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SECURITIES AND EXCHANGE COMMISSION

(Release No. 34-101967; File No. SR-NYSEAMER-2024-79)

Self-Regulatory Organizations; NYSE American LLC; Notice of Filing and Immediate Effectiveness of Proposed Change to Amend Sections 140 and 141 of the NYSE American Company Guide to Amend the Original and Annual Listing Fees for Bonds and the Annual Fee for Stock Issues

December 18, 2024

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 December 16, 2024, NYSE American LLC (“NYSE American” or the “Exchange”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Sections 140 and 141 of the NYSE American Company Guide (the “Company Guide”) to (i) amend the original and annual listing fees for bonds, and (ii) amend the annual fee for stock issues. The proposed rule change is available on the Exchange’s website 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

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<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.

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 Sections 140 and 141 of the Company Guide to (i) amend the original and annual listing fees for bonds, and (ii) amend the annual fee for stock issues. The proposed changes will take effect from the beginning of the calendar year commencing on January 1, 2025.

The Exchange currently charges an annual fee of \$55,000 to issuers with 50 million or fewer shares outstanding and an annual fee of \$75,000 to issuers with more than 50 million shares outstanding. The Exchange proposes to amend Section 141 of the Company Guide to increase the annual fee for issuers with 50 million or fewer shares outstanding to \$60,000, and to increase the annual fee for issuers with more than 50 million shares outstanding to \$80,000.

The proposed increase to the annual fee for stock issues reflects increases in the costs the Exchange incurs in providing services to listed companies on an ongoing basis including in relation to company events and advocacy on behalf of listed companies, as well as increases in the costs of conducting its related regulatory activities. The Exchange proposes to make the aforementioned fee increases to better reflect the Exchange's costs related to listing equity securities and the corresponding value of such listing to companies.

The revised annual fee for stock issues will be applied in the same manner to all issuers with listed securities in the affected categories and the Exchange believes that the changes will not disproportionately affect any specific category of issuers.

Pursuant to Section 140 of the Company Guide, the Exchange currently charges an original listing fee for bond issues equal to \$100 per \$1 million principal amount (or fraction thereof) and subject to a minimum original listing fee of \$5,000 and a maximum fee of \$10,000.

Pursuant to Section 141 of the Company Guide, the Exchange currently charges an annual fee for listed bonds equal to \$5,000.

Similar to bonds listed on New York Stock Exchange LLC (“NYSE”), bonds that are listed on NYSE American trade on the NYSE Bonds platform. The quantitative original listing standards for bonds listed on the NYSE or NYSE American exchanges are nearly identical.<sup>4</sup> Because bonds listed on NYSE American and NYSE are subject to the same quantitative listing standards (except as described in Footnote 3) and trade on the same NYSE Bonds platform, the Exchange believes it is appropriate to align the original and annual fee schedule for bonds listed on NYSE American with the schedule applicable to bonds listed on the NYSE<sup>5</sup> as the value of a bond listing is the same to an issuer regardless of the exchange on which the bond is listed.

Accordingly, the Exchange proposes to amend Section 140 of the Company Guide to specify that listed bonds will be subject to a flat original listing fee of \$25,000.<sup>6</sup> The Exchange proposes to amend the annual fees for bonds contained in Section 141 of the Company Guide to eliminate the \$5,000 flat annual fee and instead adopt a tiered annual fee schedule based on the number of bonds that an issuer has listed on the Exchange. As revised, an issuer that has at least one and no more than five listed bonds will pay an annual fee of \$25,000. An issuer that has at least six and no more than 10 listed bonds will pay an annual fee of \$50,000. An issuer that has

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<sup>4</sup> See Section 104 of the Company Guide and Sections 102.03 and 103.05 of the NYSE Listed Company Manual. To qualify for original listing, both NYSE American and NYSE require that a bond (i) have an aggregate market value or principal amount of at least \$5,000,000, and (ii) meet one of several enumerated issuer or bond rating statuses. With respect to convertible bonds, the NYSE requires that an issue have an aggregate market value or principal amount of no less than \$10,000,000. NYSE American does not have a similar requirement.

<sup>5</sup> See Section 902.08 of the NYSE Listed Company Manual.

<sup>6</sup> Section 902.08 of the NYSE Listed Company Manual specifies that domestic listed debt of issuers exempt from registration under the Securities and Exchange Act of 1934 (“Exempt Issuers”) is not subject to any listing fee. Section 902.08 of the NYSE Listed Company Manual further specifies that bonds whose listing is transferred from another national securities exchange or that list in conjunction with their voluntary delisting from a regulated foreign exchange are not subject to initial listing fees or any annual listing fee in their first partial year of listing. NYSE American does not currently list debt securities of Exempt Issuers so it does not propose to add this provision to its rule. Similarly, issuers have not historically transferred bonds to NYSE American from another national securities exchange or listed bonds on NYSE American in conjunction with their voluntary delisting from a regulated foreign exchange. Therefore, NYSE American does not propose to add this provision to its rules.

at least 11 and no more than 15 listed bonds will pay an annual fee of \$75,000. An issuer that has more than 15 listed bonds will pay an annual fee of \$100,000. Because the Exchange is seeking to adopt a tiered annual fee schedule, the Exchange proposes to delete language in Section 141 related to prorating the annual fee for a bond in its first year of listing. The Exchange notes that the proposed amendment will result in a fee increase for issuers that list bonds on the Exchange. However, as discussed above, because bonds listed on the Exchange trade on the NYSE Bonds platform similar to bonds listed on the NYSE, the Exchange believes that the value of the bond listing is comparable across NYSE American and NYSE and it is appropriate to align the fee schedule.

The Exchange further notes that Section 141 of the Company Guide currently sets forth the annual fee for listed bonds of companies whose equity securities are not listed on the Exchange, but does not contain a corresponding fee schedule for listed bonds of companies whose equity securities are listed on the Exchange.<sup>7</sup> Under Section 104 of the Company Guide, a bond may qualify for listing if its issuer has equity securities listed on the Exchange, the New York Stock Exchange or Nasdaq. With respect to bond listing fees, the Exchange doesn't believe that issuers should be charged differently depending on where their equity securities are listed. Therefore, the Exchange proposes to delete the limiting text in Section 141 that the current fee schedule applies only to listed bonds of companies whose equity securities are not listed on the Exchange. Instead, the proposed fee schedule will apply to all listed bonds regardless of where the issuer's equity securities are listed.

The Exchange proposes to further amend Section 141 of the Company Guide to adopt an overall cap of \$100,000 on the original and annual fees that may be paid by an issuer of listed bonds in any calendar year. The Exchange notes that issuers will frequently issue bonds from various wholly-owned financing subsidiaries. Therefore, for purposes of calculating the fee cap,

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<sup>7</sup> Currently, there are no bonds listed on the Exchange that are issued by companies whose equity securities are listed on the Exchange.

the Exchange will aggregate listing fees for bonds of an issuer and its wholly-owned subsidiaries.<sup>8</sup>

The Exchange notes that companies frequently issue several series of bonds at the same time. For example, as part of a single offering, a company may issue debt securities of different series with varying maturities (ex. 5-year, 10-year, 20-year or 30-year). In the Exchange's experience, there are efficiencies in (i) qualifying for listing multiple series of bonds of the same issuer, and (ii) servicing such listings on an ongoing basis. Because of these efficiencies, the Exchange believes it is appropriate to establish a maximum fee of \$100,000 payable by an issuer of listed bonds in any calendar year.<sup>9</sup>

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,<sup>10</sup> in general, and furthers the objectives of Section 6(b)(4)<sup>11</sup> of the Act, in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges. The Exchange also believes that the proposed rule change is consistent with Section 6(b)(5) of the Act,<sup>12</sup> in that it is designed 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 is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

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<sup>8</sup> The Exchange will determine that an issuer is a wholly-owned subsidiary of an affiliated issuer based on the offering documents for the applicable bond issuance.

<sup>9</sup> Concurrent with this filing, the New York Stock Exchange is proposing to also adopt a \$100,000 maximum fee cap for bond listing fees.

<sup>10</sup> 15 U.S.C. 78f(b).

<sup>11</sup> 15 U.S.C. 78f(b)(4).

<sup>12</sup> 15 U.S.C. 78f(b)(5).

The Exchange believes that it is not unfairly discriminatory and represents an equitable allocation of reasonable fees to amend Section 141 of the Company Guide to increase the annual fees for listed equity securities as set forth above because of the increased costs incurred by the Exchange since it established the current rates.

The Exchange believes that it is not unfairly discriminatory and represents an equitable allocation of reasonable fees to amend Sections 140 and 141 of the Company Guide to adopt (i) a flat \$25,000 original listing fee for bonds and (ii) a tiered annual listing fee for bonds based on the number of bonds an issuer has listed on the Exchange. In this regard, the Exchange believes it is reasonable to align the Exchange's bond original and annual listing fees with those of the NYSE, as bonds listed on either exchange trade on the NYSE Bonds platform and are subject to nearly identical quantitative listing standards.

The Exchange believes that it is not unfairly discriminatory and represents an equitable allocation of reasonable fees to amend Section 141 to establish a maximum fee cap payable in any calendar year by an issuer of bonds because the Exchange experiences efficiencies in qualifying and servicing the listing of multiple series of bonds of the same issuer (or a wholly-owned subsidiary of such issuer).

#### The Proposed Changes are Reasonable

The Exchange believes that the proposed changes to the annual fee schedule for listed equity securities are reasonable. In that regard, the Exchange notes that its general costs to support its listed companies have increased, including due to price inflation. The Exchange also continues to expand and improve the services it provides to listed companies. Specifically, the Exchange has (among other things) increased expenditure on listed companies and the value of an NYSE listing by increasing programming for listed companies and enhancing its conference space which can be utilized by listed companies.

The Exchange believes it is reasonable to align the Exchange's bond original and annual listing fees with those of the NYSE, as bonds listed on either exchange trade on the NYSE Bonds

platform and are subject to nearly identical quantitative listing standards. Therefore, the value of a bond listing to an issuer is the same regardless of the exchange on which the bond is listed.

The Exchange believes that it is reasonable to establish a maximum fee cap payable in any calendar year by an issuer of bonds because there are efficiencies in listing multiple series of bonds of the same issuer (or a wholly-owned subsidiary of such issuer).

The Exchange operates in a highly competitive marketplace for the listing of the various categories of securities affected by the proposed annual fee adjustments. The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Specifically, in Regulation NMS,<sup>13</sup> the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system “has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.”<sup>14</sup>

The Exchange believes that the ever-shifting market share among the exchanges with respect to new listings and the transfer of existing listings between competitor exchanges demonstrates that issuers can choose different listing markets in response to fee changes. Accordingly, competitive forces constrain exchange listing fees. Stated otherwise, changes to exchange listing fees can have a direct effect on the ability of an exchange to compete for new listings and retain existing listings.

Given this competitive environment, the adoption of the proposed increase the annual listing fee for equity securities represents a reasonable attempt to address the Exchange’s increased costs in servicing these listings while continuing to attract and retain listings. The establishment of a flat original listing fee, a tiered annual listing fee, and a maximum fee cap

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<sup>13</sup> Securities Exchange Act Release No. 34-51808 (June 9, 2005); 70 FR 37496 (June 29, 2005) (“Regulation NMS”).

<sup>14</sup> See Regulation NMS, 70 FR at 37499.

payable in a calendar year by an issuer of bonds represents a reasonable attempt to accurately reflect the Exchange's costs in listing and servicing such securities.

The Exchange proposes to make the aforementioned fee increases in Sections 140 and 141 of the Company Guide to better reflect the value of such listing to issuers.

#### The Proposal is an Equitable Allocation of Fees

The Exchange believes its proposal equitably allocates its fees among its market participants.

The Exchange believes that the proposed amendments to the annual fees for equity securities are equitable because they do not change the existing framework for such fees, but simply increase the amount of the annual fee to reflect increased operating costs. Similarly, as the fee structure remains effectively unchanged apart from the proposed increases in the rates paid by all issuers, the changes to the annual fee for equity securities neither target nor will they have a disparate impact on any particular category of issuer.

The Exchange believes that the adoption of a flat original listing fee and a tiered annual listing fee for bonds is equitable because it accurately reflects the value of a bond listing to an issuer while recognizing the efficiencies realized by the Exchange when listing multiple series of bonds. The Exchange believes that the proposed flat original fee and tiered annual fee is equitable because it will apply equally to all issuers and will not target nor have a disparate impact on any particular category of issuer.

The Exchange believes that the proposed maximum fee cap for issuers of bonds is equitable because the work required to list a bond does not increase on a proportional basis for each additional series of bonds that are listed on the Exchange. There are efficiencies in listing multiple series of bonds and the Exchange believes that its proposed fee cap is an equitable reflection of such efficiencies.

#### The Proposal is Not Unfairly Discriminatory

The Exchange believes that the proposal is not unfairly discriminatory. The proposed fee

changes are not unfairly discriminatory among issuers of operating company equity securities because the same fee schedule will apply to all such issuers. The proposed changes to the original and annual fee schedule for bonds is not unfairly discriminatory because the same schedule will apply to all bond issuers and the proposed fee cap will be available to all issuers. Further, the Exchange operates in a competitive environment and its fees are constrained by competition in the marketplace. Other venues currently list all of the categories of securities covered by the proposed fees and if a company believes that the Exchange's fees are unreasonable it can decide either not to list its securities or to list them on an alternative venue. Currently, there are few bonds listed on the Exchange. While the listing fees for such bonds will increase under the proposed rule change, the Exchange notes that all listed bonds (whether listed on the Exchange or the NYSE) trade on the NYSE Bonds platform. The value of the listing to a specific bond issuer, therefore, is the same. Accordingly, the Exchange believes it is not unfairly discriminatory to align the Exchange's bond listing fee schedule with the NYSE's corresponding schedule.

For the foregoing reasons, the Exchange believes that the proposal is consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

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 designed to ensure that the fees charged by the Exchange accurately reflect the services provided and benefits realized by listed issuers. The market for listing services is extremely competitive. Each listing exchange has a different fee schedule that applies to issuers seeking to list securities on its exchange. Issuers have the option to list their securities on these alternative venues based on the fees charged and the value provided by each listing. Because issuers have a choice to list their securities on a different national securities exchange, the Exchange does not believe that the proposed fee changes impose a burden on competition.

*Intramarket Competition.*

The proposed amended fees will be charged to all listed issuers on the same basis. The Exchange does not believe that the proposed amended fees will have any meaningful effect on the competition among issuers listed on the Exchange.

*Intermarket Competition.*

The Exchange operates in a highly competitive market in which issuers can readily choose to list new securities on other exchanges and transfer listings to other exchanges if they deem fee levels at those other venues to be more favorable. Because competitors are free to modify their own fees, and because issuers may change their chosen listing venue, the Exchange does not believe its proposed fee change can impose any burden on intermarket competition.

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

Pursuant to Section 19(b)(3)(A)(ii) of the Act,<sup>15</sup> and Rule 19b-4(f)(2) thereunder<sup>16</sup> the Exchange has designated this proposal as establishing or changing a due, fee, or other charge imposed on any person, whether or not the person is a member of the self-regulatory organization, which renders the proposed rule change effective upon filing. 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.

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

<sup>16</sup> 17 CFR 240.19b-4.

#### 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 (<https://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-2024-79 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-2024-79. 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 (<https://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 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright

protection. All submissions should refer to file number SR-NYSEAMER-2024-79 and should be submitted on or before [INSERT DATE 21 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>17</sup>

**J. Matthew DeLesDernier,**

*Deputy Secretary.*

[FR Doc. 2024-30687 Filed: 12/23/2024 8:45 am; Publication Date: 12/26/2024]

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