 21 days from the listing date. The proposal is intended to balance the goal of limiting the number of listed strikes with the needs of market participants. The Exchange believes that the various permissible strike intervals will continue to offer market participants the ability to select the appropriate strikes to meet their investment objectives.

Implementation

The Exchange will announce the implementation date of the proposed rule change by Trader Update to be published no later than 30 days following the operative date of the proposed rule. The implementation date

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23 See BX proposal, supra note 18, which presents tables that focus on data for 10 of the most and least actively traded symbols and demonstrate average spreads in weekly options during the month of August 2020.

24 The Exchange notes that this proposal is an initial attempt at reducing strikes and anticipates filing additional proposals to continue reducing strikes. The percentage of underlying products and percentage of and total number of strikes, are approximations and may vary slightly at the time of this filing. The Exchange intends to decrease the overall number of strikes listed on the NYSE Group options exchanges in a methodical fashion, so that it may monitor progress and feedback from its ATP Holders. The Exchange also notes that its affiliated option exchange, NYSE Arca Options, Inc. plans to submit an identical proposal.

25 From information drawn from time period between January 2020 and May 2020. See BX proposal, supra note 18.

26 See BX proposal, supra note 18.

27 For example, two strikes that are densely clustered may have the same risk properties and may also be the same percentage out of the money.

28 For example, if an options class became newly eligible for listing pursuant to Rule 5.3–O on March 1, 2021 (and was actually listed for trading that day), the first full quarterly lookback would be available on July 1, 2021. This option would become subject to the proposed strike intervals on July 2, 2021.

29 See Rule 925.1NY.
will be no later than 30 days following the issuance of the Trader Update. The Exchange will issue a Trader Update to its ATP Holders whenever the Exchange is the first exchange to list a class as eligible for Short Term Option Series pursuant to Rule 903, Commentary .10(e).

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.31 Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)32 requirements that the rules of an exchange be 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 mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)33 requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The proposal seeks to widen the permissible intervals between strikes listed for equity options (excluding options on ETFs and Section 107 Securities) in order to limit the number of strikes listed in the Short Term Option Series program that have an expiration date more than 21 days from the listing date. As described above, the Exchange believes that, by limiting the permissible strikes for multiply listed equity options (excluding options on ETFs and Section 107 Securities) that have an expiration date more than 21 days from the listing date, the proposal will reduce the number of strikes listed in series of options without reducing the number of classes of options available for trading on the Exchange.

The proposal allows the Exchange to determine the weekly strike intervals for multiply listed equity Short Term Option Series listed in the later weeks by taking into account customer demand for certain options classes by considering both the Share Price and the Average Daily Volume in the underlying security. The Exchange utilizes OCC Customer-cleared volume, as customer volume is an appropriate proxy for demand. Whereas non-Customer-cleared OCC volume represents the supply side, the Exchange believes OCC Customer-cleared volume represents the majority of options volume executed on the Exchange, which, in turn, reflects the demands in the marketplace and is therefore intended to assist the Exchange in meeting customer demand by offering an appropriate number of strikes.

The proposal is intended to remove certain strikes where there exist clusters of strikes whose characteristics closely resemble one another and, therefore, do not serve different trading needs, which currently results in less useful strikes. As such, the proposal protects investors and the general public by removing unnecessary choices for an options series, which the Exchange believes may improve market quality. The proposal seeks to reduce the number of strikes in the furthest weeklies, which generally have wider markets, and, therefore, lower market quality. The implementation of the Strike Interval table is intended to allow for greater spreads between strike intervals in multiply listed equity options where there is less volume as measured by the Average Daily Volume tiers. Therefore, the lower the Average Daily Volume, the wider the proposed spread between strike intervals, and the higher the Average Daily Volume (i.e., the options classes that contain the most liquid symbols and strikes), the narrower the proposed spread between strike intervals. Additionally, the proposed strike intervals are finer for lower-priced shares than higher-priced shares.35 As a result, the Exchange believes that, by limiting the permissible strikes for multiply listed equity options (excluding options on ETFs and Section 107 Securities) that have an expiration date more than 21 days from the listing date pursuant to the proposed Strike Interval table, the proposal may improve overall market quality on the Exchange, which serves to protect investors and the general public.

Further, utilizing the second trading day of a calendar quarter allows the Exchange to accumulate data regarding OCC Customer-cleared volume from the entire prior calendar quarter and allows the calculation of Average Daily Volume to account for trades executed on the last day of the previous calendar quarter, which will have settled by the second trading day.36 The Exchange believes that applying the previous calendar quarter for the calculation is appropriate to reduce the impact of unusual trading activity as a result of unique market events, such as a corporate action (i.e., it may result in a more reliable measure of Average Daily Volume than a shorter period).

As stated, the proposal is substantively identical to the strike interval proposal recently submitted by BX and approved by the Commission.37

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30 When the Exchange is the first exchange to list an option class Rule 6.4–O, Commentary .07 the Exchange shall provide a Trader Notice OTP Holders regarding the Short Term Option Series to be listed. Such notice will include for each eligible option class: the closing price of the underlying, the Average Daily Volume of the option class; and the eligible strike category (per the proposed table) in which the eligible option class falls under as a result of the closing price and the Average Daily Volume.


34 See supra note 30.

35 The Exchange notes that is has discussed the proposed strike intervals with various ATP Holders.

36 Options contracts settle one business day after trade date. Strike listing determinations are made the day prior to the start of trading in each series.

37 See BX Strike Interval Approval Order, supra note 18.
The Exchange believes that varied strike intervals will continue to offer market participants the ability to select the appropriate strike interval to meet that market participants’ investment objectives.

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 does not believe that the proposed rule change will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act as the proposed rule change limits the number of Short Term Option Series strikes available for quoting and trading on the Exchange for all market participants. Therefore, all market participants will equally be able to transact in options series in the strikes listed for trading on the Exchange. The proposal is intended to reduce the number of strikes for weekly options listed in later weeks without reducing the number of classes of options available for trading on the Exchange while also continuing to offer an appropriate number of strikes the Exchange believes will meet market participants’ investment objectives.

The Exchange does not believe that the proposed rule change will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act as it only impacts the permissible strike intervals for certain options series listed on the Exchange. Additionally, another options exchange has recently implemented a substantively identical rule for listing Short Term Option Series strike intervals on its exchange, approved by the Commission. The proposal is a competitive response that will permit the Exchange to list the same series in multiply listed options as another options exchange.

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)(ii) of the Act and Rule 19b–4(f)(6) thereunder. Because the foregoing 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)(iii) of the Act and subparagraph (f)(6) of Rule 19b–4 thereunder. A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii) 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 Exchange may implement the proposed rule change at the same time that all other options exchanges implement their respective rule changes. The Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest because the proposed rule change is substantively identical to rules adopted by each other options exchange, and therefore the Exchange’s proposal does not raise any new or novel issues. Waiver of the operative delay will allow the Exchange to implement its new rule on the same timeline as the other options exchanges, and such coordinated implementation will reduce potential investor confusion and facilitate a harmonized approach to strike listings for options within the Short Term Option Series program that have an expiration date more than 21 days from the listing date. Therefore, the Commission hereby waives the operative delay and designates the proposal as operative upon filing.

At any time within 60 days of the filing of the proposed rule change, the Commission 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.

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 email to rule-comments@sec.gov. Please include File Number SR–NYSEMER–2021–32 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.

All submissions should refer to File Number SR–NYSEMER–2021–32. This file number should be included on the subject line if email 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 considered the proposed rule’s impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).
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–2021–32, and should be submitted on or before August 3, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.45

J. Matthew DeLesDernier,
Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION


Self-Regulatory Organizations: The Depository Trust Company; Notice of Filing of Proposed Rule Change Relating to Confidential Information, Market Disruption Events, and Other Changes

July 7, 2021.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") and Rule 19b–4 thereunder, notice is hereby given that on June 25, 2021, The Depository Trust Company ("DTC") 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 clearing agency. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Clearing Agency’s Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change consists of modifications to DTC’s Rules, Bylaws and Organization Certificate (the “Rules”) to (i) revise certain provisions in the Rules relating to the confidentiality of information furnished by Participants to DTC, (ii) require that each Participant maintain confidential information furnished by DTC or its affiliates in confidence, and restrict use and disclosure of such information, (iii) add certain officers who are allowed to determine that there is a Market Disruption Event pursuant to Rule 38 and (iv) add a new Rule 38(A) to address situations in which it is necessary to disconnect a Participant, or third party service provider, or service bureau due to an imminent threat of harm to DTC, Participants and/or other market participants. Each of the proposed changes is described in greater detail below.

II. Clearing Agency’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the clearing agency 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 these statements may be examined at the places specified in Item IV below. The clearing agency has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Clearing Agency’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The proposed rule change consists of modifications to (i) revise certain provisions in the Rules relating to the confidentiality of information furnished by Participants to DTC, (ii) require that each Participant maintain confidential information furnished by DTC or its affiliates in confidence and restrict use and disclosure of such information, (iii) add certain officers who are allowed to determine that there is a Market Disruption Event pursuant to Rule 38 and (iv) add a new Rule 38(A) to address situations in which it is necessary to disconnect a Participant, or third party service provider, or service bureau due to an imminent threat of harm to DTC, Participants and/or other market participants. Each of the proposed changes is described in greater detail below.

(i) DTC Confidentiality Requirements

Section 1 of Rule 2 contains provisions relating to confidentiality of information furnished by Participants to DTC (collectively, the “DTC Confidentiality Requirements”). Each of the DTC Confidentiality Requirements provides that the rights of DTC to inspect books and records, or to be furnished with information, is subject to any applicable laws or rules, or regulations of regulatory bodies having jurisdiction over the Participant, that relate to confidentiality of records. DTC is proposing to update the DTC Confidentiality Requirements because such provisions (i) may result in unequal treatment of Participants due to differing laws or regulations of regulatory bodies, (ii) may result in a potential conflict of laws where rules or regulations governing a regulatory body of a Participant differ from the laws applicable to DTC, or a Participant has multiple regulatory bodies whose rules conflict, (iii) are burdensome as they require DTC to track the rules and regulations of each regulatory body of its Participants to determine what applicable laws or rules or regulations of regulatory bodies that relate to confidentiality of records affect its rights to receive information and (iv) are unnecessary as DTC has sufficient protections in place relating to protection and confidentiality of Participant data.

The regulatory bodies that have jurisdiction over Participants differ by Participant depending on certain criteria of each Participant, including the type of entity of the Participant, where the Participant was organized, the types of businesses in which the Participant engages and where the Participant is doing business. In addition, many Participants are regulated by more than one regulatory body. As a result, a requirement to maintain confidentiality standards for information provided by a Participant or the right to receive information based on the regulatory body or bodies that regulate such Participant result in varying standards of confidentiality for Participants that are regulated by different regulatory bodies. Such varying standards may result in unequal treatment of Participants due to differing laws or regulations of the regulatory body or bodies governing such Participants. In addition, such varying standards may result in a potential conflict of laws where rules or regulations governing a regulatory body of a Participant differ from the laws applicable to DTC or an entity that has multiple regulatory bodies whose rules conflict. DTC believes that it is unnecessarily burdensome to determine the rules and regulations of each of the regulatory bodies that regulate its Participants.