

# SECURITIES AND EXCHANGE COMMISSION

(Release No. 34-103053; File No. SR-NYSETEX-2025-10)

## Self-Regulatory Organizations; NYSE Texas, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Establish the NYSE Texas Order Imbalances Proprietary Market Data Product

May 16, 2025.

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 May 13, 2025, the NYSE Texas, Inc. (“NYSE Texas” 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 establish the NYSE Texas Order Imbalances proprietary market data product. 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.

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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.

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

The Exchange proposes to establish the NYSE Texas Order Imbalances data feed as a separate, stand-alone market data product. The NYSE Texas Order Imbalances product would be a real-time data feed of the information that the Exchange would provide in advance of an auction.

The Exchange is establishing the NYSE Texas Order Imbalances product in connection with the introduction of auctions on NYSE Texas.<sup>4</sup> NYSE Texas Order Imbalances would be a data feed of real-time order imbalances that accumulate prior to the opening of trading on the Exchange, prior to any re-opening auction after a halt, and prior to the close of trading on the Exchange.<sup>5</sup> The data feed would contain aggregate information about orders that are subject to execution at the market’s opening or closing price, as the case may be, and would represent issues that are likely to be of particular trading interest at the opening or closing.

NYSE Texas Rule 7.35(a)(4)(C) provides that the Exchange will disseminate Auction

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<sup>4</sup> See SR-NYSETEX-2025-08 (Proposed Rule Change to Adopt Rule 7.35 Regarding Auctions).

<sup>5</sup> NYSE Texas order imbalance information is not currently available through any of the Exchange’s current data feeds as NYSE Texas does not currently provide for the operation of auctions.

Imbalance Information via a proprietary data feed during the times specified in the rule, and through this filing, the Exchange proposes to establish the NYSE Texas Order Imbalances feed as the proprietary data feed to which NYSE Texas Rule 7.35(a)(4)(C) refers.

NYSE Texas Rule 7.35(a)(4) defines Auction Imbalance Information as the information disseminated by the Exchange for an auction. As set forth in NYSE Texas Rule 7.35, Auction Imbalance information includes, if applicable, the Total Imbalance, Market Imbalance, Indicative Match Price and Matched Volume, each as defined in NYSE Texas Rule 7.35(a). The Auction Imbalance Information would be disseminated on a time frame specified in NYSE Texas Rule 7.35. The NYSE Texas Order Imbalances market data product would provide Auction Imbalance Information with respect to all symbols listed on the Exchange.

The Exchange proposes to offer this order imbalance information as a stand-alone market data product in order to provide all market participants with an opportunity to obtain information regarding opening and closing imbalances on the Exchange. The Exchange believes that the NYSE Texas Order Imbalances data feed would benefit market participants by facilitating their prompt access to widespread order imbalance information.

The Exchange proposes to offer the NYSE Texas Order Imbalances product through the Exchange's Liquidity Center Network ("LCN"), a local area network in the Exchange's Mahwah, New Jersey data center that is available to users of the Exchange's co-location services. The Exchange also would offer the NYSE Texas Order Imbalances product through the ICE Global Network ("IGN"), through which all other users and members access the Exchange's trading and execution systems and other proprietary market data products.

The Exchange does not currently intend to charge a fee to subscribe to NYSE Texas Order Imbalances. The Exchange will file a separate rule filing to establish fees for NYSE

Texas Order Imbalances if it determines to adopt such fees. The Exchange will announce the date that NYSE Texas Order Imbalances will be available through a Trader Update.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b)<sup>6</sup> of the Act, in general, and furthers the objectives of Section 6(b)(5)<sup>7</sup> of the Act, in particular, in that 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, and it is not designed to permit unfair discrimination among customers, brokers, or dealers. This proposal is in keeping with those principles in that it promotes increased transparency through the dissemination of the NYSE Texas Order Imbalances market data product to those interested in receiving it.

The Exchange also believes this proposal is consistent with Section 6(b)(5) of the Act because it protects investors and the public interest and promotes just and equitable principles of trade by providing investors with new options for receiving market data as requested by market data vendors and subscribers. The proposed rule change would benefit investors by facilitating their prompt access to the real-time information contained in the NYSE Texas Order Imbalances market data product.

The Exchange also believes that the proposed rule change is consistent with Section 11(A) of the Act<sup>8</sup> in that it supports (i) fair competition among brokers and dealers, among

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<sup>6</sup> 15 U.S.C. § 78f(b).

<sup>7</sup> 15 U.S.C. § 78f(b)(5).

<sup>8</sup> 15 U.S.C. 78k-1.

exchange markets, and between exchange markets and markets other than exchange markets and (ii) the availability of information with respect to quotations for and transactions in securities to brokers, dealers, and investors. Furthermore, the proposed rule change is consistent with Rule 603 of Regulation NMS,<sup>9</sup> which provides that any national securities exchange that distributes information with respect to quotations for or transactions in an NMS stock do so on terms that are not unreasonably discriminatory. The NYSE Texas Order Imbalances market data product would be accessed and subscribed to on a voluntary basis, in that neither the Exchange nor market data vendors are required by any rule or regulation to make this data available. Accordingly, vendors and subscribers can discontinue their use at any time and for any reason.

In adopting Regulation NMS, the Commission granted self-regulatory organizations (“SROs”) and broker dealers increased authority and flexibility to offer new and unique market data to consumers of such data. It was believed that this authority would expand the amount of data available to users and consumers of such data and also spur innovation and competition for the provision of market data. The Exchange believes that the NYSE Texas Order Imbalances market data product is precisely the sort of market data product that the Commission envisioned when it adopted Regulation NMS. The Commission concluded that Regulation NMS would itself further the Act’s goals of facilitating efficiency and competition:

Efficiency is promoted when broker-dealers who do not need the data beyond the prices, sizes, market center identifications of the NBBO and consolidated last sale information are not required to receive (and pay for) such data. The Commission also believes that efficiency is promoted when broker-dealers may choose to receive (and pay for) additional market data based on their own internal analysis

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<sup>9</sup> See 17 CFR 242.603

of the need for such data.<sup>10</sup>

In addition, NYSE Texas Order Imbalances market data product removes impediments to and perfects the mechanism of a free and open market and a national market system by providing investors with alternative market data and would compete with similar market data products currently offered by the Exchange's affiliates, New York Stock Exchange LLC ("NYSE"), NYSE Arca, Inc. ("NYSE Arca") and NYSE American LLC ("NYSE American"),<sup>11</sup> and by the Nasdaq Stock Market ("Nasdaq").<sup>12</sup>

The Exchange notes that the existence of alternatives to the Exchange's proposed product, including real-time consolidated data, free delayed consolidated data, and proprietary data from other sources, ensures that the Exchange is not unreasonably discriminatory because vendors and subscribers can elect these alternatives as their individual business cases warrant. This proposed new data feed would provide investors with new options for receiving market data, which was a primary goal of the market data amendments adopted by Regulation NMS.<sup>13</sup>

The NYSE Texas Order Imbalances data feed will help to protect a free and open market by providing additional data to the marketplace and by giving investors greater choices. In addition, the proposal would not permit unfair discrimination because the data feed would be available to all vendors and subscribers through both LCN and IGN.

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<sup>10</sup> See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496 (June 29, 2005) ("Regulation NMS Adopting Release").

<sup>11</sup> See Securities Act Release Nos. 59543 (March 9, 2009), 74 FR 11159 (March 16, 2009) (SR-NYSE-2008-132) (NYSE Order Imbalances); 76968 (January 22, 2016), 81 FR 4689 (January 27, 2016) (SR-NYSEArca-2016-10) (NYSE Arca Order Imbalances); and 59743 (April 9, 2009), 74 FR 17699 (April 16, 2009) (SR-NYSEAmex-2009-11) (NYSE Amex Order Imbalances n/k/a NYSE American Order Imbalances).

<sup>12</sup> See Nasdaq TotalView, <https://data.nasdaq.com/databases/NTV> (displays the full order book depth for Nasdaq market participants and also disseminates the Net Order Imbalance Indicator (NOII) for the Nasdaq Opening and Closing Crosses and Nasdaq IPO/Halt Cross).

<sup>13</sup> See Regulation NMS Adopting Release, *supra*, at 37503.

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

In accordance with Section 6(b)(8) of the Act,<sup>14</sup> 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. Because other exchanges already offer similar products, the Exchange's proposed NYSE Texas Order Imbalances market data product will enhance competition. The NYSE Texas Order Imbalances product will foster competition by providing an alternative to similar products offered by other exchanges, including order imbalances products offered by the Exchange's affiliates, NYSE, NYSE Arca and NYSE American,<sup>15</sup> and by Nasdaq.<sup>16</sup> The NYSE Texas Order Imbalances market data product would provide investors with a new option for receiving market data, which was a primary goal of the market data amendments adopted by Regulation NMS.<sup>17</sup> Thus, the Exchange believes the proposed rule change is necessary to permit fair competition among national securities exchanges.

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.

D. 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

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of

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<sup>14</sup> 15 U.S.C. 78f(b)(8).

<sup>15</sup> See note 11, supra.

<sup>16</sup> See note 12, supra.

<sup>17</sup> See Regulation NMS Adopting Release, supra, at 37503.

the Act<sup>18</sup> and Rule 19b-4(f)(6) thereunder.<sup>19</sup> Because the 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 prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>20</sup> and Rule 19b-4(f)(6)(iii) thereunder.<sup>21</sup>

A proposed rule change filed under Rule 19b-4(f)(6)<sup>22</sup> normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),<sup>23</sup> the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange believes that waiver of the 30-day operative delay is appropriate because the availability of the NYSE Texas Order Imbalances present no novel issues and will provide investors with a stand-alone, alternative to currently available proprietary data products. The Commission believes that waiver of the operative delay would be consistent with the protection of investors and the public interest because this proposed rule change does not present any novel issues and it would provide investors with an alternative option for accessing potentially helpful information that could

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<sup>18</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>19</sup> 17 CFR 240.19b-4(f)(6).

<sup>20</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>21</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires a self-regulatory organization 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 fulfilled this requirement.

<sup>22</sup> 17 CFR 240.19b-4(f)(6).

<sup>23</sup> 17 CFR 240.19b-4(f)(6)(iii).

inform their trading decisions as soon as practicable. Accordingly, the Commission hereby waives the 30-day operative delay and designates the proposed rule change as operative upon filing.<sup>24</sup>

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. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or 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-NYSETEX-2025-10 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.

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<sup>24</sup> For purposes only of waiving the 30-day operative delay, the Commission also has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

All submissions should refer to file number SR-NYSETEX-2025-10. 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-NYSETEX-2025-10 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>25</sup>

**Sherry R. Haywood,**

*Assistant Secretary.*

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<sup>25</sup> 17 CFR 200.30-3(a)(12).