

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act,¹⁷ and Rule 19b-4(f)(2)¹⁸ thereunder. 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: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) 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-ISE-2017-77 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-ISE-2017-77. 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 Web site (<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 Web site 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; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-ISE-2017-77 and should be submitted on or before September 5, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁹

Eduardo A. Aleman,
Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-81337; File No. SR-NYSEAMER-2017-02]

Self-Regulatory Organizations; NYSE American LLC; Notice of Filing and Immediate Effectiveness of Proposed Change in Connection With Its Recent Name Change From NYSE MKT LLC to NYSE American LLC and the Related Rebranding of NYSE Amex Options to NYSE American Options

DATES: August 8, 2017.

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 July 27, 2017, 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 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 in connection with its recent name change from NYSE MKT LLC ("NYSE MKT") to NYSE American and the related rebranding of NYSE Amex Options to NYSE American

Options, to make technical and conforming changes to the rules of the Exchange ("Rules") and the NYSE American Options Fee Schedule ("Fee Schedule"). The proposed change is available on the Exchange's Web site 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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes, in connection with its name change from NYSE MKT to NYSE American and the related rebranding of NYSE Amex Options to NYSE American Options, to make technical and conforming changes to the Rules and Fee Schedule.⁴

Background

On March 16, 2017, the Exchange filed rule changes with the Commission in connection with its name change to NYSE American.⁵ In addition, on May 19, 2017, the Exchange filed rule changes with the Commission associated with the rebranding of NYSE Amex Options, the Exchange's facility for trading options, to NYSE American Options.⁶ In those filings, the Exchange committed to submitting subsequent rule filings as necessary to make any technical and conforming changes to proposed rule changes that were pending as of the time of those filings or that occurred after such filings but before the operative date of the name

⁴ The Exchange originally filed the proposed changes on July 21, 2017 (SR-NYSEAMKT-2017-47) and withdrew such filing on July 27, 2017.

⁵ See Securities Exchange Act Release No. 80283 (March 21, 2017), 82 FR 15244 (March 27, 2017) (SR-NYSEAMKT-2017-14).

⁶ See Securities Exchange Act Release No. 80748 (May 23, 2017), 82 FR 24764 (May 30, 2017) (SR-NYSEAMKT 2017-20).

¹⁷ 15 U.S.C. 78s(b)(3)(A)(ii).

¹⁸ 17 CFR 240.19b-4(f)(2).

¹⁹ 17 CFR 200.30-3(a)(12).

¹⁵ U.S.C. 78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

change.⁷ The Exchange's name change became operative on July 24, 2017. Accordingly, the Exchange now proposes to make technical and conforming changes to its Rules and Fee Schedule to reflect the name change to NYSE American and rebrand from NYSE Amex Options to NYSE American Options, as detailed below.

Proposed Changes

- In Rule 36—Equities, Supplementary Materials .21, .23, and .70 (Communications Between Exchange and Members' Offices), the Exchange proposes to change references to "NYSE Amex Options Trading Floor" to "NYSE American Options Trading Floor."

- In the Fee Schedule, under Section I. Options Transaction Fees and Credits, subpart M.BOLD Mechanism Fees & Credits, the Exchange proposes to change the reference to "NYSE Amex Options Market Makers" to "NYSE American Options Market Makers".

None of the foregoing changes are substantive.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Exchange Act⁸ in general, and with Section 6(b)(1)⁹ 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 change and does not impact the governance or ownership of the Exchange. 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 Rules and Fee Schedule accurately reflect the name of the Exchange and its facility for trading options would contribute to the orderly operation of the Exchange by adding clarity and transparency to such documents and rules.

For similar reasons, the Exchange also believes that the proposed rule change

is consistent with Section 6(b)(5) of the Act,¹⁰ 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 the Rules and Fee Schedule. The Exchange believes that, by ensuring that the Rules and Fee Schedule accurately reflect the name of the Exchange and its options market the proposed rule change would reduce potential investor or market participant confusion.

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 intended to address competitive issues but rather is concerned solely with updating the Rules and Fee Schedule to reflect its name change from NYSE MKT to NYSE American and the related rebranding of NYSE Amex Options to NYSE American Options.

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 proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act¹¹ and Rule 19b-4(f)(3)¹² thereunder. 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)¹³ 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 email to rule-comments@sec.gov. Please include File Number SR-NYSEAMER-2017-02 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-NYSEAMER-2017-02. 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 Web site (<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 Web site 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; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make

⁷ See *supra* note 5 at 15246 and note 6 at 24765.

⁸ 15 U.S.C. 78f(b).

⁹ 15 U.S.C. 78f(b)(1).

¹⁰ 15 U.S.C. 78f(b)(5).

¹¹ 15 U.S.C. 78s(b)(3)(A).

¹² 17 CFR 240.19b-4(f)(3).

¹³ 15 U.S.C. 78s(b)(2)(B).

available publicly. All submissions should refer to File Number SR–NYSEAMER–2017–02 and should be submitted on or before September 5, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁴

Eduardo A. Aleman,

Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–81342; File No. SR–GEMX–2017–31]

Self-Regulatory Organizations; Nasdaq GEMX, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend GEMX’s Schedule of Fees With Respect to the Options Regulatory Fee

August 8, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),¹ and Rule 19b–4 thereunder,² notice is hereby given that on July 26, 2017, Nasdaq GEMX, LLC (“GEMX” or “Exchange”) filed with the Securities and Exchange Commission (“SEC” or “Commission”) the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. 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 revise GEMX’s Schedule of Fees to: (i) More closely reflect the manner in which GEMX assesses and collects its ORF; and (ii) remove rule text related to the timing when the Exchange may increase or decrease the amount of the ORF.

The text of the proposed rule change is available on the Exchange’s Web site at www.ise.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 Exchange 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 Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization’s Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

GEMX initially filed to establish its ORF in 2013.³ At this time, the Exchange proposes to: (i) More closely reflect the manner in which GEMX assesses and collects its ORF; and (ii) remove rule text related to the timing when the Exchange may increase or decrease the amount of its ORF.

The Exchange supports a common approach for the assessment and collection of ORF among the various options exchanges that assess such a fee. Furthermore, the Exchange supports guidance from the Commission regarding regulatory cost structures to ensure equal knowledge and treatment among options markets assessing ORF.

Proposal 1—Reflect the Manner in Which GEMX Assesses and Collects Its ORF

Currently, GEMX assesses an ORF of \$0.0010 per contract side. This proposed rule change does not seek to amend the amount of the ORF. Currently, GEMX assesses its ORF for each customer option transaction that is either: (1) Executed by a member on GEMX; or (2) cleared by a GEMX member at The Options Clearing Corporation (“OCC”) in the customer range,⁴ even if the transaction was executed by a non-member of GEMX, regardless of the exchange on which the transaction occurs.⁵ If the OCC clearing member is a GEMX member, ORF is assessed and collected on all cleared customer contracts (after adjustment for CMTA⁶); and (2) if the OCC clearing member is not a GEMX member, ORF is

³ See Securities Exchange Act Release Nos. 70200 (August 14, 2013), 74 FR 51242 (August 20, 2013) (SR-Topaz-2013–01) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Establish the Schedule of Fees).

⁴ Members must record the appropriate account origin code on all orders at the time of entry in order. The Exchange represents that it has surveillances in place to verify that members mark orders with the correct account origin code.

⁵ The Exchange uses reports from OCC when assessing and collecting the ORF.

⁶ CMTA or Clearing Member Trade Assignment is a form of “give-up” whereby the position will be assigned to a specific clearing firm at OCC.

collected only on the cleared customer contracts executed at GEMX, taking into account any CMTA instructions which may result in collecting the ORF from a non-member.

By way of example, if Broker A, a GEMX member, routes a customer order to CBOE and the transaction executes on CBOE and clears in Broker A’s OCC Clearing account, ORF will be collected by GEMX from Broker A’s clearing account at OCC via direct debit. While this transaction was executed on a market other than GEMX, it was cleared by a GEMX member in the member’s OCC clearing account in the customer range, therefore there is a regulatory nexus between GEMX and the transaction. If Broker A was not a GEMX member, then no ORF should be assessed and collected because there is no nexus; the transaction did not execute on GEMX nor was it cleared by a GEMX member.

In the case where a member both executes a transaction and clears the transaction, the ORF is assessed to and collected from the member only. In the case where a member executes a transaction and a different member clears the transaction, the ORF is assessed to and collected from the member who clears the transaction and not the member who executes the transaction. In the case where a non-member executes a transaction at an away market and a member clears the transaction, the ORF is assessed to and collected from the member who clears the transaction. In the case where a member executes a transaction on GEMX and a non-member clears the transaction, the ORF is assessed to the member that executed the transaction and collected from the non-member who cleared the transaction. In the case where a member executes a transaction at an away market and a non-member clears the transaction, the ORF is not assessed to the member who executed the transaction or collected from the non-member who cleared the transaction because the Exchange does not have access to the data to make absolutely certain that ORF should apply. Further, the data does not allow the Exchange to identify the member executing the trade at an away market.

ORF Revenue and Monitoring of ORF

The Exchange monitors the amount of revenue collected from the ORF to ensure that it, in combination with other regulatory fees and fines, does not exceed regulatory costs. In determining whether an expense is considered a regulatory cost, the Exchange reviews all costs and makes determinations if there is a nexus between the expense

¹⁴ 17 CFR 200.30–3(a)(12).

¹⁵ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.