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**SECURITIES AND EXCHANGE COMMISSION**  
**[Release No. 34-92193; File No. SR-NYSE-2020-105]**

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**Self-Regulatory Organizations; New York Stock Exchange LLC; Order Approving a Proposed Rule Change, as Modified by Amendment No. 1, to Revise Rules 46 and 46A to Permit the Appointment of Trading Officials**

June 16, 2021.

I. Introduction

On December 15, 2020, New York Stock Exchange LLC (“NYSE” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Exchange Act”)<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to amend NYSE Rules 46 and 46A, and other related rules, to provide for the appointment of Trading Officials. The proposed rule change was published for comment in the Federal Register on December 30, 2020.<sup>3</sup>

On February 9, 2020, the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to approve or disapprove the proposed rule change, extending the date for Commission action until March 30, 2021.<sup>4</sup> On March 25, 2021, the Exchange submitted Amendment No. 1 to the proposed rule change.<sup>5</sup>

On March 30, 2021, the Commission published notice of Amendment No. 1 and instituted proceedings to determine whether to approve or disapprove the proposed rule change,

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

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> See Securities Exchange Act Release No. 90776 (Dec. 22, 2020), 85 FR 86625 (Dec. 30, 2020) (“Notice”).

<sup>4</sup> See Securities Exchange Act Release No. 91084 (Feb. 9, 2020), 86 FR 9545 (Feb. 16, 2021).

<sup>5</sup> Amendment No. 1 is available on the Commission’s website at <https://www.sec.gov/comments/sr-nyse-2020-105/srnyse2020105-8545367-230641.pdf>.

as modified by Amendment No. 1.<sup>6</sup> The Commission has received one comment on the proposed rule change.<sup>7</sup> This order approves the proposed rule change, as modified by Amendment No. 1.

## II. Description of the Proposed Rule Change

The Exchange proposes to eliminate NYSE member<sup>8</sup> and non-member employee Floor Officials<sup>9</sup> and transition the related duties to the newly created position of Trading Official, which would be filled by Exchange employees appointed by the NYSE CEO or his or her designee. In order to effectuate this proposed rule change, the Exchange would: (1) delete current NYSE Rules 46 and 46A, (2) replace those rules with new NYSE Rule 46, which would define Trading Officials and provide for their appointment, and (3) make conforming changes to other Exchange rules related to the duties and responsibilities of Trading Officials. As a result of this proposal, the various seniority-based gradations of Floor Official would be eliminated,<sup>10</sup> and the Floor-related functions that are currently delegated by Exchange Rules to member Floor Officials and Staff Governors would be performed only by Trading Officials. Only Exchange employees, not active Exchange members, would be eligible to serve as Trading Officials.

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<sup>6</sup> See Securities Exchange Act Release No. 91442 (Mar. 30, 2021), 86 FR 17658 (Apr. 5, 2021) (Notice of Filing of Amendment No. 1 and Order Instituting Proceedings (“OIP”)).

<sup>7</sup> See Letter from David De Gregorio, Associate General Counsel, New York Stock Exchange to Vanessa Countryman, Secretary, Office of the Secretary, Commission (May 10, 2021) (“OIP Response Letter”).

<sup>8</sup> NYSE Rule 2(a) states that the term “member,” when referring to a natural person, means a natural person associated with a member organization who has been approved by the Exchange and designated by such member organization to effect transactions on the Exchange Trading Floor or any facility thereof.

<sup>9</sup> NYSE Rule 46 (Floor Officials—Appointment) and NYSE Rule 46A (Executive Floor Governors) currently set forth the process for the Exchange to appoint active NYSE members as Floor Officials. In addition, Rule 46 permits the Exchange to appoint qualified employees to act as Floor Governors.

<sup>10</sup> The title “Floor Official” includes a broad category of titles that include, in order of increasing seniority, Floor Officials, Senior Floor Officials, Executive Floor Officials, Floor Governors, and Executive Floor Governors. See NYSE Rules 46 and 46A (defining Floor Official, Floor Governor, Executive Floor Official, Senior Floor Official, and Executive Floor Governor).

The Exchange anticipates that the current Staff Governors, who are Exchange employees, would be appointed as Trading Officials. According to the Exchange, Trading Officials, like current Staff Governors, would be appointed based on experience and necessary business and rule knowledge that would enable them to participate in and supervise various trading situations on the Trading Floor,<sup>11</sup> and the Exchange would train and supervise them.<sup>12</sup> In addition, Trading Officials, like the current Staff Governors, would report to the Head of Equities. The Exchange states that this reporting structure is appropriate because Trading Officials, like Staff Governors, will supervise trading on the Exchange and will not have any regulatory role or responsibility.<sup>13</sup>

The Exchange is also proposing certain technical and conforming changes to NYSE Rules 7.35A, 7.35B, 18(d), 37, 47, 75, 91.50, 93(b), 103.10, 103A, 103B(G), 104, 112(a)(i), 124(e), 128B.10, 308(g), and 903(d)(ii), which relate to the duties of Trading Officials and Floor supervision. Additionally, the Exchange proposes to amend NYSE Listed Company Manual Section 202.04.

- NYSE Rule 7.35A (DMM-Facilitated Core Open and Trading Halt Auctions) sets forth the responsibility of designated market makers (“DMMs”) to ensure that registered securities open as close to the beginning of Core Trading Hours as possible or reopen at the end of the halt or pause.
  - Subsection (a)(4) provides for Floor Official participation in the opening and reopening process to provide an impartial professional assessment of unusual situations, as well as to provide guidance with respect to pricing when a significant disparity in supply and demand exists. The rule also

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<sup>11</sup> The term “Trading Floor” is defined in Rule 6A to mean the restricted-access physical areas designated by the Exchange for the trading of securities, commonly known as the “Main Room” and the “Buttonwood Room.”

<sup>12</sup> Currently, Floor Officials are appointed by the Board annually and must complete a mandatory education program and pass a qualifications exam. See NYSE Rules 46 and 46A.

<sup>13</sup> Regulatory employees are not permitted to be Staff Governors. See NYSE Rule 46.10.

- contemplates DMM consultations with Floor Officials under certain specific circumstances. References to Floor Official in NYSE Rule 7.35A(a)(4) and (a)(5) would be replaced with Trading Official.
- NYSE Rule 7.35A(d) governs pre-opening indications. Subsection (d)(4) describes the procedures for publishing pre-opening indications and specifies when publication of a pre-opening indication requires supervision and approval of a Floor Governor. References to Floor Governor in NYSE Rule 7.35A(d)(4)(A) and (F)(i) would be replaced with references to Trading Official.
  - NYSE Rule 7.35B (DMM-Facilitated Closing Auctions) describes the responsibility of each DMM to ensure that registered securities close as soon after the end of Core Trading Hours as possible.
    - NYSE Rule 7.35B(a)(1)(C) provides that electronically-entered Floor Broker Interest cannot be reduced in size or replaced, except that DMMs can accept a full cancellation of electronically-entered Floor Broker Interest to correct a Legitimate Error subject to Floor Official approval. Floor Official would be replaced with Trading Official in NYSE Rule 7.35B(a)(1).<sup>14</sup>
    - NYSE Rule 7.35B(d) governs closing imbalances. Subsection (d)(1)(A) describes the circumstances in which a DMM may disseminate a Regulatory Closing Imbalance with prior Floor Official approval. Subsection (d)(2) provides that DMMs may disseminate a Manual Closing Imbalance only with prior Floor Official approval beginning one hour before the scheduled end of Core Trading Hours up to the Closing Auction

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<sup>14</sup> The Exchange has separately proposed to delete NYSE Rule 7.35B(a)(1)(C).

Imbalance Freeze Time. In both subsections, references to Floor Official would be replaced with references to Trading Official.

- NYSE Rule 7.35B(j) governs temporary rule suspensions. Subsection (j)(3) provides that a determination to declare a temporary suspension as well as any entry or cancellation of orders or closing of a security under subsection (j)(2) must be supervised and approved by an Executive Floor Governor and supervised by an Exchange Officer. The Exchange proposes that these determinations must be supervised and approved by a Trading Official.
- NYSE Rule 18(d) (Compensation in Relation to Exchange System Failure) sets forth the process for member organizations to seek reimbursement for losses resulting from system failures. Subsection (d) establishes a Compensation Review Panel consisting of three Floor Governors and three Exchange employees to determine the eligibility of a claim for payment. Since the proposed elimination of Floor Governors would leave Exchange employees as the sole members of the Compensation Review Panel, the Exchange proposes to eliminate the Compensation Review Panel. The proposed rule would accordingly provide that the Exchange will review claims submitted pursuant to the rule and determine the eligibility of a claim for payment.
- NYSE Rule 37 (Visitors) provides that visitors shall not be admitted to the Floor except by permission of an Exchange officer, Senior Floor Official, Executive Floor Official, Floor Governor, or Executive Floor Governor. The Exchange proposes that admission of visitors to the Floor be by permission of the Exchange.
- As noted above, NYSE Rules 46 and 46A would be deleted in their entirety. The heading of proposed NYSE Rule 46 would be “Trading Officials.”

- Under NYSE Rule 47 (Floor Officials—Unusual Situations), Floor Officials have the power to supervise and regulate active openings and unusual situations that may arise in connection with the making of bids, offers, or transactions on the Floor. References to Floor Official would be changed to Trading Officials and the heading would be changed to “Unusual Situations on the Floor.” Current NYSE Rule 49 would become NYSE Rule 48.
- NYSE Rule 75 (Disputes as to Bids and Offers) mandates that disputes arising on bids or offers that are not settled by agreement between the interested members shall be settled by a Floor Official. The Exchange proposes that disputes arising on bids or offers be settled by a Trading Official and would amend the rule text and Supplementary Material .10 accordingly. The rule currently provides that, if both parties to a dispute involving either a monetary difference of \$10,000 or more, or a questioned trade, the matter may be referred for resolution to a panel of three Floor Governors, Senior Floor Officials, or Executive Floor Officials, or any combination thereof (“3 Floor Official Panel”), whose decision shall be binding on the parties. As an alternative to the 3 Floor Official Panel under the current rule, members may proceed to resolve a dispute through long-standing arbitration procedures established under the Exchange’s rules. The Exchange proposes to eliminate the 3 Floor Official Panel. Disputes involving either a monetary difference of \$10,000 or more, or a questioned trade, would thus be resolved exclusively through arbitration.
- NYSE Rule 91.50 (Taking or Supplying Securities Named in Order) provides that if there is a continued pattern of rejection of a DMM’s principal transactions, a Floor Official may be called upon and require the broker to review his actions. Floor Official would be changed to Trading Official in NYSE Rule 91.50.

- NYSE Rule 93(b) (Trading for Joint Account) provides that no member while on the Floor shall initiate the purchase or sale on the Exchange of a stock for any account in which the member, the member's member organization, or any other member or allied member therein is directly or indirectly interested with any person other than such member organization or any other member or allied member therein, without the prior approval of a Floor Official. The reference to Floor Official would be changed to Trading Official.
- NYSE Rule 103.10 (Registration and Capital Requirements of DMMs and DMM Units) governs the temporary reallocation of securities and provides that the Chief Regulatory Officer of the Exchange ("CRO"), or his or her designee, and two non-DMM Executive Floor Governors (or, if only one or no non-DMM Executive Floor Governors is present on the Floor, the most senior non-DMM Floor Governor or Governors based on length of consecutive service as a Floor Governor at the time of any action covered by this rule), acting by a majority, shall have the power to reallocate temporarily any security on an emergency basis whenever such reallocation would be in the public interest. The Exchange proposes that only the CRO or his or her designee would have the power to reallocate temporarily any security on an emergency basis. According to the Exchange, the proposed rule reflects the current process whereby determinations to temporarily reallocate securities in the public interest are determined by the CRO and the most senior and experienced members of the Floor community. In the absence of those senior Floor member representatives, the Exchange states that determinations involving the public interest should be made exclusively by the CRO. The Exchange states that, given that reallocating securities in the public interest largely raise regulatory concerns, such determinations are best left to regulatory staff without the involvement of Trading Officials.

- NYSE Rule 103A (Member Education) provides for the Exchange to develop procedures and standards for qualification and performance of members active on the Floor of the Exchange. Currently, member Floor Officials are required to complete educational modules, while Executive Floor Governors are exempt from this requirement. Under the proposal, Trading Officials, like Executive Floor Governors, would not be required to complete educational modules, and the rule text related to this requirement would be eliminated. The Exchange also proposes the non-substantive change of deleting the superfluous “(I)” at the beginning of the rule.
- NYSE Rule 103B(G) (Security Allocation and Reallocation) describes the Exchange’s allocation freeze policy and provides that, following allocation probation, a second six-month period will begin during which a DMM unit may apply for new listings, provided that the unit demonstrates relevant efforts taken to resolve the circumstances that triggered the allocation prohibition. Currently, the determination as to whether a unit may apply for new listings is made by Exchange regulatory staff in consultation with the Executive Floor Governors, the most senior and experienced Floor Officials. The Exchange proposes that regulatory staff continue to make these determinations under the rule. According to the Exchange, it is not proposing that Regulatory staff consult with Trading Officials because Regulatory staff do not need the input or involvement of business-side staff to make these determinations.
- NYSE Rule 104 (Dealings and Responsibilities of DMMs) governs dealings and responsibilities of DMMs. Subsection (i) provides for temporary DMMs and permits a Floor Governor to authorize a member of the Exchange who is not registered as a DMM in an Exchange-listed stock or stocks, to act as a temporary



DMM under specific circumstances. The Exchange proposes that Trading Officials would perform this function under the amended rule.

- NYSE Rule 112(a)(i) (Orders initiated “Off the Floor”) provides that all orders in stocks for the account of a member organization; any member, principal executive, approved person, officer, or employee of that organization; or a discretionary account serviced by the member or member organization must be sent to the Floor through a clearing firm’s order room or other facilities regularly used for transmission of public customers’ orders to the Floor, except for orders, among others, when a Floor Official expressly invites a member or members to participate in a difficult market situation. The Exchange would replace Trading Official for Floor Official in NYSE Rule 112(a)(i).
- NYSE Rule 124(e) (Midday Auction) provides that, when there is a significant imbalance in a Midday Auction Stock at the end of the Midday Auction Pause, the Midday Auction Pause may be converted to an order imbalance halt with the approval of a Floor Governor or two Floor Officials. The Exchange proposes that this approval would be given by a Trading Official.
- NYSE Rule 128B (Publication of Changes, Corrections, Cancellations or Omissions and Verification of Transactions) governs changes and corrections to the Consolidated Tape.
  - NYSE Rule 128B.10 (Publication on the tape or in the “sales sheet”) provides that publication of a change or a correction in a transaction which previously appeared on the tape may be made on the tape on the day of the transaction, provided that both buying and selling members or member organizations agree to the change in the transaction(s) and receive approval from a Floor Governor, Executive Floor Official, Senior Floor Official, or Executive Floor Governor. In the event such publication is not

made on the tape on the day of the transaction, it may be published on the tape at least ten minutes prior to the opening of business on the following business day or in the sales sheet within three business days of the transaction with the approval of both the buying and selling members and a Floor Official, provided the price of the transaction does not affect the high, low, opening, or closing price of the security on the day of the transaction. The Exchange proposes that Trading Officials provide the approvals required under NYSE Rule 128B.10.

- NYSE Rule 128B.13 (Other errors) provides that a correction in the amount of a transaction reported erroneously to the tape by a party to the transaction may be published on the tape on the day of the transaction, on the tape at least ten minutes prior to the opening on the following business day, or on the “sales sheet” within three business days of the transaction with the approval of a Floor Governor, Executive Floor Official, Senior Floor Official, or Executive Floor Governor. The Exchange proposes that Trading Officials provide the approvals required under NYSE Rule 128B.13.
- NYSE Rule 308(g) (Acceptability Proceedings) provides that any person whose application has been disapproved by an Acceptability Committee, or any member of the Board of Directors of the Exchange, any member of the Committee for Review (“CFR”), any Executive Floor Governor, and the Division of the Exchange initiating the proceedings, may require a review by the Board of any determination of an Acceptability Committee. The Exchange proposes to delete Executive Floor Governors from the rule. The Exchange states that the proposed change would not affect the procedural safeguards of the call for review process since there would still be interested parties that could call a matter for Board review. Specifically, directors and members of the CFR, including the person

whose application was disapproved, would continue to be able to call disapproved membership applications for review, thereby, according to the Exchange, ensuring the independence, integrity, and fairness of the membership process. The Exchange states that Trading Officials, who are not members and have no role in the member application process, should not have the ability to call matters involving membership applications for review.

- NYSE Rule 903(d)(ii) (Off-Hours Transactions) provides that a closing price order to buy (sell) a security for the account of the DMM registered in such security and approved by a Floor Official, coupled with a closing price order to sell (buy) to offset all or part of a market-on-close imbalance in the stock prior to the close, shall be executed upon entry. The Exchange proposes that a Trading Official would provide the required approval under the rule.
- NYSE Rule 906 (Impact of Trading Halts on Off-Hours Trading) provides that a closing price order to buy (sell) a security for the account of the DMM registered in that security and approved by a Floor Official, coupled with a closing price order to sell (buy) to offset all or part of any market-on-close imbalance in the stock prior to the close, shall not be so canceled or precluded from entry as result of corporate developments during the Off-Hours Trading Session. The Exchange proposes that a Trading Official would provide the required approval under the rule.
- Finally, NYSE Listed Company Manual Section 202.04 (Exchange Market Surveillance) provides that a listed issue may be placed under special initial margin and capital requirements, which indicates a determination by the Exchange's Floor Officials that the market in the issue has assumed a speculative tenor and has become volatile due to the influence of credit, which, if ignored,

may lead to unfair and disorderly trading. The reference to Floor Officials would be changed to a reference to Trading Officials.

### III. NYSE's OIP Response Letter

On May 10, 2021, the NYSE submitted a response to the questions in the Commission's OIP.<sup>15</sup> Specifically, the Exchange responded to the questions in the OIP as to whether: (1) the proposed rule change raised issues related to fair representation of member firms in the administration of the Exchange's affairs; (2) permitting only Exchange employees to be Trading Officials would create or alter conflicts of interest, if any, faced by Trading Officials in performing their duties; (3) mandatory training of Trading Officials should be required; and (4) employees of member firms could have relevant experience or knowledge that is important for performing the duties of a Trading Official.<sup>16</sup>

The Exchange states that it does not believe that the fair representation requirement of Section 6(b)(3) of the Act is implicated by this proposed rule change because Section 6(b)(3) of the Act is primarily concerned with member participation in the governance of a national securities exchange and because the members of the Exchange are represented on and participate on the Exchange's Board and its committees.<sup>17</sup> The Exchange further states that it is not required to delegate the authority to supervise and regulate certain trading activity to its members and that member Floor Officials are a unique feature of the Exchange, not replicated on other equities exchanges.<sup>18</sup> Further, the Exchange states that its affiliates, NYSE Arca and NYSE American, currently have exchange employees who are designated as Trading Officials and who fulfill a role similar to that of the proposed NYSE Trading Officials, as well as to that of its current Floor Officials.<sup>19</sup> Accordingly, the Exchange states that it does not believe that the elimination of

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<sup>15</sup> See note 7, supra.

<sup>16</sup> See OIP, 86 FR at 17633; see also OIP Response Letter, supra note 7, at 2-3.

<sup>17</sup> See OIP Response Letter, supra note 7, at 3.

<sup>18</sup> Id.

<sup>19</sup> Id.

member Floor Officials from the delegated responsibilities in the Exchange's marketplace raises any fair representation issues or diminishes the fair representation of members in the administration of the Exchange's affairs.<sup>20</sup>

With respect to potential conflicts of interest, the Exchange states that it does not believe that potential conflict of interests would either be created or altered by this proposed rule change because only Exchange employees would be Trading Officials.<sup>21</sup> The Exchange states that employee-only Trading Officials are not novel and have been part of the structure of the options markets for many years.<sup>22</sup> In addition, the Exchange states that, as a practical matter, the current Staff Governors, who already perform the functions of Floor Officials, would become the new Trading Officials and would be performing the same delegated functions in the same fashion under the Exchange's rules as they currently do as Floor Officials.<sup>23</sup> Thus, according to the Exchange, although their titles would change, the Staff Governors would be performing the same functions and the Exchange's supervisory procedures should continue to reasonably ensure that Trading Officials exercise the same level of competence and professionalism, including making impartial assessments and avoiding actual and apparent conflicts of interest.<sup>24</sup> In addition, the Exchange states that employee-only Trading Officials should reduce the potential for conflicts of interest because they would not be affiliated with a competing broker-dealer business on the Floor.<sup>25</sup> The Exchange also states that it has sought to mitigate potential conflicts of interest by proposing to remove Trading Official involvement from certain situations in which Floor Officials currently have a role under Exchange rules.<sup>26</sup> For instance, proposed Trading Officials

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<sup>20</sup> Id.

<sup>21</sup> Id. at 4.

<sup>22</sup> Id.

<sup>23</sup> Id.

<sup>24</sup> Id.

<sup>25</sup> Id.

<sup>26</sup> Id.

would not be involved in determinations to reallocate securities under amended NYSE Rules 103.10 and 103B(G) or in resolving matters involving a dispute involving either a monetary difference of \$10,000 or more or a questioned trade under amended NYSE Rule 75.<sup>27</sup>

With regard to mandatory training for Trading Officials, the Exchange states that it is obligated to comply with and enforce its rules and securities laws, and that in order to fulfill this obligation it has an active employee supervision and training program already in place.<sup>28</sup> Further, the Exchange states that the current mandatory training for Floor Officials was developed specifically for Floor Officials when they were exclusively Floor members and prior to the inclusion of Staff Governors.<sup>29</sup> The Exchange explains that it currently provides its Staff Governors training and updates on rule changes and changes in Floor-related trading technology and that the same would be done for Trading Officials.<sup>30</sup> Thus, the Exchange does not believe that a separate mandatory educational program for a subset of its employees (i.e., Trading Officials) is necessary.<sup>31</sup>

Finally, the Exchange acknowledges that members may have relevant experience or knowledge that is important for performing the duties of a Trading Official.<sup>32</sup> The Exchange states that it is, in fact, because of their relevant experience or knowledge that member employees have been hired by the Exchange as Staff Governors, and the Exchange expects to continue to benefit from the experience of member employees as it hires and trains Trading Officials.<sup>33</sup> The Exchange states that it does not, however, believe that the best way to utilize the

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<sup>27</sup> Id. at 4-5.

<sup>28</sup> Id. at 5.

<sup>29</sup> Id.

<sup>30</sup> Id.

<sup>31</sup> Id. at 4.

<sup>32</sup> Id. at 5.

<sup>33</sup> Id.

knowledge and experience of Floor members is to require the retention of member Floor Officials in their current form.<sup>34</sup>

#### IV. Discussion and Commission Findings

After careful review, the Commission is approving the proposed rule change, as modified by Amendment No. 1, for the reasons discussed below.<sup>35</sup> The Commission finds that the proposed rule change, as modified, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, including Section 6(b)(3) of the Exchange Act, which requires, among other things, that the rules of a national securities exchange assure a fair representation of its members in the administration of its affairs,<sup>36</sup> and Section 6(b)(5) of the Exchange Act, which requires, among other things, 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, and that they are not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.<sup>37</sup>

The Commission finds that, because the proposed rule change will not diminish the role that member firms will continue to play in the governance of the Exchange, and because having Trading Officials who are exclusively Exchange employees would be consistent with the

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<sup>34</sup> Id.

<sup>35</sup> In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

<sup>36</sup> 15 U.S.C. 78f(b)(3).

<sup>37</sup> Id.

Commission-approved rules of other national securities exchanges, the proposed rule change is consistent with Section 6(b)(3) of the Act.<sup>38</sup>

The Commission also finds that the proposed rule change is consistent with Section 6(b)(5) of the Act. The Commission finds that the proposed rule change is reasonably designed to supervise and review trading on the Floor while ensuring that qualified Exchange-trained and supervised staff continue to perform oversight to the marketplace on a day-to-day basis as prescribed by Exchange rules and consistent with the Exchange's obligations under the Act. The Commission also finds that the proposed rule change reasonably addresses potential conflicts of interest faced by Trading Officials by providing for objective assessments by professional staff who do not conduct a competing broker-dealer business on the Floor and by removing Trading Officials from involvement in certain situations, including disputes with a value of \$10,000 or more. Additionally, the Commission finds that it is reasonable for the Exchange to hire, train, and supervise the Trading Officials in the manner that has been established for Staff Governors since, notwithstanding the change of title, the duties and responsibility will remain largely the same. Further, because the primary role of the Trading Official will be to supervise trading on the Exchange, the Commission also finds it is appropriate for Trading Officials to report to NYSE's Head of Equities. For these reasons, the Commission finds that the proposed rule change consistent with the requirements of Section 6(b)(5) of the Act.<sup>39</sup>

Finally, the Commission finds that the changes to NYSE Rules 7.35A, 7.35B, 18(d), 37, 47, 75, 91.50, 93(b), 103.10, 103A, 103B(G), 104, 112(a)(i), 124(e), 128B.10, 308(g), 903(d)(ii), and NYSE Listed Company Manual Section 202.04 are of a conforming and technical nature designed to remove references to Floor Officials and clarify, as necessary, how the scope of the

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<sup>38</sup> Id.

<sup>39</sup> 15 U.S.C. 78f(b)(5).



Trading Official's duties differs from that of the Floor Official, and that these changes are, therefore, consistent with Section 6(b)(5) of the Act.<sup>40</sup>

For the reasons discussed above, the Commission finds that the proposed rule change, as modified by Amendment No. 1, is consistent with the requirements of the Act and in particular Section 6(b)(3) and Section 6(b)(5) because it does not impair the fair representation of member firms in the governance of the exchange, and because it is reasonably 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, and to remove impediments to and perfect the mechanism of a free and open market and a national market system, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

V. Conclusion

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,<sup>41</sup> that the proposed rule change SR-NYSE-2020-105, as modified by Amendment No. 1, is hereby approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>42</sup>

**J. Matthew DeLesDernier,**  
*Assistant Secretary.*

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<sup>40</sup> Id.

<sup>41</sup> 15 U.S.C. 78s(b)(2).

<sup>42</sup> 17 CFR 200.30-3(a)(12).