

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-105597; File No. SR-NYSEAMER-2026-17]

Self-Regulatory Organizations; NYSE American LLC; Order Instituting Proceedings to Determine Whether to Approve or Disapprove a Proposed Rule Change to Amend Sections 1003 and 1009 of the NYSE American Company Guide

June 2, 2026.

I. Introduction

On March 6, 2026, NYSE American LLC (“NYSE American” or the “Exchange”) filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² a proposed rule change to amend Sections 1003 and 1009 of the NYSE American Company Guide (“Company Guide”) to establish that an issuer must maintain a certain market capitalization in order to remain listed on the Exchange. The proposed rule change was published for comment in the Federal Register on March 20, 2026.³ On April 29, 2026, pursuant to Section 19(b)(2) of the Act,⁴ the Commission designated a longer period within which to take action on the proposed rule change.⁵ The Commission is instituting proceedings pursuant to Section 19(b)(2)(B) of the Act⁶ to determine whether to approve or disapprove the proposed rule change.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 105036 (Mar. 17, 2026), 91 FR 13645 (“Notice”). Comments received on the proposed rule change are available at: <https://www.sec.gov/rules-regulations/public-comments/sr-nyseamer-2026-17>.

⁴ 15 U.S.C. 78s(b)(2).

⁵ See Securities Exchange Act Release No. 105334, 91 FR 24023 (May 4, 2026). The Commission designated June 18, 2026, as the date by which the Commission should approve, disapprove, or institute proceedings to determine whether to disapprove the proposed rule change. See id.

⁶ 15 U.S.C. 78s(b)(2)(B).

II. Description of the Proposed Rule Change

Section 1003 of the Company Guide sets forth minimum quantitative and qualitative continued listing standards for securities listed on the Exchange.⁷ Currently, Section 1003(b)(i) of the Company Guide enumerates circumstances where the Exchange will consider suspension and delisting of a class of common stock because of a sufficiently limited distribution of shares.⁸ Section 1003(b)(i) does not contain a minimum market capitalization requirement.⁹

The Exchange states that it has noticed a recent increase in companies that have a very small market capitalization.¹⁰ According to the Exchange, an issuer with a small market capitalization is potentially susceptible to manipulation and more likely to experience trading volatility in its shares because, at smaller sizes, less capital is required to undertake manipulative trading activity.¹¹ Therefore, the Exchange proposes to amend Section 1003 of the Company Guide to require an issuer to maintain a certain market capitalization in order to remain listed on the Exchange.¹²

Specifically, the Exchange proposes to adopt new Section 1003(b)(i)(D) of the Company Guide to specify that if an issuer's class of common stock is determined to have average market capitalization over a consecutive 30 trading-day period of less than \$5 million ("Minimum Market Capitalization Criteria"), the Exchange will immediately suspend trading and commence

⁷ See Notice, supra note 3, at 13645. Specifically, Section 1003 of the Company Guide requires issuers of common stock to maintain certain quantitative minimum standards related to stockholders' equity, publicly held shares, public shareholders, and aggregate market value of publicly held shares. In addition, Section 1003 sets forth qualitative continued listing standards related to, among other things, operations contrary to public interest and reduction of operations. See id.

⁸ See id. See also Section 1003(b) of the Company Guide.

⁹ See Notice, supra note 3, at 13645.

¹⁰ See id.

¹¹ See id.

¹² See id.

delisting proceedings with respect to such security in accordance with the procedures in Section 1010 of the Company Guide.¹³ The Exchange also proposes that an issuer that falls below the Minimum Market Capitalization Criteria would not be eligible to follow the procedures to regain compliance outlined in Section 1009 of the Company Guide.¹⁴ The Exchange states that all issuers would retain the right to appeal an Exchange delisting decision.¹⁵

The Exchange states that, in its experience, an issuer with a sustained market capitalization below \$5 million is likely to be financially distressed and is increasingly susceptible to manipulation due to its small size.¹⁶ The Exchange also states that having a market capitalization below \$5 million is frequently a leading indicator that an issuer has other financial concerns that often require a substantial amount of regulatory oversight, and accordingly, the Exchange does not believe that an issuer fitting this profile is appropriate for continued listing on the Exchange.¹⁷ Further, the Exchange states that, in its experience, a company trading at a sustained market capitalization below \$5 million is unlikely to regain financial stability and it is therefore appropriate to subject the company to immediate suspension and delisting.¹⁸

¹³ See id. For purposes of Section 1003 of the Company Guide, market capitalization includes the total common stock outstanding (excluding treasury shares) as well as any common stock that would be issued upon conversion of another outstanding equity security, if such other security is a “substantial equivalent” of common stock. See footnote to Section 1003 of the Company Guide.

¹⁴ See Notice, supra note 3, at 13645. The Exchange also proposes to amend Section 1009 of the Company Guide to add to the list of continued listing standards for which noncompliance does not entitle the issuer to a compliance period a reference to proposed Section 1003(b)(i)(D) of the Company Guide. See id. See also proposed Section 1009(a)(ii) of the Company Guide.

¹⁵ See Notice, supra note 3, at 13646. See also Part 12 of the Company Guide (setting forth the procedures for appealing an Exchange delisting decision).

¹⁶ See Notice, supra note 3, at 13645.

¹⁷ See id. at 13645-6.

¹⁸ See id. at 13646.

The Exchange states that the proposal would become effective immediately upon Commission approval.¹⁹

III. Proceedings to Determine Whether to Approve or Disapprove SR-NYSEAMER-2026-17 and Grounds for Disapproval Under Consideration

The Commission is instituting proceedings pursuant to Section 19(b)(2)(B) of the Act²⁰ to determine whether the proposed rule change should be approved or disapproved. Institution of such proceedings is appropriate at this time in view of the legal and policy issues raised by the proposed rule change. Institution of proceedings does not indicate that the Commission has reached any conclusions with respect to any of the issues involved. Rather, as described below, the Commission seeks and encourages interested persons to provide additional comment on the proposed rule change to inform the Commission's analysis of whether to approve or disapprove the proposed rule change.

Pursuant to Section 19(b)(2)(B) of the Act,²¹ the Commission is providing notice of the grounds for disapproval under consideration. The Commission is instituting proceedings to allow for additional analysis of, and input from commenters with respect to, the proposed rule change's consistency with the Act, and in particular, Section 6(b)(5) of the Act,²² which requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, 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 not be designed to permit

¹⁹ See id.

²⁰ 15 U.S.C. 78s(b)(2)(B).

²¹ Id.

²² 15 U.S.C. 78f(b)(5).

unfair discrimination between customers, issuers, brokers, or dealers; and Section 6(b)(7) of the Act,²³ which requires, among other things, that the rules of an exchange provide fair procedure for the prohibition or limitation by the exchange of any person with respect to access to services offered by the exchange.

The Commission has consistently recognized that the development and enforcement of meaningful listing standards²⁴ by an exchange is of critical importance to financial markets and the investing public.²⁵ Among other things, the Commission has stated that listing standards provide the means for an exchange to screen issuers that seek to become listed, and to provide listed status only to bona fide companies that have or will have sufficient public float, investor base, and trading interest to provide the depth and liquidity to promote fair and orderly markets.²⁶ Meaningful listing standards are also important given investor expectations regarding the nature of securities that have achieved an exchange listing, and the role of an exchange in overseeing its market and assuring compliance with its listing standards.²⁷

²³ 15 U.S.C. 78f(b)(7).

²⁴ This reference to “listing standards” is referring to both initial and continued listing standards.

²⁵ See, e.g., Securities Exchange Act Release No. 57785 (May 6, 2008), 73 FR 27597 (May 13, 2008) (SR-NYSE-2008-17).

²⁶ See, e.g., Securities Exchange Act Release Nos. 81856 (Oct. 11, 2017), 82 FR 48296, 48298 (Oct. 17, 2017) (SR-NYSE-2017-31); 81079 (July 5, 2017), 82 FR 32022, 32023 (July 11, 2017) (SR-NYSE-2017-11); 65708 (Nov. 8, 2011), 76 FR 70799, 70802 (Nov. 15, 2011) (SR-NASDAQ-2011-073); 63607 (Dec. 23, 2010), 75 FR 82420, 82422 (Dec. 30, 2010) (SR-NASDAQ-2010-137); and 57785 (May 6, 2008), 73 FR 27597, 27599 (May 13, 2008) (SR-NYSE-2008-17). The Commission has stated that adequate listing standards, by promoting fair and orderly markets, are consistent with Section 6(b)(5) of the Act, in that they are, among other things, designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, and protect investors and the public interest. See, e.g., Securities Exchange Act Release Nos. 82627 (Feb. 2, 2018), 83 FR 5650, 5633, n.53 (Feb. 8, 2018) (SR-NYSE-2017-30); 87648 (Dec. 3, 2019), 84 FR 67308, 67314, n.42 (Dec. 9, 2019) (SR-NASDAQ-2019-059); and 88716 (Apr. 21, 2020), 85 FR 23393, 23395, n.22 (Apr. 27, 2020) (SR-NASDAQ-2020-001).

²⁷ See, e.g., Securities Exchange Act Release Nos. 88716 (Apr. 21, 2020), 85 FR 23393 (Apr. 27, 2020) (SR-NASDAQ-2020-001); 88389 (Mar. 16, 2020), 85 FR 16163 (Mar. 20, 2020) (SR-NASDAQ-2019-089). See also Securities Exchange Act Release No. 81856 (Oct. 11, 2017), 82 FR 48296, 48298 (Oct. 17, 2017) (SR-NYSE-2017-31) (stating that “[a]dequate standards are especially important given the expectations of investors regarding exchange trading and the imprimatur of listing on a particular market” and that “[o]nce

As discussed above, the Exchange’s proposal would allow the Exchange to immediately suspend and delist an issuer’s class of common stock if it falls below the Minimum Market Capitalization Criteria.²⁸ In addition, the proposal would specify that an issuer subject to suspension and delisting for falling below the Minimum Market Capitalization Criteria would not be eligible to follow the procedures to regain compliance outlined in Section 1009 of the Company Guide.²⁹

One commenter states that the Exchange has not demonstrated, through “reasoned and evidence-based analysis,” that its proposal is necessary to protect investors and promote fair and orderly markets.³⁰ Specifically, the commenter states that the Exchange does not demonstrate that the Minimum Market Capitalization Criteria “is a reliable predictor of sustained financial distress, manipulation risk, or future non-compliance with existing listing standards.”³¹ The commenter also states that the proposal would make raising capital more difficult for small public companies and increase risks to investors.³² The commenter states that the Exchange has not shown that “automatic and immediate delisting,” as opposed to a more tailored approach, is appropriate or necessary.³³ In addition, the commenter states that the Commission must consider the Exchange’s proposal in conjunction with the “overlapping” continued listing proposals by

a security has been approved for initial listing, maintenance criteria allow an exchange to monitor the status and trading characteristics of that issue ... so that fair and orderly markets can be maintained”).

²⁸ See supra note 14 and accompanying text.

²⁹ See supra note 15 and accompanying text.

³⁰ See Letter from Marc Indeglia, The Small Public Company Coalition, dated Apr. 10, 2026, at 2-5.

³¹ Id. at 5. The commenter cites a report by Professor Craig M. Lewis that presents an empirical study raising concerns that the proposal may prematurely delist firms that would otherwise regain compliance. See id. at 5-6. See also id. at 23-27 (attaching Craig M. Lewis, Ph.D., NYSE American’s Proposed Minimum Market Capitalization Continued Listing Requirement, Apr. 10, 2026).

³² See id. at 7-9. This commenter states that investors would “likewise bear substantial costs” as “[d]elisting shifts trading from a national securities exchange to less transparent and liquid venues,[] increasing volatility and reducing oversight.” Id. at 11.

³³ See id. at 13-14.

Nasdaq and their impact together on “capital formation, exchange competition, liquidity, and market stability.”³⁴ The commenter also states that there should be a delayed effective date of no less than twelve months to allow issuers, investors, lenders, and other market participants time to make necessary adjustments.³⁵ Finally, the commenter suggests alternatives to the proposal.³⁶

The Commission asks that commenters address the sufficiency of the Exchange’s statements in support of the proposal, which are set forth in the Notice, in addition to any other comments they may wish to submit about the proposed rule change. In particular, the Commission seeks comment on whether the proposal includes sufficient analysis to support a conclusion that the proposal to provide that an issuer’s class of common stock would be subject to immediate suspension and delisting if it falls below the Minimum Market Capitalization Criteria, and to specify that such issuer would not be eligible to follow the procedures to regain compliance outlined in Section 1009 of the Company Guide, is designed to be consistent with the requirements of Sections 6(b)(5) and 6(b)(7) of the Act³⁷ or raises any new or novel concerns not previously contemplated by the Commission.

IV. Procedure: Request for Written Comments

The Commission requests that interested persons provide written submissions of their data, views, and arguments with respect to the issues identified above, including the issues raised by the commenter, as well as any other concerns they may have with the proposal. In particular, the Commission invites the written views of interested persons concerning whether the proposed

³⁴ Id. at 16-17.

³⁵ See id. at 18-20.

³⁶ See id. at 14-16. For example, the commenter suggests (1) using other liquidity-based thresholds (e.g., publicly held shares, trading volume, or bid-ask spreads); (2) providing a cure period; (3) conditioning delisting on the existence of an additional compliance deficiency; and (4) utilizing graduated supervisory responses, such as enhanced monitoring, watch-list status, or disclosure obligations. See id.

³⁷ 15 U.S.C. 78f(b)(5), (b)(7).

rule change is consistent with Sections 6(b)(5), 6(b)(7), or any other provision of the Act, or the rules and regulations thereunder. Although there do not appear to be any issues relevant to approval or disapproval that would be facilitated by an oral presentation of data, views, and arguments, the Commission will consider, pursuant to Rule 19b-4 under the Act,³⁸ any request for an opportunity to make an oral presentation.³⁹

Interested persons are invited to submit written data, views, and arguments regarding whether the proposed rule change should be approved or disapproved by [INSERT DATE 21 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]. Any person who wishes to file a rebuttal to any other person's submission must file that rebuttal by [INSERT DATE 35 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]. The Commission asks that commenters address the sufficiency of the Exchange's statements in support of the proposal, in addition to any other comments they may wish to submit about the proposed rule change.

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-2026-17 on the subject line.

³⁸ 17 CFR 240.19b-4.

³⁹ Section 19(b)(2) of the Act, as amended by the Securities Acts Amendments of 1975, Public Law 94-29 (June 4, 1975), grants to the Commission flexibility to determine what type of proceeding—either oral or notice and opportunity for written comments—is appropriate for consideration of a particular proposal by a self-regulatory organization. *See* Securities Acts Amendments of 1975, Senate Comm. on Banking, Housing & Urban Affairs, S. Rep. No. 75, 94th Cong., 1st Sess. 30 (1975).

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-2026-17. 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-2026-17 and should be submitted by [INSERT DATE 21 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]. Rebuttal comments should be submitted by [INSERT DATE 35 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁴⁰

Sherry R. Haywood,

Assistant Secretary.

⁴⁰ 17 CFR 200.30-3(a)(57).