

Required fields are shown with yellow backgrounds and asterisks.

Page 1 of \* 20

SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549  
Form 19b-4

File No. \* SR 2024 - \* 44

Amendment No. (req. for Amendments \*)

Filing by New York Stock Exchange LLC

Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934

Initial * <input checked="" type="checkbox"/>	Amendment * <input type="checkbox"/>	Withdrawal <input type="checkbox"/>	Section 19(b)(2) * <input checked="" type="checkbox"/>	Section 19(b)(3)(A) * <input type="checkbox"/>	Section 19(b)(3)(B) * <input type="checkbox"/>
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Pilot <input type="checkbox"/>	Extension of Time Period for Commission Action * <input type="checkbox"/>	Date Expires * <input type="text"/>	Rule		
			<input type="checkbox"/> 19b-4(f)(1)	<input type="checkbox"/> 19b-4(f)(4)	
			<input type="checkbox"/> 19b-4(f)(2)	<input type="checkbox"/> 19b-4(f)(5)	
			<input type="checkbox"/> 19b-4(f)(3)	<input type="checkbox"/> 19b-4(f)(6)	

Notice of proposed change pursuant to the Payment, Clearing, and Settlement Act of 2010

Section 806(e)(1) \*

Section 806(e)(2) \*

Security-Based Swap Submission pursuant to the Securities Exchange Act of 1934

Section 3C(b)(2) \*

Exhibit 2 Sent As Paper Document

Exhibit 3 Sent As Paper Document

### Description

Provide a brief description of the action (limit 250 characters, required when Initial is checked \*).

The Exchange proposes to adopt a provision that the Exchange will not review a compliance plan submitted by a listed company that is below compliance with a continued listing standard if the company owes any unpaid fees to the Exchange.

### Contact Information

Provide the name, telephone number, and e-mail address of the person on the staff of the self-regulatory organization prepared to respond to questions and comments on the action.

First Name \* John Last Name \* Carey

Title \* Senior Director

E-mail \* John.Carey@nyse.com

Telephone \* (212) 656-5640 Fax

### Signature

Pursuant to the requirements of the Securities Exchange of 1934, New York Stock Exchange LLC has duly caused this filing to be signed on its behalf by the undersigned thereunto duly authorized.

Date 09/27/2024

(Title \*)

By David De Gregorio

Associate General Counsel

(Name \*)

David De Gregorio

Digitally signed by David De Gregorio  
Date: 2024.09.27 13:42:02 -04'00'

NOTE: Clicking the signature block at right will initiate digitally signing the form. A digital signature is as legally binding as a physical signature, and once signed, this form cannot be changed.

Required fields are shown with yellow backgrounds and astericks.

SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

For complete Form 19b-4 instructions please refer to the EFFS website.

**Form 19b-4 Information \***

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SR-NYSE-2024-44 19b4.docx

The self-regulatory organization must provide all required information, presented in a clear and comprehensible manner, to enable the public to provide meaningful comment on the proposal and for the Commission to determine whether the proposal is consistent with the Act and applicable rules and regulations under the Act.

**Exhibit 1 - Notice of Proposed Rule Change \***

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SR-NYSE-2024-44 Exhibit 1.docx

The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

**Exhibit 1A - Notice of Proposed Rule Change, Security-Based Swap Submission, or Advanced Notice by Clearing Agencies \***

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The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

**Exhibit 2- Notices, Written Comments, Transcripts, Other Communications**

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Copies of notices, written comments, transcripts, other communications. If such documents cannot be filed electronically in accordance with Instruction F, they shall be filed in accordance with Instruction G.

Exhibit Sent As Paper Document

**Exhibit 3 - Form, Report, or Questionnaire**

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Copies of any form, report, or questionnaire that the self-regulatory organization proposes to use to help implement or operate the proposed rule change, or that is referred to by the proposed rule change.

Exhibit Sent As Paper Document

**Exhibit 4 - Marked Copies**

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The full text shall be marked, in any convenient manner, to indicate additions to and deletions from the immediately preceding filing. The purpose of Exhibit 4 is to permit the staff to identify immediately the changes made from the text of the rule with which it has been working.

**Exhibit 5 - Proposed Rule Text**

Add Remove View

SR-NYSE-2024-44 Exhibit 5.docx

The self-regulatory organization may choose to attach as Exhibit 5 proposed changes to rule text in place of providing it in Item I and which may otherwise be more easily readable if provided separately from Form 19b-4. Exhibit 5 shall be considered part of the proposed rule change

**Partial Amendment**

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If the self-regulatory organization is amending only part of the text of a lengthy proposed rule change, it may, with the Commission's permission, file only those portions of the text of the proposed rule change in which changes are being made if the filing (i.e. partial amendment) is clearly understandable on its face. Such partial amendment shall be clearly identified and marked to show deletions and additions.

1. Text of the Proposed Rule Change

- (a) Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”)<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> New York Stock Exchange LLC (“NYSE” or the “Exchange”) proposes to adopt a provision that the Exchange will not review a compliance plan submitted by a listed company that is below compliance with a continued listing standard if the company owes any unpaid fees to the Exchange and will instead immediately commence suspension and delisting procedures if such fees are not paid in full by the plan submission deadline or at the time of any required periodic review of such plan. The text of the proposed rule change is set forth in Exhibit 5 attached hereto.
- (b) The Exchange does not believe that the proposed rule change would have any direct effect, or any significant indirect effect, on any other Exchange rule in effect at the time of this filing.
- (c) Not applicable.

2. Procedures of the Self-Regulatory Organization

Senior management has approved the proposed rule change pursuant to authority delegated to it by the Board of the Exchange. No further action is required under the Exchange’s governing documents. Therefore, the Exchange’s internal procedures with respect to the proposed rule change are complete.

The person on the Exchange staff prepared to respond to questions and comments on the proposed rule change is:

John Carey  
Senior Director  
NYSE Group, Inc.  
(212) 656-5640

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

(a) Purpose

Section 802.02 (“Evaluation and Follow-Up Procedures for Domestic Companies”) of the NYSE Listed Company Manual (“Manual”) provides that when the Exchange identifies a domestic listed company as being below certain continued listing criteria set forth in Section 802.01 of the Manual (and not able to otherwise qualify under an original listing standard), the Exchange will notify the company of such noncompliance by letter and

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

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

provide the company with an opportunity to provide the Exchange with a plan (the "Plan") advising the Exchange of definitive action the company has taken, or is taking, that would bring it into conformity with continued listing standards within 18 months of receipt of the letter. Similarly, Section 802.03 ("Continued Listing -- Evaluation and Follow-up Procedures for Non-U.S. Companies") sets forth provisions under which non-U.S. listed companies can submit a Plan to cure noncompliance with continued listing standards.

If a company submits a Plan pursuant to Sections 802.02 or 802.03, it must identify specific quarterly or semi-annual milestones against which the Exchange will evaluate the company's progress. The company has 45 days (in the case of a domestic company subject to Section 802.02) (the "Domestic Plan Deadline") or 90 days (in the case of a non-U.S. company subject to Section 802.03) (the "Non-U.S. Plan Deadline" and, together with the Domestic Plan Deadline, the "Plan Deadline") from the receipt of a letter from the Exchange identifying an event of noncompliance to submit its Plan to the Exchange for review; otherwise, suspension and delisting procedures will commence in accordance with Section 804.00 of the Manual. The Plan must demonstrate how the company will return to compliance with the applicable continued listing standard by the end of the Plan period. All companies submitting a Plan must include quarterly financial projections, details related to any strategic initiatives the company plans to complete, and market performance support. Exchange staff will evaluate the Plan, including any additional documentation that supports the Plan, and make a determination as to whether the company has made a reasonable demonstration in the Plan of an ability to come into conformity with the relevant standard(s) within 18 months. The Exchange will make such determination within 45 days of receipt of the proposed Plan, and will promptly notify the company of its determination in writing.

If the Exchange accepts the Plan, the Exchange will review the company for compliance with the Plan on either a quarterly basis (in the case of a domestic company) or a semi-annual basis (in the case of a non-U.S. company). If the company fails to meet the material aspects of the Plan or any of the quarterly or semi-annual milestones, the Exchange will review the circumstances and variance, and determine whether such variance warrants commencement of suspension and delisting procedures. Should the Exchange determine to proceed with suspension and delisting procedures in accordance with Section 804.00, it may do so regardless of the company's continued listing status at that time. The Exchange will deem the Plan period over prior to the end of the 18 months if a company is able to demonstrate returning to compliance with the applicable continued listing standards, or achieves the ability to qualify under an original listing standard, for a period of two consecutive quarters. In any event, a company that does not meet continued listing standards at the end of the 18-month period, will be subject to the prompt initiation of suspension and delisting procedures in accordance with Section 804.00.

The Exchange staff has to undertake a significant amount of work in reviewing and analyzing each Plan submitted by a noncompliant company. In addition, the review of quarterly or semi-annual updates with respect to each Plan requires significant additional

work by Exchange staff. Given the significant work required to review and analyze Plans, as well as to undertake the required quarterly or semi-annual review with respect to a Plan, the Exchange believes it is especially important to ensure that companies that wish to have a Plan accepted or continued by the Exchange have paid all outstanding annual and listing fees (as set forth in the Manual in Section 902.00 et seq<sup>3</sup>) prior to the acceptance of a Plan or any required periodic review of such Plan. As such, the Exchange proposes to amend Sections 802.02 and 802.03 of the Manual to provide that a listed company seeking acceptance of a Plan must pay all outstanding annual and listing fees to the Exchange by the Plan Deadline and that failure to do so will result in the immediate commencement of suspension and delisting proceedings in accordance with Section 804.00. Similarly, the Exchange proposes to amend Sections 802.02 and 802.03 to provide that a Plan will be truncated and immediate suspension and delisting procedures will commence if the listed company has not paid all outstanding annual and listing fees to the Exchange at the time of any quarterly or semi-annual review of such Plan.

Section 802.01D of the Manual provides that the Exchange may in its sole discretion subject a listed company to the procedures outlined in Sections 802.02 and 802.03 (or commence immediate suspension and delisting procedures) if the company has “violated” any of its agreements with the Exchange or in the event of a “breach by the company of the terms of its listing agreement.” The Exchange notes that the NYSE listing agreement includes an agreement by the listing applicant to “pay when due all fees associated with its listing of securities on the Exchange, in accordance with the Exchange’s rules.”

(b) Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,<sup>4</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act<sup>5</sup> in particular, 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.

The Exchange believes the proposed rule change furthers the protection of investors in that it will help the Exchange to ensure that it has sufficient resources to fund its regulatory activities relating to the review and approval and the ongoing monitoring of Plans submitted by companies that are below continued listing standards.

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<sup>3</sup> The listing fees and annual fees for all categories of listed securities are set forth in Section 902.00 et seq.

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

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

The Exchange does not believe that the proposed requirement is unfairly discriminatory as it would only require listed companies to pay fees that were already due and payable and ensure payment of those fees in connection with a process that is resource-intensive and costly for the Exchange. In addition, the Exchange notes that Section 802.03 provides non-U.S. companies with 90 days from the receipt of notice of non-compliance to submit a Plan to the Exchange, while Section 802.02 provides domestic companies with only a 45-day period to do so. In addition, Section 802.03 subjects non-U.S. companies to a semi-annual review during any ongoing Plan process, while Section 802.02 subjects domestic companies to a quarterly review process. In light of this existing distinction in the rules, the Exchange believes it is not discriminatory to give non-compliant non-U.S. companies a period to pay overdue fees in connection with any initial Plan acceptance or continuing Plan review that is consistent with the provisions applicable to non-U.S. companies set forth in Section 802.03 rather than the provisions applicable to domestic companies set forth in Section 802.02.

The Exchange believes that the proposal is consistent with Section 6(b)(7) of the Act,<sup>6</sup> in that it provides a fair procedure for the prohibition or limitation by the Exchange of the continued listing of listed companies. Specifically, the Exchange believes it is fair to require listed companies to pay all outstanding listing and annual fees before the Exchange approves a Plan or required periodic review of a Plan, as listed companies are already required by Exchange rules (as set forth in Section 902.00 *et seq*) and their listing agreements to pay these fees when due and the Exchange has the authority under Section 802.01D to delist companies for violations of their agreements with the Exchange, including their listing agreements. In addition, the Exchange notes that the Plan acceptance and periodic review process requires significant incremental work on the part of Exchange staff.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange notes that the proposed amendments would simply require listed companies to pay fees to the Exchange that were already due and payable under applicable Exchange rules and the issuer's listing agreement. Specifically, the Exchange believes it is fair to require listed companies to pay all outstanding listing and annual fees before the Exchange approves a Plan or required periodic review of a Plan, as listed companies are already required by Exchange rules (as set forth in Section 902.00 *et seq*) and their listing agreements to pay these fees when due and the Exchange has the authority under Section 802.01D to delist companies for violations of their agreements with the Exchange, including their listing agreements. In addition, the Exchange notes that the Plan acceptance and periodic review process requires significant incremental work on the part of Exchange staff.

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<sup>6</sup> 15 U.S.C. 78f(b)(7).

As the proposal would not result in any change in the cost of a listing on the Exchange, the Exchange does not believe that it imposes any additional burden on competition.

5. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

6. Extension of Time Period for Commission Action

The Exchange does not consent at this time to an extension of any time period for Commission action.

7. Basis for Summary Effectiveness Pursuant to Section 19(b)(3) or for Accelerated Effectiveness Pursuant to Section 19(b)(2)

Not applicable.

8. Proposed Rule Change Based on Rules of Another Self-Regulatory Organization or of the Commission

Not applicable.

9. Security-Based Swap Submissions Filed Pursuant to Section 3C of the Act

Not applicable.

10. Advance Notices Filed Pursuant to Section 806(e) of the Payment, Clearing and Settlement Supervision Act

Not applicable.

11. Exhibits

Exhibit 1 – Form of Notice of Proposed Rule Change for Federal Register

Exhibit 5 – Proposed Rule Text

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34- ; File No. SR-NYSE-2024-44)

[Date]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing of Proposed Rule Change proposes to adopt a provision that the Exchange will not review a compliance plan submitted by a listed company that is below compliance with a continued listing standard if the company owes any unpaid fees to the Exchange.

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 September 27, 2024, New York Stock Exchange LLC (“NYSE” 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 adopt a provision that the Exchange will not review a compliance plan submitted by a listed company that is below compliance with a continued listing standard if the company owes any unpaid fees to the Exchange and will instead immediately commence suspension and delisting procedures if such fees are not paid in full by the plan submission deadline or at the time of any required periodic review of such plan. The text of the proposed rule change is set forth in Exhibit 5 attached hereto. The proposed rule change is

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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.



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 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

Section 802.02 ("Evaluation and Follow-Up Procedures for Domestic Companies") of the NYSE Listed Company Manual ("Manual") provides that when the Exchange identifies a domestic listed company as being below certain continued listing criteria set forth in Section 802.01 of the Manual (and not able to otherwise qualify under an original listing standard), the Exchange will notify the company of such noncompliance by letter and provide the company with an opportunity to provide the Exchange with a plan (the "Plan") advising the Exchange of definitive action the company has taken, or is taking, that would bring it into conformity with continued listing standards within 18 months of receipt of the letter. Similarly, Section 802.03 ("Continued Listing -- Evaluation and Follow-up Procedures for Non-U.S. Companies") sets forth provisions under which non-U.S. listed companies can submit a Plan to cure noncompliance with continued listing standards.

If a company submits a Plan pursuant to Sections 802.02 or 802.03, it must identify specific quarterly or semi-annual milestones against which the Exchange will evaluate the company's progress. The company has 45 days (in the case of a domestic company subject to Section 802.02) (the "Domestic Plan Deadline") or 90 days (in the case of a non-U.S. company subject to Section 802.03) (the "Non-U.S. Plan Deadline" and, together with the Domestic Plan Deadline, the "Plan Deadline") from the receipt of a letter from the Exchange identifying an event of noncompliance to submit its Plan to the Exchange for review; otherwise, suspension and delisting procedures will commence in accordance with Section 804.00 of the Manual. The Plan must demonstrate how the company will return to compliance with the applicable continued listing standard by the end of the Plan period. All companies submitting a Plan must include quarterly financial projections, details related to any strategic initiatives the company plans to complete, and market performance support. Exchange staff will evaluate the Plan, including any additional documentation that supports the Plan, and make a determination as to whether the company has made a reasonable demonstration in the Plan of an ability to come into conformity with the relevant standard(s) within 18 months. The Exchange will make such determination within 45 days of receipt of the proposed Plan, and will promptly notify the company of its determination in writing.

If the Exchange accepts the Plan, the Exchange will review the company for compliance with the Plan on either a quarterly basis (in the case of a domestic company) or a semi-annual basis (in the case of a non-U.S. company). If the company fails to meet the material aspects of the Plan or any of the quarterly or semi-annual milestones, the Exchange will review the circumstances and variance, and determine whether such variance warrants commencement of suspension and delisting procedures. Should the Exchange determine to proceed with suspension

and delisting procedures in accordance with Section 804.00, it may do so regardless of the company's continued listing status at that time. The Exchange will deem the Plan period over prior to the end of the 18 months if a company is able to demonstrate returning to compliance with the applicable continued listing standards, or achieves the ability to qualify under an original listing standard, for a period of two consecutive quarters. In any event, a company that does not meet continued listing standards at the end of the 18-month period, will be subject to the prompt initiation of suspension and delisting procedures in accordance with Section 804.00.

The Exchange staff has to undertake a significant amount of work in reviewing and analyzing each Plan submitted by a noncompliant company. In addition, the review of quarterly or semi-annual updates with respect to each Plan requires significant additional work by Exchange staff. Given the significant work required to review and analyze Plans, as well as to undertake the required quarterly or semi-annual review with respect to a Plan, the Exchange believes it is especially important to ensure that companies that wish to have a Plan accepted or continued by the Exchange have paid all outstanding annual and listing fees (as set forth in the Manual in Section 902.00 et seq<sup>4</sup>) prior to the acceptance of a Plan or any required periodic review of such Plan. As such, the Exchange proposes to amend Sections 802.02 and 802.03 of the Manual to provide that a listed company seeking acceptance of a Plan must pay all outstanding annual and listing fees to the Exchange by the Plan Deadline and that failure to do so will result in the immediate commencement of suspension and delisting proceedings in accordance with Section 804.00. Similarly, the Exchange proposes to amend Sections 802.02 and 802.03 to provide that a Plan will be truncated and immediate suspension and delisting

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<sup>4</sup> The listing fees and annual fees for all categories of listed securities are set forth in Section 902.00 et seq.

procedures will commence if the listed company has not paid all outstanding annual and listing fees to the Exchange at the time of any quarterly or semi-annual review of such Plan.

Section 802.01D of the Manual provides that the Exchange may in its sole discretion subject a listed company to the procedures outlined in Sections 802.02 and 802.03 (or commence immediate suspension and delisting procedures) if the company has “violated” any of its agreements with the Exchange or in the event of a “breach by the company of the terms of its listing agreement.” The Exchange notes that the NYSE listing agreement includes an agreement by the listing applicant to “pay when due all fees associated with its listing of securities on the Exchange, in accordance with the Exchange’s rules.”

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,<sup>5</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act<sup>6</sup> in particular, 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.

The Exchange believes the proposed rule change furthers the protection of investors in that it will help the Exchange to ensure that it has sufficient resources to fund its regulatory

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

<sup>6</sup> 15 U.S.C. 78f(b)(5).

activities relating to the review and approval and the ongoing monitoring of Plans submitted by companies that are below continued listing standards.

The Exchange does not believe that the proposed requirement is unfairly discriminatory as it would only require listed companies to pay fees that were already due and payable and ensure payment of those fees in connection with a process that is resource-intensive and costly for the Exchange. In addition, the Exchange notes that Section 802.03 provides non-U.S. companies with 90 days from the receipt of notice of non-compliance to submit a Plan to the Exchange, while Section 802.02 provides domestic companies with only a 45-day period to do so. In addition, Section 802.03 subjects non-U.S. companies to a semi-annual review during any ongoing Plan process, while Section 802.02 subjects domestic companies to a quarterly review process. In light of this existing distinction in the rules, the Exchange believes it is not discriminatory to give non-compliant non-U.S. companies a period to pay overdue fees in connection with any initial Plan acceptance or continuing Plan review that is consistent with the provisions applicable to non-U.S. companies set forth in Section 802.03 rather than the provisions applicable to domestic companies set forth in Section 802.02.

The Exchange believes that the proposal is consistent with Section 6(b)(7) of the Act,<sup>7</sup> in that it provides a fair procedure for the prohibition or limitation by the Exchange of the continued listing of listed companies. Specifically, the Exchange believes it is fair to require listed companies to pay all outstanding listing and annual fees before the Exchange approves a Plan or required periodic review of a Plan, as listed companies are already required by Exchange rules (as set forth in Section 902.00 et seq) and their listing agreements to pay these fees when due and the Exchange has the authority under Section 802.01D to delist companies for violations

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<sup>7</sup> 15 U.S.C. 78f(b)(7).

of their agreements with the Exchange, including their listing agreements. In addition, the Exchange notes that the Plan acceptance and periodic review process requires significant incremental work on the part of Exchange staff.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange notes that the proposed amendments would simply require listed companies to pay fees to the Exchange that were already due and payable under applicable Exchange rules and the issuer's listing agreement. Specifically, the Exchange believes it is fair to require listed companies to pay all outstanding listing and annual fees before the Exchange approves a Plan or required periodic review of a Plan, as listed companies are already required by Exchange rules (as set forth in Section 902.00 et seq) and their listing agreements to pay these fees when due and the Exchange has the authority under Section 802.01D to delist companies for violations of their agreements with the Exchange, including their listing agreements. In addition, the Exchange notes that the Plan acceptance and periodic review process requires significant incremental work on the part of Exchange staff.

As the proposal would not result in any change in the cost of a listing on the Exchange, the Exchange does not believe that it imposes any additional burden on 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

Within 45 days of the date of publication of this notice in the Federal Register or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer

period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

- (A) by order approve or disapprove the proposed rule change, or
- (B) institute proceedings to determine whether the proposed rule change should be 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 (<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-NYSE-2024-44 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-NYSE-2024-44. 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-NYSE-2024-44 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>8</sup>

**Sherry R. Haywood,**

*Assistant Secretary.*

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<sup>8</sup> 17 CFR 200.30-3(a)(12).



## EXHIBIT 5

Added text underlined;  
Deleted text in [brackets].

## NYSE Listed Company Manual

\* \* \* \* \*

## 802.02 Evaluation and Follow-Up Procedures for Domestic Companies

The following procedures shall be applied by the Exchange to domestic companies that are identified as being below the Exchange's continued listing criteria. Notwithstanding the above, when the Exchange deems it necessary for the protection of investors, trading in any security can be suspended immediately, and application made to the SEC to delist the security.

Once the Exchange identifies, through internal reviews or notice (a press release, news story, company communication, etc.), a company as being below the continued listing criteria set forth in Para. 802.01 (and not able to otherwise qualify under an original listing standard), the Exchange will notify the company by letter of its status within 10 business days. This letter will also provide the company with an opportunity to provide the Exchange with a plan (the "Plan") advising the Exchange of definitive action the company has taken, or is taking, that would bring it into conformity with continued listing standards within 18 months of receipt of the letter. Within 10 business days after receipt of the letter, the company must contact the Exchange to confirm receipt of notification, discuss any possible financial data of which the Exchange may be unaware, and indicate whether or not it plans to present a Plan; otherwise, suspension and delisting procedures will commence. If the company submits a Plan, it must identify specific quarterly milestones against which the Exchange will evaluate the company's progress. The company has 45 days from the receipt of the letter to submit its Plan to the Exchange for review (the "Domestic Plan Deadline"); otherwise, suspension and delisting procedures will commence in accordance with Section 804.00. No Plan will be reviewed by the Exchange unless the issuer has previously paid in full any listing or annual fees due to the Exchange. If a company fails to pay in full all outstanding listing or annual fees by the Domestic Plan Deadline, the Exchange will immediately commence suspension and delisting procedures in accordance with Section 804.00 with respect to the company. If the company is determined to be below the criteria listed in Section 802.01B, the Plan it presents must demonstrate how it will return to compliance with the applicable continued listing standard by the end of the Plan period.

In any event, all companies submitting a Plan must include quarterly financial projections, details related to any strategic initiatives the company plans to complete, and market performance support. Exchange staff will evaluate the Plan, including any additional documentation that supports the Plan, and make a determination as to whether the company has made a reasonable demonstration in the Plan of an ability to come into conformity with the relevant standard(s) within 18 months. The Exchange will make such determination within 45 days of receipt of the proposed Plan, and will promptly notify the company of its determination in writing.

The company must disclose receipt of the letter by issuing a press release disclosing the fact that it has fallen below the continued listing standards of the Exchange within the time period allotted by SEC rules for the making of a filing with respect to Exchange notification of that event, but no longer than four business days after notification. If the company fails to issue this press release during the allotted time, the Exchange will issue the requisite press release.

If the Exchange does not accept the Plan, the Exchange will promptly initiate suspension and delisting procedures and issue a press release disclosing the forthcoming suspension and application to the SEC to delist the company's securities.

If the Exchange accepts the Plan, the Exchange will review the company on a quarterly basis for compliance with the Plan. In connection with its quarterly review, the Exchange will immediately commence suspension and delisting procedures in accordance with Section 804.00 with respect to any company that has not paid any listing or annual fees that have become due and payable since the commencement of its Plan period. If the company fails to meet the material aspects of the Plan or any of the quarterly milestones, the Exchange will review the circumstances and variance, and determine whether such variance warrants commencement of suspension and delisting procedures. Should the Exchange determine to proceed with suspension and delisting procedures, it may do so regardless of the company's continued listing status at that time. The Exchange will deem the Plan period over prior to the end of the 18 months if a company is able to demonstrate returning to compliance with the applicable continued listing standards, or achieving the ability to qualify under an original listing standard, for a period of two consecutive quarters. In any event, a company that does not meet continued listing standards at the end of the 18-month period, will be subject to the prompt initiation of suspension and delisting procedures.

If the company, within twelve months of the end of the Plan period, is again determined to be below continued listing standards, the Exchange will examine the relationship between the two incidents of falling below continued listing standards and re-evaluate the company's method of financial recovery from the first incident. It will then take appropriate action, which, depending upon the circumstances, may include truncating the procedures described above or immediately initiating suspension and delisting procedures.

#### 802.03 Continued Listing

##### **Evaluation and Follow-up Procedures for Non-U.S. Companies**

The following procedures shall be applied by the Exchange to non-U.S. companies that are identified as being below the Exchange's continued listing criteria. Notwithstanding the above, when the Exchange deems it necessary for the protection of the investors, trading in any security can be suspended immediately, and application made to the SEC to delist the security.

Once the Exchange identifies, through internal reviews or notice (a press release, news story, company communication, etc.), a company as being below the continued listing criteria set forth in Section 802.01 (and not able to otherwise qualify under an original listing standard), the

Exchange will notify the company by letter of its status within 10 business days. This letter will also provide the company with an opportunity to provide the Exchange with a plan (the "Plan") advising the Exchange of definitive action the company has taken, or is taking, that would bring it into conformity with the standards within 18 months of receipt of the letter. Within 30 business days after receipt of the letter, the company must contact the Exchange to confirm receipt of notification, discuss any possible financial data of which the Exchange may be unaware, and indicate whether or not it plans to present a Plan; otherwise, suspension and delisting procedures will commence. If the company submits a Plan, it must identify specific semi - annual milestones against which the Exchange will evaluate the company's progress.

The company has 90 days from the receipt of the letter to submit its Plan to the Exchange for review (the "Non-U.S. Plan Deadline"); otherwise, suspension and delisting procedures will commence. No Plan will be reviewed by the Exchange unless the issuer has previously paid in full any listing or annual fees due to the Exchange. If a company fails to pay in full all outstanding listing or annual fees by the Non-U.S. Plan Deadline, the Exchange will immediately commence suspension and delisting procedures in accordance with Section 804.00 with respect to the Company. If the company is determined to be below the criteria listed in Section 802.01B, the Plan it presents must demonstrate how it will return to compliance with the applicable continued listing standard by the end of the Plan period.

In any event, all companies submitting a Plan must include quarterly financial projections, details related to any strategic initiatives the company plans to complete, and market performance support. Exchange staff will evaluate the Plan, including any additional documentation that supports the Plan, and make a determination as to whether the company has made a reasonable demonstration in the Plan of an ability to come into conformity with the relevant standard(s) within 18 months. The Exchange will make such determination within 45 days of receipt of the proposed Plan, and will promptly notify the company of its determination in writing.

The company also has 30 days from receipt of the letter to issue press release disclosing the fact that it has fallen below the continued listing standards of the Exchange. If the company fails to issue this press release during the allotted 30 days, the Exchange will issue the requisite press release.

If the Exchange does not accept the Plan, the Exchange will promptly initiate suspension and delisting procedures and issue a press release disclosing the forthcoming suspension and application to the SEC to delist the company's securities.

If the Exchange accepts the Plan, the Exchange will review the company on a semi-annual basis for compliance with the Plan. In connection with its semi-annual Plan review, the Exchange will immediately commence suspension and delisting procedures in accordance with Section 804.00 with respect to any company that has not paid any listing or annual fees that have become due and payable since the commencement of its Plan period. If the company fails to meet the material aspects of the Plan or any of the semi-annual milestones, the Exchange will review the

circumstances and variance, and determine whether such variance warrants commencement of suspension and delisting procedures. Should the Exchange determine to proceed with suspension and delisting procedures, it may do so regardless of the company's continued listing status at that time. The Exchange will deem the Plan period over prior to the end of the 18 months if a company is able to demonstrate returning to compliance with the applicable continued listing standards, or achieving the ability to qualify under an original listing standard, for a period of two consecutive quarters. In any event, the Exchange will promptly initiate suspension and delisting procedures with respect to a company that does not meet the continued listing standards at the end of the 18-month period.

If the company, within twelve months of the end of the Plan, is again determined to be below continued listing standards, the Exchange will examine the relationship between the two incidents of falling below continued listing standards and re-evaluate the company's method of financial recovery from the first incident. It will then take appropriate action, which, depending upon the circumstances, may include truncating the procedures described above or immediately initiating suspension and delisting procedures.

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