

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-103087; File No. SR-NYSENAT-2025-11]

Self-Regulatory Organizations; NYSE National, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend the NYSE National Schedule of Fees and Rebates

May 20, 2025.

Pursuant to Section 19(b)(1)¹ of the Securities Exchange Act of 1934 (“Act”)² and Rule 19b-4 thereunder,³ notice is hereby given that, on May 13, 2025, NYSE National, Inc. (“NYSE National” or the “Exchange”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange proposes to amend the NYSE National Schedule of Fees and Rebates (“Fee Schedule”) to reflect the fee for orders routed pursuant to the Retail Price Improvement Seeking routing strategy. The proposed change is available on the Exchange’s website at www.nyse.com, at the principal office of the Exchange, and at the Commission’s Public Reference Room.

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78a.

³ 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 amend the Fee Schedule to reflect the fee for orders routed pursuant to the Retail Price Improvement Seeking routing strategy. The Exchange proposes to implement the fee change effective May 13, 2025.

Background

The Exchange operates in a highly competitive market. The Securities and Exchange Commission (“Commission”) has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system “has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.”⁴

While Regulation NMS has enhanced competition, it has also fostered a “fragmented”

⁴ See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (File No. S7-10-04) (Final Rule) (“Regulation NMS”).

market structure where trading in a single stock can occur across multiple trading centers. When multiple trading centers compete for order flow in the same stock, the Commission has recognized that “such competition can lead to the fragmentation of order flow in that stock.”⁵ Indeed, equity trading is currently dispersed across 16 exchanges,⁶ numerous alternative trading systems,⁷ and broker-dealer internalizers and wholesalers, all competing for order flow. Based on publicly available information, no single exchange currently has more than 20% market share.⁸ Therefore, no exchange possesses significant pricing power in the execution of equity order flow. More specifically, the Exchange’s share of executed volume of equity trades in Tapes A, B and C securities combined is less than 1%.⁹

The Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can move order flow, or discontinue or reduce use of certain categories of products. While it is not possible to know a firm’s reason for shifting order flow, the Exchange believes that one such reason is because of fee changes at any of the registered exchanges or non-exchange venues to which a firm routes order flow. Accordingly, competitive forces constrain exchange transaction fees, and market participants can readily trade on competing venues if they deem pricing levels at those other venues to be more favorable.

⁵ See Securities Exchange Act Release No. 61358, 75 FR 3594, 3597 (January 21, 2010) (File No. S7-02-10) (Concept Release on Equity Market Structure).

⁶ See Cboe U.S Equities Market Volume Summary, available at https://markets.cboe.com/us/equities/market_share. See generally <https://www.sec.gov/fast-answers/divisionsmarketregmrexchangesshtml.html>.

⁷ See FINRA ATS Transparency Data, available at <https://otctransparency.finra.org/otctransparency/AtsIssueData>. A list of alternative trading systems registered with the Commission is available at <https://www.sec.gov/foia/docs/atlist.htm>.

⁸ See Cboe Global Markets U.S. Equities Market Volume Summary, available at http://markets.cboe.com/us/equities/market_share/.

⁹ See *id.*

Proposed Rule Change

Pursuant to Commission approval, the Exchange has amended its rules to provide for the optional Retail Price Improvement Seeking routing strategy, which is available for Type 1 Retail Orders that participate in the Exchange's Retail Liquidity Program.¹⁰ After checking the Exchange Book for available shares, any remaining quantity of a Type 1 Retail Order designated with the Retail Price Improvement Seeking routing strategy will be routed to New York Stock Exchange, LLC ("NYSE"). Any shares that remain unexecuted after routing will be cancelled. The Retail Price Improvement Seeking routing strategy is intended to offer any remaining quantity of Type 1 Retail Orders, after executing against interest on the Exchange Book, the opportunity to access liquidity on the NYSE, which also operates a retail liquidity program. Type 1 Retail Orders routed to the NYSE with the Retail Price Improvement Seeking routing strategy would be able to interact with Retail Price Improvement Orders and other interest on the NYSE book as a Retail Order in the NYSE retail liquidity program, thereby providing such orders with additional price improvement opportunities.

In connection with the availability of the Retail Price Improvement Seeking routing strategy on May 13, 2025,¹¹ the Exchange proposes to amend the Fee Schedule to reflect the routing fee that will apply to orders routed pursuant to the Retail Price Improvement Seeking routing strategy. In the table under Section II of the Fee Schedule, which sets forth routing fees applicable to all ETP Holders, the Exchange proposes to add text specifying that, for orders in securities at or above \$1.00, there would be no fee for orders routed pursuant to the Retail Price

¹⁰ See Securities Exchange Act Release No. 102912 (April 22, 2025), 90 FR 17655 (April 28, 2025) (SR-NYSENAT-2025-05) (Order Approving a Proposed Rule Change To Amend NYSE National Rules 7.37 and 7.44); see also Rule 7.37(b)(9)(C).

¹¹ See <https://www.nyse.com/trader-update/history#110000948947>.

Improvement Seeking routing strategy (as described in Rule 7.37(b)(9)(C)).

The Exchange believes that this routing functionality would provide retail orders with access to additional retail liquidity and price improvement opportunities on another trading venue. This routing functionality is completely optional, and ETP Holders can readily select from among various providers of routing services, including other exchanges and non-exchange venues. ETP Holders that choose not to utilize this routing strategy would continue to be able to trade on the Exchange as they currently do.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,¹² in general, and furthers the objectives of Sections 6(b)(4) and (5) of the Act,¹³ in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

As discussed above, the Exchange operates in a highly competitive market. The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system “has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.”¹⁴ While Regulation NMS has enhanced competition, it has also fostered a “fragmented” market structure where trading in a single stock can occur across

¹² 15 U.S.C. 78f(b).

¹³ 15 U.S.C. 78f(b)(4) and (5).

¹⁴ See supra note 4.

multiple trading centers. When multiple trading centers compete for order flow in the same stock, the Commission has recognized that “such competition can lead to the fragmentation of order flow in that stock.”¹⁵

The Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can shift order flow, or discontinue or reduce use of certain categories of products, in response to fee changes. Accordingly, changes to exchange transaction fees can have a direct effect on the ability of an exchange to compete for order flow.

The Retail Price Improvement Seeking routing strategy is intended to provide Type 1 Retail Orders with the option to, after interacting with interest on the Exchange Book, route remaining quantities to the NYSE to access additional retail liquidity. This routing functionality is provided by the Exchange on a voluntary basis, and no rule or regulation requires that the Exchange offer it. Nor does any rule or regulation require market participants to route orders in this manner. As noted above, the Exchange operates in a highly competitive market in which market participants can readily select between various providers of routing services with different product offerings and different pricing. The Exchange believes its proposal to not charge any fee for orders routed pursuant to the Retail Price Improvement Seeking routing strategy is reasonable to encourage use of the routing strategy and to facilitate additional trading opportunities for retail order at no additional cost.

The Exchange believes its proposal equitably allocates its fees among market participants. The Exchange believes that the proposal represents an equitable allocation of fees because it would apply uniformly to all orders routed pursuant to the Retail Price Improvement

¹⁵ See supra note 5.

Seeking Strategy, in that all Type 1 Retail Orders may be optionally designated with the Retail Price Improvement Seeking routing strategy, and no such orders would be subject to any routing fee for utilizing the functionality. Without having a view of ETP Holders' activity on other exchanges and off-exchange venues, the Exchange has no way of knowing whether this proposed rule change would serve as an incentive or disincentive to utilize the routing strategy. However, the Exchange believes that a number of ETP Holders would seek to utilize the routing functionality, which would facilitate access to additional price improvement opportunities for retail orders on another trading venue at no charge.

The Exchange reiterates that the routing functionality offered by the Exchange is completely optional and that the Exchange operates in a highly competitive market in which market participants can readily select between various providers of routing services with different product offerings and different pricing. The Exchange believes that the proposed fee for orders routed pursuant to the Retail Price Improvement Seeking routing strategy is a fair and equitable approach to pricing.

The Exchange believes that the proposal is not unfairly discriminatory because it applies on an equal basis to all orders routed pursuant to the Retail Price Improvement Seeking routing strategy. Moreover, this proposed rule change neither targets, nor will it have a disparate impact on, any particular category of market participant. The Exchange believes that this proposal does not permit unfair discrimination because the proposed fee described in this proposal would apply to all retail orders designated with the Retail Price Improvement Seeking routing strategy.

Accordingly, no member organization already operating on the Exchange would be disadvantaged by the proposed allocation of fees. The Exchange further believes that the proposed rule change would not permit unfair discrimination because the routing functionality

would remain available to similarly-situated ETP Holders on an equal basis, and each such participant would be subject to the same fee for using the functionality.

Finally, the submission of orders to the Exchange is optional for ETP Holders in that they could choose whether to submit orders to the Exchange and, if they do, the extent of its activity in this regard. The Exchange believes that it is subject to significant competitive forces, as described below in the Exchange's statement regarding the burden on competition.

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

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

In accordance with Section 6(b)(8) of the Act,¹⁶ the Exchange believes that the proposed rule change would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that the proposed change furthers the Commission's goal in adopting Regulation NMS of fostering integrated competition among orders, which promotes "more efficient pricing of individual stocks for all types of orders, large and small."¹⁷ The Exchange does not believe that the proposed fee change represents a significant departure from previous pricing offered by the Exchange or pricing offered by the Exchange's competitors. ETP Holders may opt to disfavor the Exchange's pricing if they believe that alternatives offer them better value. Accordingly, the Exchange does not believe that the proposed change will impair the ability of ETP Holders or competing venues to maintain their competitive standing in the financial markets.

¹⁶ 15 U.S.C. 78f(b)(8).

¹⁷ See supra note 4.

Intramarket Competition. The Exchange believes the proposed amendment to its Fee Schedule would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Retail Price Improvement Seeking routing strategy is available to all Type 1 Retail Orders, and all orders routed pursuant to the strategy would be subject to the same proposed fee. This routing functionality is provided by the Exchange on a voluntary basis, and no rule or regulation requires that the Exchange offer it. ETP Holders have the choice whether or not to use the Retail Price Improvement Seeking routing strategy, and those that choose not to utilize it will not be impacted by the proposed rule change. The Exchange also does not believe the proposed rule change would impact intramarket competition, as the proposed fee would apply equally to all ETP Holders that choose to utilize the Retail Price Improvement Seeking routing strategy, and therefore the proposed change would not impose a disparate burden on competition among market participants on the Exchange.

Intermarket Competition. The Exchange operates in a highly competitive market in which market participants can readily choose to send their orders to other exchange and off-exchange venues if they deem fee levels at those other venues to be more favorable. As noted above, the Exchange's market share of intraday trading (i.e., excluding auctions) is currently less than 1%. In such an environment, the Exchange must continually adjust its fees and rebates to remain competitive with other exchanges and with off-exchange venues. Because competitors are free to modify their own fees and credits in response, and because market participants may readily adjust their order routing practices, the Exchange does not believe its proposed fee change can impose any burden on intermarket competition.

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

No written comments were solicited or received with respect to the proposed rule change.

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

Pursuant to Section 19(b)(3)(A)(ii) of the Act,¹⁸ and Rule 19b-4(f)(2) thereunder¹⁹ the Exchange has designated this proposal as establishing or changing a due, fee, or other charge imposed on any person, whether or not the person is a member of the self-regulatory organization, which renders the proposed rule change effective upon filing. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

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. Please include file number SR-NYSENAT-2025-11 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.

¹⁸ 15 U.S.C. 78s(b)(3)(A)(ii).

¹⁹ 17 CFR 240.19b-4.

All submissions should refer to file number SR-NYSENAT-2025-11. 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-NYSENAT-2025-11 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.²⁰

Sherry R. Haywood,

Assistant Secretary.

²⁰ 17 CFR 200.30-3(a)(12).