

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-96734; File No. SR-NYSECHX-2023-04)

January 23, 2023

Self-Regulatory Organizations; NYSE Chicago, Inc.; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change to Add Violations of Article 6, Rule 13 to the List of Minor Rule Violations in Rule 10.9217

Pursuant to Section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934 (the “Act”)<sup>2</sup> and Rule 19b-4 thereunder,<sup>3</sup> notice is hereby given that, on January 9, 2023, NYSE Chicago, Inc. (“NYSE Chicago” or the “Exchange”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons and approving the proposal on an accelerated basis.

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

The Exchange proposes to add Article 6, Rule 13 (Registration Requirements) to the list of minor rule violations in Rule 10.9217. 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

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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.

it received on the proposed rule change. The text of those statements may be examined at the places specified in Item III 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 add Article 6, Rule 13 (Registration Requirements) to the list of minor rule violations in Rule 10.9217.

Article 6, Rule 13, which was adopted in 2018,<sup>4</sup> sets forth the requirements for persons engaged in the investment banking or securities business of a Participant to be registered with the Exchange as a representative or principal in each category of registration appropriate to his or her functions and responsibilities as specified in Article 6, Rule 14.

The Exchange proposes to add Article 6, Rule 13 to the list of rules in Rule 10.9217 eligible for disposition pursuant to a fine under Rule 10.9216(b). Specifically, the Exchange proposes to add Article 6, Rule 13 to the “List of Rule Violations and Fines Applicable Thereto” as item 25 under current subsection (e), titled “Reporting and Record Retention Violations.” The substantially similar version of Article 6, Rule 13 was adopted by the Exchange’s affiliate New York Stock Exchange LLC (“NYSE”) in 2018<sup>5</sup> and is currently eligible for minor rule fines

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<sup>4</sup> See Securities Exchange Act Release No. No. 84896 (December 20, 2018), 83 FR 67376 (December 28, 2018) (SR-CHX-2018-07) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change Regarding Qualification, Registration and Continuing Education Requirements Applicable to Participants).

<sup>5</sup> See Securities Exchange Act Release No. 84336 (October 2, 2018), 83 FR 50727 (October 9, 2018) (SR-NYSE-2018-44) (Notice of Filing and Immediate Effectiveness of Amendments To Rules Regarding Qualification, Registration and Continuing Education Applicable to Members and Member Organizations). The Exchange’s other affiliates also adopted substantially similar versions of Article 6, Rule 13. See NYSE American LLC (“NYSE American”) Rule 2.1210; NYSE Arca, Inc. (“NYSE Arca”) Rule 2.1210;

under the NYSE’s version of Rule 10.9217.<sup>6</sup> The Exchange believes that having the ability to issue a minor rule fine for failing to comply with the registration requirements of Article 6, Rule 13 would be consistent with and complement the Exchange’s current ability to issue minor rule fines for other registration violations (e.g., Registration and Approval of Participant Personnel (Article 6, Rule 2(a) & (b), Registration of Market Makers and Market Maker Authorized Traders (Article 16, Rules 1 and 3)). The Exchange further believes that the violations of the registration requirements are particularly suited to minor rule fines because minor fines provide a reasonable means of addressing violations that do not rise to the level of requiring formal disciplinary proceedings, while providing greater flexibility in handling certain violations.

The Exchange further proposes to add fine levels for violations of Article 6, Rule 13. The Exchange would add proposed first, second and third level fines for violations of Article 6, Rule 13 to the fine schedule of \$250 for the first violation, \$750 for the second violation and \$1,500 for the third and subsequent violations. The proposed fine levels would be the same as those in current Rule 10.9217(f).13 and (f).21 for violations of Article 6, Rule 2(a) & (b) and Article 16, Rules 1 and 3, respectively.

The Exchange believes that the proposed change would strengthen the Exchange’s ability to carry out its oversight and enforcement responsibilities in cases where full disciplinary proceedings are unwarranted in view of the minor nature of the particular violation.

## 2. Statutory Basis

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& NYSE National, Inc. (“NYSE National”) Rule 2.1210.

<sup>6</sup> See NYSE Rule 9217. The substantially similar versions of Article 6, Rule 13 are also eligible for minor rule fines under each affiliate’s version of Rule 10.9217. See NYSE American Rule 9217; NYSE Arca Rule 10.9217(g)(13); & NYSE National Rule 10.9217(f).

The proposed rule change is consistent with Section 6(b) of the Act,<sup>7</sup> in general, and furthers the objectives of Section 6(b)(5),<sup>8</sup> in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to, and perfect the mechanism of, a free and open market and a national market system and, in general, to protect investors and the public interest.

Minor rule fines provide a meaningful sanction for minor or technical violations of rules when the conduct at issue does not warrant stronger, immediately reportable disciplinary sanctions. The inclusion of a rule in Rule 10.9217 does not minimize the importance of compliance with the rule, nor does it preclude the Exchange from choosing to pursue violations of eligible rules through formal disciplinary action if the nature of the violations or prior disciplinary history warrants more significant sanctions. Rather, the Exchange believes that the proposed rule change will strengthen the Exchange's ability to carry out its oversight and enforcement responsibilities in cases where full disciplinary proceedings are unwarranted in view of the minor nature of the particular violation. The option to impose a minor rule sanction gives the Exchange additional flexibility to administer its enforcement program in the most effective and efficient manner while still fully meeting the Exchange's remedial objectives in addressing violative conduct. The proposed rule change is thus designed to prevent fraudulent and manipulative acts and practices because it will provide the Exchange the ability to issue a minor rule fine for violations of the registration requirements set forth in Article 6, Rule 13 where a more formal disciplinary action may not be warranted or appropriate. In addition, the

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

<sup>8</sup> 15 U.S.C. 78f(b)(5).

Exchange believes that adding rules based on the rules of its affiliate to the Exchange's minor rule plan would promote fairness and consistency in the marketplace by permitting the Exchange to issue a minor rule fine for violations of substantially similar rules that are already eligible for minor rule treatment, thereby harmonizing rules eligible for minor rule fines across affiliated exchanges.

The Exchange further believes that the proposed amendments to Rule 10.9217 are consistent with Section 6(b)(6) of the Act,<sup>9</sup> which provides that members and persons associated with members shall be appropriately disciplined for violation of the provisions of the rules of the Act, the rules and regulations thereunder, and the rules of the exchange, by expulsion, suspension, limitation of activities, functions, and operations, fine, censure, being suspended or barred from being associated with a member, or any other fitting sanction. As noted, the proposed rule change would provide the Exchange ability to sanction minor or technical violations of proposed Article 6, Rule 13 pursuant to the Exchange's rules. Finally, the Exchange also believes that the proposed changes are designed to provide a fair procedure for the disciplining of members and persons associated with members, consistent with Sections 6(b)(7) and 6(d) of the Act.<sup>10</sup> Rule 10.9217 does not preclude a member organization or covered person from contesting an alleged violation and receiving a hearing on the matter with procedural rights through a litigated disciplinary proceeding.

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

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<sup>9</sup> 15 U.S.C. 78f(b)(6).

<sup>10</sup> 15 U.S.C. 78f(b)(7) and 78f(d).

proposed change is not designed to address any competitive issue but rather to update the Exchange's rules to strengthen the Exchange's ability to carry out its oversight and enforcement functions and deter potential violative conduct and to align the Exchange's rule setting forth violations eligible for a minor rule fine more closely with that of its affiliates.

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. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-NYSECHX-2023-04 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-NYSECHX-2023-04. This file number should be included on the subject line if e-mail 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 (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications

relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE, Washington, D.C. 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NYSECHX-2023-04 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.<sup>11</sup> In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,<sup>12</sup> which requires that the rules of an exchange be designed to promote just and equitable principles of trade, to remove impediments and to perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Commission also believes that the proposal is consistent with Sections 6(b)(1) and

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<sup>11</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>12</sup> 15 U.S.C. 78f(b)(5).

6(b)(6) of the Act<sup>13</sup> which require that the rules of an exchange enforce compliance with, and provide appropriate discipline for, violations of Commission and Exchange rules. Finally, the Commission finds that the proposal is consistent with the public interest, the protection of investors, or otherwise in furtherance of the purposes of the Act, as required by Rule 19d-1(c)(2) under the Act,<sup>14</sup> which governs minor rule violation plans.

As stated above, the Exchange proposes to add Article 6, Rule 13 (Registration Requirements), to the list of minor rule violations in Rule 10.9217, including in the fine schedule. The Commission believes that Rules 10.9216(b) and 10.9217 are an effective way to discipline a member for a minor violation of a rule. More specifically, the Commission believes that the proposed addition of Article 6, Rule 13 to the Exchange's list of current minor rule violations provides a reasonable means of addressing violations that do not rise to the level of requiring formal disciplinary proceedings, while providing greater flexibility in handling certain violations. The Commission also believes that amending the associated fine schedule is consistent with the Act because it may help the Exchange's ability to better carry out its oversight and enforcement responsibilities by levying appropriate fines for minor violations of the rules included in Rule 10.9217, including minor violations of Article 6, Rule 13.

In approving the proposed rule change, the Commission in no way minimizes the importance of compliance with the Exchange's rules and all other rules subject to fines under Rules 10.9216(b) and 10.9217. The Commission believes that a violation of any self-regulatory organization's rules, as well as Commission rules, is a serious matter. However, Rules 10.9216(b) and 10.9217 provide a reasonable means of addressing rule violations that may not

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<sup>13</sup> 15 U.S.C. 78f(b)(1) and 78f(b)(6).

<sup>14</sup> 17 CFR 240.19d-1(c)(2).



rise to the level of requiring formal disciplinary proceedings, while providing greater flexibility in handling certain violations. The Commission expects that the Exchange will continue to conduct surveillance with due diligence and make a determination based on its findings, on a case-by-case basis, whether a fine of more or less than the recommended amount is appropriate for a violation under Rules 10.9216(b) and 10.9217 or whether a violation requires formal disciplinary action.

For the same reasons as discussed above, the Commission finds good cause, pursuant to Section 19(b)(2) of the Act,<sup>15</sup> for approving the proposed rule change prior to the thirtieth day after the date of publication of the notice of the filing thereof in the Federal Register. The proposal will assist the Exchange in preventing fraudulent and manipulative practices by allowing the Exchange to adequately enforce compliance with, and provide appropriate discipline for, violations of Exchange rules. Moreover, the proposed changes raise no new or novel issues. Accordingly, the Commission believes that a full notice-and-comment period is not necessary before approving the proposal.

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

V. Conclusion

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act<sup>16</sup> and Rule 19d-1(c)(2) thereunder,<sup>17</sup> that the proposed rule change (SR-NYSECHX-2023-04) be, and hereby is, approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>18</sup>

Sherry R. Haywood

Assistant Secretary

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<sup>16</sup> 15 U.S.C. 78s(b)(2).

<sup>17</sup> 17 CFR 240.19d-1(c)(2).

<sup>18</sup> 17 CFR 200.30-3(a)(12).