

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82139; File No. SR–NYSEAMER–2017–33]

### Self-Regulatory Organizations; NYSE American LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Rule 7.35E Relating to Auction Collars and To Add Temporary Rules

November 21, 2017.

Pursuant to Section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934 (“Act”)<sup>2</sup> and Rule 19b–4 thereunder,<sup>3</sup> notice is hereby given that, on November 17, 2017, NYSE American LLC (“Exchange” or “NYSE American”) 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 (1) amend Rule 7.35E(a)(10) to allow auctions to be conducted at a price equal to the Auction Collars and to change the rounding methodology for determining Auction Collars; (2) add Commentary .02 to Rule 7.35E to describe rules that would be in effect on a temporary basis pending the implementation of the auction logic changes; and (3) make clarifying amendments to Rules 7.35E(c)(1) and (d)(1). The proposed rule change is available on the Exchange’s Web site at [www.nyse.com](http://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 to amend Rule 7.35E(a)(10) to allow auctions to be conducted at a price equal to the Auction Collars and to change the rounding methodology for determining Auction Collars.<sup>4</sup> The Exchange also proposes Commentary .02 to Rule 7.35E to provide that until the Exchange implements the amendments to Rule 7.35E(a)(10) (but no later than February 26, 2018): (1) The Re-Opening Time for a Trading Halt Auction will be extended if the unadjusted Indicative Match Price is equal to the Auction Collars; and (2) the Trading Halt Auction processing described in Rules 7.35E(e)(5), (6), (7)(C), (8), and (10) would not be applicable to a Trading Halt Auction following a trading halt due to extraordinary market volatility under Rule 7.12–E (“MWC B Halt”) or a regulatory halt (together, “Temporary Rules”). Finally, the Exchange proposes clarifying amendments to Rules 7.35E(c)(1) and (d)(1).

The Exchange proposes that the Temporary Rules would become operative on the same date the Exchange implements recent amendments to Rule 7.35E, which the Exchange anticipates implementing at the same time that the changes described in the twelfth amendment to the Regulation NMS Plan to Address Extraordinary Market Volatility (“Plan”) are implemented.<sup>5</sup> As described in greater detail in the Reopening Filing, the Exchange amended its rules relating to the reopening of trading in conjunction with LULD Amendment 12. The Exchange and the participants to the Plan have announced that the changes described in the Reopening Filing and

LULD Amendment 12 will be implemented on November 20, 2017.<sup>6</sup>

#### Proposed Amendment to Rule 7.35E(a)(10)

Rule 7.35E(a)(10)(B) provides that an Indicative Match Price that is *equal to or higher* (lower) than the upper (lower) boundary of the Auction Collar will be adjusted to one minimum price variation below (above) the upper (lower) boundary of the Auction Collar. In other words, the Exchange does not conduct an auction at the Auction Collar price.

By contrast, Rule 7.35E(e)(5) currently defines the term “Impermissible Price,” *i.e.*, when a Trading Halt Auction would not be conducted, to mean when the Indicative Match Price, before being adjusted based on Auction Collars, is below (above) the Lower (Upper) Auction Collar or if there is a sell (buy) Market Imbalance. In other words, the Exchange extends the Re-Opening Time for a Trading Halt Auction only if the unadjusted Indicative Match Price is outside the Auction Collar price.

As currently approved, because the Exchange does not operate an auction at the Auction Collar price, but also does not extend an auction if the unadjusted Indicative Match Price is at the Auction Collar Price, these two rules together would allow for a Trading Halt Auction where not all auction interest (including Market Orders) would be satisfied. For example, if the lower Auction Collar is 10.10 for a security, and at 10.10 there are 200 shares to buy, at 10.11 there are 100 shares to buy, and the Exchange receives a sell Limit Order for 300 shares priced at 10.10, the Indicative Match Price, before being adjusted for Auction Collars, would be 10.10, which would be equal to the lower Auction Collar. Pursuant to Rule 7.35E(e)(5), an unadjusted Indicative Match Price of 10.10 would not be an Impermissible Price and therefore the auction would be conducted and would not be extended. However, pursuant to Rule 7.35E(a)(10)(B), the collared Indicative Match Price for that security would be 10.11, which would be where the auction would be priced. Because the auction would be conducted at 10.11, the buy Limit Order priced at 10.10 would not participate. Accordingly, in this scenario, 200 shares of the sell order would not be executed and would be available to participate in continuous trading after the auction. Similarly, if the sell order were a 300 share Market Order, in this scenario, only 100 shares

<sup>4</sup> Capitalized terms used in this rule filing have the same meaning as the capitalized terms in Rule 7.35E.

<sup>5</sup> See Securities Exchange Act Release No. 81968 (October 27, 2017), 82 FR 50898 (November 2, 2017) (SR–NYSEAMer–2017–30) (Notice of filing and immediate effectiveness of proposed rule change) (“Reopening Filing”). See also Securities Exchange Act Release Nos. 79107 (October 18, 2016), 81 FR 73159 (October 24, 2016) (Notice) and 79846 (January 19, 2017), 82 FR 8548 (January 26, 2017) (Approval Order) (SR–NYSEArca–2016–130) (the “NYSE Arca Reopening Filing”), and Securities Exchange Act Release No. 79845 (January 19, 2017), 82 FR 8551 (January 26, 2017) (File No. 4–631) (Order approving twelfth amendment to the Plan) (“LULD Amendment 12”).

<sup>6</sup> See Trader Update available here: [https://www.nyse.com/publicdocs/nyse/markets/nyse/NYSE\\_Group\\_LULD\\_12\\_testing.pdf](https://www.nyse.com/publicdocs/nyse/markets/nyse/NYSE_Group_LULD_12_testing.pdf).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 15 U.S.C. 78a.

<sup>3</sup> 17 CFR 240.19b–4.

of the Market Order would be executed, leaving 200 shares of the sell Market Order unexecuted.

The Exchange proposes to resolve the conflict between these two rules by adjusting the price at which its auctions would be eligible to trade. As proposed, the Exchange would permit auctions to be conducted at prices equal to the Auction Collar price threshold. This proposed rule change to allow for auctions to be priced equal to the Auction Collar price thresholds is consistent with how another exchange prices its auctions.<sup>7</sup> To effect this change, the Exchange proposes to amend Rule 7.35E(a)(10)(B) as follows (deletions in brackets):

(B) An Indicative Match Price that is [equal to or] higher (lower) than the upper (lower) boundary of the Auction Collar will be adjusted to [one MPV below (above)] the upper (lower) boundary of the Auction Collar and orders eligible to participate in the applicable auction will trade at the collared Indicative Match Price.

The Exchange similarly proposes to amend Rule 7.35E(a)(10)(C) to delete the phrase “at or” so that Limit Orders priced equal to the Auction Collars would be eligible to participate in the Auction without being collared, as follows (deletions in brackets):

(C) Limit Orders to buy (sell) with a limit price [at or] above (below) the upper (lower) Auction Collar will be included in the Auction Imbalance Information at the collared Indicative Match Price and will be eligible to trade at the Indicative Match Price.

Rule 7.35E(a)(10)(A) provides that the Auction Collar for the Core Open Auction and the Closing Auction (except as provided for in Rule 7.35E(e)(10)(B)) will be based on a price that is the greater of \$0.50 or 10% away from the Auction Reference Price for the applicable Auction. The rule further provides that the upper (lower) boundary of the Auction Collar is the Auction Reference Price increased (decreased) by either \$0.50 or 10%, as applicable, rounded down to the MPV. Finally, the rule provides that the Auction Collar for the Trading Halt Auction is specified in Rule 7.35E(e)(7). Rule 7.35E(e)(7)(B)(i) and (ii) similarly provide that Auction Collars for Trading Halt Auctions are rounded down to the nearest MPV.

The Exchange proposes to change its rounding methodology for determining Auction Collars for all auctions. To effect this change, the Exchange proposes to move the last sentence of Rule 7.35E(a)(10)(A) to after the first sentence of that paragraph and make a

non-substantive amendment to change “Rule 7.35E(e)(7)” to “paragraph (e)(7) of this Rule.” Next, the Exchange proposes to amend what was formerly the second sentence of this paragraph, and what would now be the last sentence, to replace the term “10%” with the term “specified percentage,” so that this sentence, which addresses how Auction Collars are determined, would include how Auction Collars are determined for Trading Halt Auctions. Finally, the Exchange proposes to amend Rule 7.35E(a)(10)(A) to provide that the upper (lower) boundary of the Auction Collar is the Auction Reference Price increased (decreased) by either \$0.50 or the specified percentage, as applicable, rounded to the nearest MPV.<sup>8</sup> The Exchange proposes to similarly amend Rule 7.35–E(e)(7)(B)(i) and (ii) to provide that Auction Collars would be rounded to the nearest MPV. Both Nasdaq Stock Market LLC (“Nasdaq”) and BZX Equities use this rounding methodology when determining auction collar prices for reopenings following a Trading Pause.<sup>9</sup> The Exchange would apply this same rounding methodology when determining the Auction Collars for all auctions on the Exchange.

The Exchange further proposes to amend Rules 7.35E(a)(10)(A) and (e)(7)(B)(i) and (ii) to provide that the lowest Auction Collar would be one MPV above \$0.00. For example, if the Reference Price for a security is \$0.10, subtracting \$0.15 from this Reference Price would equal a negative number. In such case, the lower boundary of the Auction Collar would be \$0.0001. Because, as described above, the Exchange would allow an auction to run at a price equal to an Auction Collar, this proposed rule change would make clear that an auction could run even if the Auction Collar would mathematically be equal to or below \$0.00.

Because of technology changes associated with the proposed changes to Rules 7.35E(a)(10)(A), (B), and (C), the Exchange proposes to announce the implementation date of these changes by Trader Update, which will be no

<sup>8</sup> If adding or subtracting the specified percentage of the Auction Reference price to the Auction Collar would result in a tenth of a penny, the Exchange would round down to the nearest penny when the calculation results in one to four tenths of a penny and the Exchange would round up to the nearest penny when the calculation results in five to nine tenths of a penny.

<sup>9</sup> See Nasdaq Rule 4120(c)(10)(A)(ii)a. and b. and BZX Equities Rule 11.23(d)(2)(C)(i) and (ii). The Nasdaq and BZX Equities rules are silent on the rounding methodology they use when applying percentages to auction collars for opening or closing auctions.

later than February 26, 2018. Between the effective date of these proposed rule changes and the implementation date, the Exchange proposes to keep the deleted rule text in its rule book, but will keep the deleted text in brackets and new text underlined to indicate that the Exchange has an effective proposed rule change amending that text. To reduce confusion and promote transparency, the Exchange proposes to describe how the text will be marked in proposed paragraph (c) to new Commentary .02 as follows:

Paragraphs (a)(10)(A), (B), and (C) of this Rule will have text in brackets indicating which text will be deleted and underlined text indicating which text will be new when the Exchange implements the amendments to those paragraphs.

#### Temporary Rule for Extending an Auction When Indicative Match Price Is Equal to Auction Collar

Pending the implementation of the technology changes described above, the Exchange proposes a temporary rule that would provide that the Exchange would extend the Re-Opening Time for a Trading Halt Auction if the unadjusted Indicative Match Price is equal to an Auction Collar. As proposed, for the period beginning November 20, 2017, when the changes described in the Reopening Filing are implemented, and ending when the Exchange’s technology changes are implemented or February 26, 2018, whichever is earlier, an Impermissible Price would include a price equal to the Auction Collar and thus a Trading Halt Auction would be extended when the unadjusted Indicative Match Price is equal to the Upper or Lower Auction Collar. This temporary rule would align the extension of an auction under Rule 7.35E(e)(5) with the price at which an auction would be conducted pursuant to Rule 7.35E(a)(10)(B). The Exchange believes that amending its rules on a temporary basis would be consistent with the purpose of the extension logic for Trading Halt Auctions, which is, in part, to ensure that all interest (including Market Orders) eligible to participate in the Trading Halt Auction is satisfied and not carried over to continuous trading.<sup>10</sup>

To effect this temporary change, the Exchange proposes to add Commentary .02 to Rule 7.35E that would describe the Temporary Rules that would be in effect until the earlier of February 26, 2018 or when the Exchange implements amendments to Rules 7.35E(a)(10)(A), (B), and (C), described above, which would be announced by Trader Update.

<sup>10</sup> See Reopening Filing, *supra* note 5.

<sup>7</sup> See Cboe BZX Exchange, Inc. (“BZX Equities”) Rule 11.23(a)(6) and (d)(2)(C).

Proposed paragraph (a) to new Commentary .02 to Rule 7.35E would describe the Temporary Rule relating to determining when a Trading Halt Auction would be extended and would provide that Rule 7.35E(e)(5) would not be in effect and a Trading Halt Auction would not be conducted if the Indicative Match Price, before being adjusted based on Auction Collars, would be equal to or below (above) the Lower (Upper) Auction Collar or if there is a sell (buy) Market Imbalance (an “Impermissible Price”).

The Exchange believes that including temporary rule text that describes how the Exchange will be determining the Impermissible Price beginning on November 20, 2017 will promote the protection of investors and the public interest because it will provide transparency in Exchange rules regarding how the Exchange is operating. The proposed amendment would further promote transparency by including the end date for the temporary rule. Once the temporary rule is no longer in effect, the Exchange will file a proposed rule change to delete the proposed Commentary .02(a) to Rule 7.35E.

#### Temporary Rule for MWCB and Regulatory Halts

In the Reopening Filing, the Exchange amended Rule 7.35E(e) to provide for a standardized methodology regarding how a primary listing exchange that conducts automated reopenings following a Trading Pause would reopen if Market Orders cannot be satisfied in the Trading Halt Auction. The amendments provide for a standardized Auction Reference Price and Auction Collar values, as well as for a standardized process for extending the Trading Pause if there is an Impermissible Price at the Re-Opening Time. The rule also implements the requirement set forth in LULD Amendment 12 that if an NMS Stock is in a Trading Pause during the last ten minutes of trading before the end of Regular Trading Hours, the Primary Listing Exchange shall not reopen trading and shall attempt to execute a closing transaction using its established closing procedures.<sup>11</sup>

As described in the Reopening Filing, the Exchange chose to make the changes described in the Reopening Filing available for Trading Halt Auctions following a MWCB Halt or regulatory halt.<sup>12</sup> However, because of the different technology supporting Trading Halt Auctions following MWCB Halts and

regulatory halts, the changes described in the Reopening Filing as applicable for a Trading Halt Auction following a MWCB Halt or regulatory halt will not be available on the implementation date for the LULD Amendment 12 changes.<sup>13</sup>

The Exchange will adjust its technology to align the treatment of Trading Halt Auctions following a MWCB Halt or regulatory halt with current Rules 7.35E(e)(5)–(8) and (e)(10). However, because these technology changes will not be ready by November 20, 2017, which is when the rules described in the Reopening Filing will be implemented, the Exchange proposes paragraph (b) to Commentary .02 to Rule 7.35E to provide for the Temporary Rule that the Trading Halt Auction processing described in Rules 7.35E(e)(5), (6), (7)(C), (8) and (10) would not be applicable to a Trading Halt Auction following a MWCB Halt or a regulatory halt. Rule 7.35E(e)(7) and sub-paragraphs (A) and (B) of that Rule, which specify the Auction Collar Reference Price and Auction Collars for Trading Halt Auctions, including for Trading Halt Auctions following a MWCB Halt or regulatory halt, would be applicable beginning November 20, 2017 for all Trading Halt Auctions. The Exchange intends to make the technology changes relating to Trading Halt Auctions following a MWCB Halt or regulatory halt at the same time that it implements the technology changes relating to the amendments to Rules 7.35E(a)(10)(A), (B), and (C), described above.

The Exchange believes that including temporary rule text that describes how the Exchange will be processing Trading Halt Auctions following a MWCB Halt or regulatory halt beginning on November 20, 2017 will promote the protection of investors and the public interest because it will provide transparency in Exchange rules regarding how the Exchange is operating. The proposed amendment would further promote transparency by including the end date for the temporary rule. Once the temporary rule is no longer in effect, the Exchange will file a proposed rule change to delete proposed Commentary .02(b) to Rule 7.35E.<sup>14</sup>

<sup>13</sup> The changes described in the Reopening Filing as applicable for Trading Halt Auctions following a Trading Pause will be implemented at the same time as the LULD Amendment 12 changes.

<sup>14</sup> The Exchange also proposes to amend Rule 7.35E(e)(10) to add the phrase “halted or” to the second sentence of that rule so that it would provide: “Instead, the Exchange will remain halted or paused and will conduct a Closing Auction in such security as provided for in paragraph (d) of this Rule.” The Exchange believes that because current Rule 7.35E(e)(10) applies to both halts and

Clarifying Amendments to Rule 7.35E(c)(1) and (d)(1)

Rules 7.35E(c)(1) provides that the Exchange will begin publishing Core Open Auction Imbalance Information at 8:00 a.m. Eastern Time. Rule 7.35E(d)(1) provides that the Exchange will begin publishing Closing Auction Imbalance Information one hour before the scheduled time for the Closing Auction. Because regularly scheduled auctions are not overlapping, the Exchange does not publish auction imbalance information for more than one auction at a time. However, if there is a Trading Halt Auction during the period when the Exchange would otherwise be publishing either Core Open or Closing Auction Imbalance Information, the Exchange stops publishing the Core Open or Closing Auction information and begins publishing Trading Halt Auction Imbalance Information. The proprietary data feeds that carry the Auction Imbalance Information specify for which auction the auction imbalance information is for (e.g., Trading Halt Auction or Core Open Auction).

The Exchange proposes to amend Rules 7.35E(c)(1) and (d)(1) to clarify what auction information is published if there is a halt (or pause) in the period when either Core Open Auction or Closing Auction Imbalance Information would otherwise be published.<sup>15</sup>

As proposed, Rule 7.35E(c)(1) would be amended to add that “unless a security is halted,” the Exchange will begin publishing Core Open Auction Imbalance Information at 8:00 a.m. Eastern Time. The Exchange further proposes to add two new sentences to the rule that would provide:

If a security is halted after 8:00 a.m. Eastern Time but before the Core Open Auction, the Exchange will stop publishing Core Open Auction Imbalance Information and will begin publishing Trading Halt Auction Imbalance Information. The Exchange will resume publishing Core Open Auction Imbalance Information if the security reopens trading before Core Trading Hours begin.

Similarly, as proposed, Rule 7.35E(d)(1) would be amended to add that “unless a security is halted or paused,” the Exchange will begin publishing Closing Auction Imbalance Information one hour before the

pauses, this proposed rule change clarifies the existing rule text. This proposed rule change would be in effect once the Temporary Rule described in Commentary .02(b) to Rule 7.35E has ended.

<sup>15</sup> A halt before Core Trading Hours would be a regulatory halt because a Trading Pause will occur only during Core Trading Hours, and therefore a security would not be paused before the Core Open Auction, and a MWCB Halt can be triggered only during Core Trading Hours.

<sup>11</sup> See LULD Amendment 12, *supra* note 5.

<sup>12</sup> See Reopening Filing, *supra* note 5.

scheduled time for the Closing Auction. The Exchange further proposes to add two new sentences to that rule that would provide:

If a security is halted or paused less than one hour before the scheduled time for the Closing Auction, the Exchange will stop publishing Closing Auction Imbalance Information and will begin publishing Trading Halt Auction Imbalance Information. The Exchange will resume publishing Closing Auction Imbalance Information the earlier of when the security reopens trading or ten minutes before the scheduled time for the Closing Auction.<sup>16</sup>

Because the proposed amendments to Rules 7.35E(c)(1) and (d)(1) describe current functionality, the Exchange proposes that these rule changes would be implemented on the operative date of this filing.

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Exchange Act,<sup>17</sup> in general, and with Section 6(b)(5),<sup>18</sup> in particular, because 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 amendment to Rules 7.35E(a)(10)(B) and (C) to allow auctions to be conducted at a price equal to the Auction Collars would remove impediments to and perfect the mechanism of a free and open market and a national market system because it would align how auctions are priced with the rules of another exchange.<sup>19</sup> Specifically, the application of auction collars on BZX Equities allow for an auction to be priced equal to the auction collars on that market. The proposed amendments to Rule 7.35E(a)(10) would similarly allow for the Exchange to price auctions equal to the Auction Collar. More specifically, for Trading Halt Auctions, the Exchange believes that

this proposed rule change would remove impediments to and perfect the mechanism of a free and open market and a national market system because it would align how reopening auctions are priced, which is consistent with the goal of the Reopening Filing to have standardized processes for re-opening a security following a Trading Pause across the primary listing exchange.

The Exchange believes that the proposed amendment to Rules 7.35E(a)(10)(A) and 7.35–E(e)(7)(B)(i) and (ii) to apply the same rounding methodology as Nasdaq and BZX Equities when determining the Auction Collars following a Trading Halt Auction would remove impediments to and perfect the mechanism of a free and open market and a national market system because it would align the Exchange's rules regarding how Auction Collars would be determined for a Trading Halt Auction with the rules of Nasdaq and BZX Equities. The Exchange further believes that it would remove impediments to and perfect the mechanism of a free and open market to apply the proposed rounding methodology to determining Auction Collars for all auctions on the Exchange because it would promote consistency in the application of rounding when determining Auction Collars, thereby promoting consistency across Exchange rules and reducing potential confusion. The Exchange further believes that amending Exchange rules to provide that the lowest Auction Collar would be one MPV above \$0.00 would remove impediments to and perfect the mechanism of a free and open market and a national market system because it would clarify that an auction could run even if the Auction Collar would mathematically be equal to or below \$0.00, thereby promoting transparency in Exchange rules.

The Exchange believes that the Temporary Rules would remove impediments to and perfect the mechanism of a free and open market and a national market system because these proposed rule changes would provide transparency regarding how the Exchange will function when the changes described in LULD Amendment 12 and the Reopening Filing are implemented, which is scheduled for November 20, 2017. The Exchange fully intends to implement the rules as approved in the Reopening Filing. However, the Exchange will not be able to implement Rule 7.35E(e)(5), as described in the Exchange's current rules, or apply the processing describing in Rules 7.35E(e)(5), (6), (7)(C), (8), and (10) to Trading Halt Auctions following a MWCB Halt or regulatory halt, until

the changes described for the proposed amendments to Rule 7.35E(a)(10) are implemented. The Exchange believes that adding the Temporary Rules for the interim period pending such implementation will promote the protection of investors and the public interest because it will provide transparency in Exchange rules regarding how the Exchange is operating. The proposed amendment would further promote transparency by including the end date for the temporary rule.

Finally, the Exchange believes that the proposed amendments to Rules 7.35E(c)(1) and (d)(1) will remove impediments to and perfect the mechanism of a free and open market and a national market system because these proposed amendments would clarify in Exchange rules which imbalance information would be published if there is a trading halt or pause during a period when either Core Open Auction or Closing Auction Imbalance Information is being published. The Exchange believes that the proposed clarifications will promote the protection of investors and the public interest because they will provide transparency regarding which imbalance information would be published at specific times prior to the Core Open and Closing Auctions.

### *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 to Rules 7.35E(a)(10) and (e)(7) would remove a potential burden on competition by aligning the Exchange's rules regarding how auctions would be priced and Auction Collars would be determined with the rules of other exchanges. The proposed Temporary Rules and clarifying amendment to Rules 7.35E(c)(1) and (d)(1) are not designed to address any competitive issues but rather to promote transparency in Exchange rules regarding how the Exchange will function.

### *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.

<sup>16</sup> The reference in this proposed rule to resuming publishing Closing Auction Imbalance Information ten minutes before the scheduled time for the Closing Auction refers to Rule 7.35–E(e)(10), which will be implemented for Trading Pauses on November 20, 2017, and will be implemented for MWCB Halts and regulatory halts the earlier of February 26, 2018 or when the technology changes described above are implemented.

<sup>17</sup> 15 U.S.C. 78f(b).

<sup>18</sup> 15 U.S.C. 78f(b)(5).

<sup>19</sup> See *supra* note 7.

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

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, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>20</sup> and Rule 19b-4(f)(6) thereunder.<sup>21</sup>

A proposed rule change filed pursuant to Rule 19b-4(f)(6) under the Act<sup>22</sup> normally does not become operative for 30 days after the date of its filing. However, Rule 19b-4(f)(6)(iii)<sup>23</sup> 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 proposal may become operative immediately upon filing. According to the Exchange, the implementation date of November 20, 2017 for the changes described in the Reopening Filing and LULD Amendment 12 is an industry-wide implementation date. The Exchange states that it fully intends to implement the rules as approved in the Reopening Filing, but it will not be able to implement Rule 7.35E(e)(5) or apply the processing described in Rules 7.35E(e)(5), (6), (7)(C), (8), and (10) to Trading Halt Auctions following a MWCB Halt or regulatory halt until the proposed amendments to Rule 7.35E(a)(10) are implemented.<sup>24</sup> According to the Exchange, until it makes the changes in the proposed amendments to Rule 7.35E(a)(10), it will have functionality in production that does not match its current rules.

<sup>20</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>21</sup> 17 CFR 240.19b-4(f)(6). In addition, 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, along with a brief description and the text of 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 Exchange has satisfied this requirement.

<sup>22</sup> 17 CFR 240.19b-4(f)(6).

<sup>23</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>24</sup> According to the Exchange, the proposed amendments to Rules 7.35E(a)(10) and (e)(7) are consistent with the goal of having standardized processes across primary listing exchanges for re-opening a security following a Trading Pause, will promote consistency when determining Auction Collars across the Exchange's auctions, and will make clear that an auction could run even if the Auction Collar would mathematically be equal to or below \$0.00.

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. The Commission believes that implementing the Temporary Rules without delay will promote transparency in the Exchange's rules regarding how the Exchange will function during this interim period.<sup>25</sup> The Commission notes that the Temporary Rules will be in effect until the Exchange implements its technology changes or until February 26, 2018, whichever is earlier. Accordingly, the Commission hereby waives the 30-day operative delay and designates the proposal operative upon filing.<sup>26</sup>

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend the 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 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](mailto:rule-comments@sec.gov). Please include File Number SR-NYSEAMER-2017-33 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-2017-33. This file number should be included on the subject line if email is used. To help the

<sup>25</sup> In addition, according to the Exchange, the proposed amendments to Rule 7.35E(c)(1) and (d)(1) will provide transparency regarding which imbalance information would be published at specific times prior to the Core Open and Closing Auctions.

<sup>26</sup> For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

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. 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-2017-33 and should be submitted on or before December 19, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>27</sup>

**Eduardo A. Aleman,**

*Assistant Secretary.*

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<sup>27</sup> 17 CFR 200.30-3(a)(12).