

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-97494; File No. SR-LTSE-2023-03)

May 11, 2023

Self-Regulatory Organizations; Long-Term Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Amend Rule 2.250 to Remove Obsolete Text

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”),¹ and Rule 19b-4 thereunder,² notice is hereby given that on May 2, 2023, Long-Term Stock Exchange, Inc. (“LTSE” 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 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 LTSE Rule 2.250 (Mandatory Participation in Testing of Backup Systems) to remove obsolete rule text regarding the process it employed to designate certain Members³ previously subject to the rule to participate in mandatory disaster recovery testing pursuant to Regulation SCI and Rule 2.250 for calendar year 2020.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ The term “Member” refers to any registered broker or dealer that has been admitted to membership in the Exchange. A Member will have the status of a Member of the Exchange as that term is defined in Section 3(a)(3) of the Act. Membership may be granted to a sole proprietor, partnership, corporation, limited liability company, or other organization that is a registered broker or dealer pursuant to Section 15 of the Act, and which has been approved by the Exchange. See, LTSE Rule 1.160(w).

The text of the proposed rule change is available at the Exchange's website at <https://longtermstockexchange.com/>, at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement on the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange 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 these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

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

1. Purpose

The Exchange proposes to amend LTSE Rule 2.250 (Mandatory Participation in Testing of Backup Systems) to remove obsolete rule text regarding the process it employed to designate certain Members previously subject to the rule to participate in mandatory disaster recovery testing pursuant to Regulation SCI and Rule 2.250 for calendar year 2020.

Regulation SCI requires LTSE, as an SCI entity, to maintain business continuity and disaster recovery plans that provide for resilient and geographically diverse backup and recovery capabilities that are reasonably designed to achieve two-hour resumption of critical SCI systems and next business day resumption of other SCI systems following a wide-scale disruption.⁴

⁴ See Securities Exchange Act Release No. 73639 (November 19, 2014), 79 FR 72252 (December 5, 2014).

Rule 1004 under Regulation SCI and LTSE Rule 2.250 also require LTSE to designate certain Members to participate in business continuity and disaster recovery testing in a manner specified by LTSE and at a frequency of not less than once every 12 months.⁵ Such testing ordinarily is part of an industry-wide test conducted annually in the month of October.

LTSE Rule 2.250 governs mandatory participation in testing of LTSE's backup systems, and states that LTSE will designate Members that account for a meaningful percentage of executed volume on LTSE, measured on a quarterly basis, as required to connect to LTSE's backup systems and participate in functional and performance testing of such system.⁶ Rule 2.250 further provides that if a Member has not previously been subject to the rule, such Member will have until the next calendar quarter before such requirements are applicable.⁷

In July 2020, the Exchange filed a proposed rule change, for immediate effectiveness, to amend Rule 2.250 to provide for special provisions to designate certain Members to participate in mandatory disaster recovery training in calendar year 2020.⁸ The rule change was based on the fact that the Exchange was not operational as of the date of the rule filing, and did not become operational until September 9, 2020. As a result, for calendar year 2020, the Exchange did not have two calendar quarters of trading data on which to base its Member designation prior to the October 2020 test. Absent an amendment, Rule 2.250 would not have permitted the Exchange to designate any Members to participate in the industry-wide test for 2020 because no

⁵ See, LTSE Rule 2.250(a), (b).

⁶ See, LTSE Rule 2.250(a), (c).

⁷ See, LTSE Rule 2.250(c).

⁸ See, Exchange Act Release 34-89216 (July 2, 2020), 85 FR 41259 (July 9, 2020), SR-LTSE-2020-10.

Member would have had a meaningful percentage of executed volume on LTSE upon which a designation could have been made.

To address the unique circumstances for disaster recovery testing in 2020, the Exchange amended Rule 2.250 to add new paragraph (d), which provided that for calendar year 2020, notwithstanding paragraphs (b) and (c), which assign the Exchange responsibility of “identifying Members that account for a meaningful percentage of the Exchange’s overall volume,” the Exchange would instead designate at least three Members who have a meaningful percentage of trading volumes in NMS stocks across the other equity exchanges. This rule change allowed the Exchange to identify Members for industry-wide disaster recovery testing in the absence of the LTSE-specific volume metrics that would be used in the ordinary course to designate such firms.

By its terms, Rule 2.250(d) was limited to the special circumstances existing in calendar year 2020 given that the Exchange did not become operational until September 2020, approximately one month prior to the industry test. The special provisions of paragraph (d) were not employed in the 2021 and 2022 industry-wide disaster recovery testing and the Exchange instead relied on the provisions of paragraphs (a) through (c) of the rule in establishing the standards to be used for determining which Members contribute a meaningful percentage of the Exchange’s overall volume and thus are required to participate in functional and performance testing.

Accordingly, the Exchange is now proposing to delete paragraph (d) of Rule 2.250 in its entirety as obsolete and unnecessary rule text.

b. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,⁹ in general, and furthers the objectives of Section 6(b)(5) of the Act,¹⁰ in particular, in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

The Exchange states that its proposed deletion of Rule 2.250(d), which was limited by its terms to the required Regulation SCI testing for calendar year 2020, is obsolete and was only followed for the 2020 testing. The Exchange's participation in the 2021 and 2022 industry testing was based on the process outlined in paragraphs (a) through (c) of Rule 2.250, as was the original intent of the rule. Paragraph (d) was only added to account for the unique circumstances of industry-wide testing occurring within a short time of when the Exchange commenced trading operations and, as a result, the Exchange would not have had the data to conduct the testing under the process outlined in Rule 2.250(a) through (c). The Exchange believes that its proposed deletion of this obsolete text is consistent with Section 6(b)(5) of the Act¹¹ in that it assures that the Exchange's rules are current and up-to-date, which operates to perfect the mechanism of a free and open market and national market system and in general with the protection of investors and the public interest.

⁹ 15 U.S.C. 78f.

¹⁰ 15 U.S.C. 78f(b)(5).

¹¹ See, supra, note 6.

Moreover, as set forth in the SCI Adopting Release, “SROs have the authority, and legal responsibility, under Section 6 of the Exchange Act, to adopt and enforce rules (including rules to comply with Regulation SCI’s requirements relating to BC/DR testing) applicable to their members or participants that are designed to, among other things, 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.”¹² The Exchange believes that this proposal is consistent with such authority and legal responsibility in that it removes obsolete text from Rule 2.250 and assures that the Exchange’s rule aligns with the requirements of Regulation SCI.

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 amendment is intended solely to remove obsolete text from Rule 2.250 relating to unique circumstances surrounding the Exchange’s participation in industry-wide Regulation SCI testing for calendar year 2020. Consequently, the Exchange does not believe that the proposed rule change would impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act.

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

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

¹² See supra note 4, at 72350.

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

Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act¹³ and Rule 19b-4(f)(6) thereunder.¹⁴

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.

IV. Solicitation of Comments

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

Electronic comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-LTSE-2023-03 on the subject line.

¹³ 15 U.S.C. 78s(b)(3)(A)(iii).

¹⁴ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires the Exchange to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

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-LTSE-2023-03. 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, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange.

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-LTSE-2023-03 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁵

Sherry R. Haywood

Assistant Secretary

¹⁵ 17 CFR 200.30-3(a)(12).