

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-104332; File No. SR-NYSEAMER-2025-69]

Self-Regulatory Organizations; NYSE American LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Modify the NYSE American Options Fee Schedule to Amend the Qualifying Criteria for Initiating Participant Credits for Single-Leg CUBE Auctions

December 5, 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 December 1, 2025, NYSE American LLC (“NYSE American” 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 the NYSE American Options Fee Schedule (“Fee Schedule”) to amend the qualifying criteria for Initiating Participant Credits for single-leg CUBE Auctions. The Exchange proposes to implement the fee change effective December 1, 2025. The proposed rule change is available on the Exchange’s website at www.nyse.com and at the principal office of the Exchange.

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 purpose of this filing is to modify the Fee Schedule to amend the qualifying criteria for Initiating Participant Credits for single-leg Customer Best Execution (“CUBE”) Auctions.⁴

The Exchange offers certain Initiating Participant Credits to ATP Holders that submit CUBE Orders to its CUBE Auctions.⁵ Currently, for a single-leg CUBE Auction, ATP Holders receive Initiating Participant Credits of \$0.26 per contract for Penny Issues and \$0.65 per contract for Non-Penny Issues. In addition, ATP Holders that execute at least 0.40% of TCADV⁶ in Electronic Customer Complex Orders or at least 0.40% of TCADV in monthly Initiating Complex CUBE Orders (inclusive of AON Complex CUBE Orders) are eligible for enhanced Initiating Participant Credits of \$0.30 per contract for Penny Issues and \$0.70 per contract for

⁴ See generally Rules 971.1NYP and 971.2NYP and Commentaries .04 (describing the CUBE Auction, which is an electronic crossing mechanism for single-leg, complex, and AON orders with a price improvement auction on the Exchange).

⁵ See Fee Schedule, Section I.G (CUBE Auction Fees & Credits) (describing pricing and incentives for each of the Single-Leg CUBE Auction, the Complex CUBE Auction, and the AON CUBE Auction).

⁶ “TCADV” refers to Total Industry Customer equity and ETF option average daily volume. See Fee Schedule, KEY TERMS and DEFINITIONS.

Non-Penny Issues.⁷

The Exchange proposes to amend the qualifying criteria for these enhanced Initiating Participant Credits to provide that an ATP Holder may earn such credits by executing at least 0.30% of TCADV in Electronic Customer Complex Orders or at least 0.40% of TCADV in monthly Initiating Complex CUBE Orders (inclusive of AON Complex CUBE Orders). The proposed change, which would reduce the TCADV requirement in Electronic Customer Complex Orders, is designed to continue to encourage ATP Holders to utilize single-leg CUBE Auctions and to continue to direct their Electronic Customer Complex order flow to the Exchange. To the extent that the proposed change continues to encourage ATP Holders to initiate CUBE Auctions on the Exchange, all market participants stand to benefit from increased liquidity and opportunities for price improvement. Increased order flow promotes market depth, facilitates tighter spreads and enhances price discovery, which enhances market quality for all participants.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,⁸ in general, and furthers the objectives of Sections 6(b)(4) and (5) of the Act,⁹ 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.

The proposed change to the Fee Schedule is reasonable, equitable, and not unfairly

⁷ Initiating Participant Credits are payable to the Initiating Participant for each contract in a Contra Order paired with a CUBE Order that does not trade with the CUBE Order because it is replaced in the auction. See Fee Schedule, Section I.G (CUBE Auction Fees & Credits).

⁸ 15 U.S.C. 78f(b).

⁹ 15 U.S.C. 78f(b)(4) and (5).

discriminatory. As a threshold matter, the Exchange is subject to significant competitive forces in the market for options securities transaction services that constrain its pricing determinations in that 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.”¹⁰

There are currently 18 registered options exchanges competing for order flow. Based on publicly available information, and excluding index-based options, no single exchange has more than 16% of the market share of executed volume of multiply-listed equity and ETF options trades.¹¹ Therefore, currently no exchange possesses significant pricing power in the execution of multiply-listed equity and ETF options order flow. More specifically, in September 2025, the Exchange had 8.89% market share of executed volume of multiply-listed equity and ETF options trades.¹² In such a low-concentrated and highly competitive market, no single options exchange possesses significant pricing power in the execution of option order flow. Within this environment, market participants can freely and often do shift their order flow among the Exchange and competing venues in response to changes in their respective pricing schedules.

¹⁰ See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (S7-10-04) (“Reg NMS Adopting Release”).

¹¹ The OCC publishes options and futures volume in a variety of formats, including daily and monthly volume by exchange, available here: <https://www.theocc.com/Market-Data/Market-Data-Reports/Volume-and-Open-Interest/Monthly-Weekly-Volume-Statistics>.

¹² Based on a compilation of OCC data for monthly volume of equity-based options and monthly volume of equity-based ETF options, see id., the Exchanges market share in equity-based options increased from 7.64% for the month of September 2024 to 8.89% for the month of September 2025.

In response to these competitive forces and as discussed herein, the Exchange has established various pricing incentives regarding its CUBE Auctions, including base and enhanced Initiating Participant Credits that are designed to encourage ATP Holders to utilize single-leg CUBE Auctions and to direct increased volume to the Exchange.

The Exchange believes that the proposed change to the qualifying criteria for an enhanced Initiating Participant Credit for single-leg CUBE Auctions is reasonable, equitable, and not unfairly discriminatory. The proposed change is designed to continue to encourage ATP Holders to execute Electronic Customer Complex Orders and participate in single-leg CUBE Auctions and, by lowering the required TCADV in Electronic Customer Complex Orders to earn an enhanced Initiating Participant Credit for single-leg CUBE Auctions, could make such credits more attainable for ATP Holders. To the extent the proposed change continues to encourage ATP Holders to direct Electronic Customer Complex volume to the Exchange and/or participate in single-leg CUBE Auctions, any resulting increased liquidity would promote market depth and enhance market quality to the benefit of all market participants.

The Exchange believes that the proposal represents an equitable allocation of credits and is not unfairly discriminatory because the proposal is based on the amount and type of business transacted on the Exchange. ATP Holders are not obligated to participate in CUBE Auctions or to attempt to achieve the proposed enhanced Initiating Participant credit. In addition, the proposed change will apply equally to all similarly-situated ATP Holders.

To the extent that the proposed changes [sic] attract more executions to the Exchange, this increased order flow would continue to make the Exchange a more competitive venue for order execution. Thus, the Exchange believes the proposed rule changes [sic] would improve market quality for all market participants on the Exchange and attract more order flow to the

Exchange, thereby improving market-wide quality and price discovery. The resulting increased volume and liquidity would provide more trading opportunities and tighter spreads to all market participants and thus would promote just and equitable principles of trade, 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.

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

In accordance with Section 6(b)(8) of the Act, the Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Instead, as discussed above, the Exchange believes that the proposed changes [sic] would continue to encourage the submission of additional liquidity to a public exchange, thereby promoting market depth, price discovery and transparency and enhancing order execution opportunities for all market participants. As a result, the Exchange believes that the proposed changes [sic] further 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."¹³

Intramarket Competition. The Exchange believes that the proposed change to amend the eligibility criteria for existing Initiating Participant Credits does not impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed changes [sic] apply equally to all similarly-situated ATP Holders. Further, the proposal is based on the amount and type of business transacted on the Exchange and ATP Holders are not obligated to participate in CUBE Auctions. The Exchange does not believe that the proposed changes [sic] will adversely impact any ATP Holder's ability to qualify for existing

¹³ See Reg NMS Adopting Release, supra note 10, at 37499.

pricing incentives related to initiating CUBE Auctions and could instead facilitate ATP Holders' ability to earn enhanced Initiating Participant Credits for single-leg CUBE Auctions. This proposal is designed to encourage participants to utilize the Exchange as a primary trading venue (if they have not done so previously), particularly with respect to initiating CUBE Auctions. Accordingly, the Exchange believes this proposal would help promote competition by providing incentives for market participants to continue to submit Electronic Customer Complex volume on the Exchange and to continue to participate in single-leg CUBE Auctions on the Exchange, thereby providing for increased opportunities for Customers to receive additional price improvement and access greater liquidity.

Intermarket Competition. The Exchange operates in a highly competitive market in which market participants can readily favor one of the other 17 competing option exchanges if they deem fee levels at a particular venue to be excessive. In such an environment, the Exchange must continually adjust its fees to remain competitive with other exchanges and to attract order flow to the Exchange. Based on publicly available information, and excluding index-based options, no single exchange has more than 16% of the market share of executed volume of multiply-listed equity and ETF options trades.¹⁴ Therefore, currently no exchange possesses significant pricing power in the execution of multiply-listed equity and ETF options order flow. More specifically, in September 2025, the Exchange had 8.89% market share of executed volume of multiply-listed equity and ETF options trades.¹⁵

¹⁴ The OCC publishes options and futures volume in a variety of formats, including daily and monthly volume by exchange, available here: <https://www.theocc.com/Market-Data/Market-Data-Reports/Volume-and-Open-Interest/Monthly-Weekly-Volume-Statistics>.

¹⁵ Based on a compilation of OCC data for monthly volume of equity-based options and monthly volume of equity-based ETF options, *see id.*, the Exchanges market share in equity-based options increased from 7.64% for the month of September 2024 to 8.89% for the month of September 2025.

The Exchange believes that the proposed rule change reflects this competitive environment as it is designed to encourage ATP Holders to direct trading interest (in particular, single-leg CUBE Auction and Electronic Customer Complex order flow) to the Exchange, to provide liquidity and to attract order flow. To the extent that this purpose is achieved, all the Exchange's market participants should benefit from the improved market quality and increased opportunities for price improvement.

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

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A)¹⁶ of the Act and subparagraph (f)(2) of Rule 19b-4¹⁷ thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such 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 under Section 19(b)(2)(B)¹⁸ of the Act to determine whether the proposed rule change should be approved or disapproved.

¹⁶ 15 U.S.C. 78s(b)(3)(A).

¹⁷ 17 CFR 240.19b-4(f)(2).

¹⁸ 15 U.S.C. 78s(b)(2)(B).

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-NYSEAMER-2025-69 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-NYSEAMER-2025-69. 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 filing 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-NYSEAMER-2025-69 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.¹⁹

Sherry R. Haywood,

Assistant Secretary.

¹⁹ 17 CFR 200.30-3(a)(12).