

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34-104182; File Nos. SR-NYSE-2025-28, SR-NYSEAMER-2025-47, SR-NYSETEX-2025-24, SR-NYSEARCA-2025-60]**

**Self-Regulatory Organizations; New York Stock Exchange LLC, NYSE American LLC, NYSE Texas, Inc., NYSE Arca, Inc.; Order Instituting Proceedings to Determine Whether to Approve or Disapprove Proposed Rule Changes to Amend NYSE Rules 7.35A and 7.35C, NYSE American Rule 7.35E, NYSE Texas Rule 7.35, and NYSE Arca Rule 7.35-E**  
November 14, 2025.

On August 5, 2025, New York Stock Exchange LLC, NYSE American LLC, NYSE Texas, Inc., and on August 15, 2025, NYSE Arca, Inc., (collectively, the “Exchanges”) filed with the Securities and Exchange Commission (“Commission” or “SEC”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> proposed rule changes to amend their rules pertaining to the calculation of the Auction Reference Price. The proposed rule changes were published for comment in the Federal Register on August 21, 2025<sup>3</sup> and August 22, 2025 (collectively, the “Notices”).<sup>4</sup>

On September 25, 2025, pursuant to Section 19(b)(2) of the Act,<sup>5</sup> the Commission designated a longer period within which to approve the proposed rule changes, disapprove the proposed rule changes, or institute proceedings to determine whether to disapprove the proposed

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<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> See Securities Exchange Act Release No. 103739 (Aug. 18, 2025), 90 FR 40870 (NYSETEX-2025-24) (“NYSETEX Notice”).

<sup>4</sup> See Securities Exchange Act Release Nos. 103740 (Aug. 19, 2025), 90 FR 41143 (NYSEARCA-2025-60); 103741 (Aug. 19, 2025), 90 FR 41153 (NYSEAMER-2025-47); 103742 (Aug. 19, 2025), 90 FR 41149 (NYSE-2025-28).

<sup>5</sup> 15 U.S.C. 78s(b)(2).

rule changes.<sup>6</sup> The Commission is instituting proceedings pursuant to Section 19(b)(2)(B) of the Act<sup>7</sup> to determine whether to approve or disapprove the proposed rule changes.

## I. Summary of the Exchanges' Proposals

As described in more detail in the Notices,<sup>8</sup> the Exchanges propose to amend NYSE Rules 7.35A and 7.35C, NYSE American Rule 7.35E, NYSE Texas Rule 7.35, and NYSE Arca Rule 7.35-E (collectively, the “Rules”) regarding the calculation of the Auction Reference Price, as defined in the Rules. More specifically, the Exchanges propose to amend the Rules regarding the calculation of the Auction Reference Price for the Core Open Auction to reflect a cascading calculation that would consider, in addition to the benchmarks currently reflected in the Rules, the price of the last consolidated trade of at least one round lot of that trading day. The Exchanges state that the proposed changes would promote consistency with the Auction Reference Price calculations for the Closing Auctions and Trading Halt Auctions.<sup>9</sup> As proposed, the Auction Reference Price for the Core Open Auctions would be defined as:

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<sup>6</sup> See Securities Exchange Act Release No. 104042, 90 FR 47044 (Sept. 30, 2025). The Commission designated November 19, 2025 as the date by which the Commission shall approve or disapprove, or institute proceedings to determine whether to disapprove, one of the proposed rule changes (File No. SR-NYSETEX-2025-24) and November 20, 2025 as the date by which the Commission shall approve or disapprove, or institute proceedings to determine whether to disapprove, the remaining proposed rule changes (File Nos. SR-NYSE-2025-28, SR-NYSEAMER-2025-47, and SR-NYSEARCA-2025-60). While the SEC is currently “accepting” comments, in that we will not prevent the submission of letters via the usual methods (webform, email, or mail), the SEC will not be posting them until after the resumption of duties. Please note that there may be a delay in the public availability of comments after the resumption of duties; comments will be treated as if received on the original submission date.

<sup>7</sup> 15 U.S.C. 78s(b)(2)(B).

<sup>8</sup> See Notices, supra notes 3 and 4. Capitalized terms not defined in this order are defined in the Exchanges' rules.

<sup>9</sup> The Exchanges propose conforming changes to the definition of Auction Reference Price for the Closing Auction and Trading Halt Auction to use the same language as is proposed for the Auction Reference Price for the Core Open Auction. Specifically, the Exchanges propose to use the “price of the last consolidated trade of at least one round lot of that trading day” formulation in place of the existing “last consolidated round-lot price of that trading day.” The Exchanges state that these proposed changes are not intended to change how the Exchanges determines the Auction Reference Price for the Closing Auction or Trading Halt Auction, but would add clarity and consistency in the Rules with respect to the determination of the Auction Reference Price. The Exchanges also propose non-substantive grammatical changes to the Auction

- The price of the last consolidated trade of at least one round lot of that trading day, or
- If there were no such trades, the midpoint of the Auction NBBO, or
- If the Auction NBBO is locked, the locked price, or
- If there is no Auction NBBO, the prior trading day's Official Closing Price for the initial calculation of the Auction Reference Price, and for each subsequent calculation of the Auction Reference Price, the most recently calculated Auction Reference Price.<sup>10</sup>

With the addition of the price of the last consolidated trade of at least one round lot of that trading day as a benchmark for calculating the Auction Reference Price for the Core Open Auction, the Exchanges propose to distinguish between the initial calculation of the Auction Reference Price for the Core Open Auction and subsequent calculations pursuant to the cascading calculation, in the event that there is no Auction NBBO. For the initial calculation, the Exchanges propose that, if there is no Auction NBBO, the Auction Reference Price would, as currently, be the prior trading day's Official Closing Price. However, for subsequent calculations of the Auction Reference Price when there is no Auction NBBO, the Exchanges propose that the Auction Reference Price would instead be the most recent Auction Reference Price, which the Exchanges believe would provide a more recent reference price for the auction.<sup>11</sup> In addition, the Exchanges propose to specify that each Auction Reference Price calculation would be based on an evaluation of the period since the last calculation of the Auction Reference Price. The Exchanges state that this proposed change is intended to ensure that, in cases where there was no consolidated trade of at least one round lot in the period since the last calculation of the Auction

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Reference Price definitions for the Early Open Auction, Closing Auction, and IPO Auction to further improve clarity in the Rules. See, e.g., NYSETEX Notice, supra note 3, at 40871.

<sup>10</sup> See id.

<sup>11</sup> See id.

Reference Price, the Auction Reference Price would instead be the midpoint of the Auction NBBO (or other price as provided for in the Rules) to reflect a more recent reference price for the auction.<sup>12</sup> The Exchanges also propose that Auction Reference Price calculations for the Core Open Auction, Closing Auction, and Trading Halt Auction would exclude trades on Trade Reporting Facilities (“TRF”) during the Early Trading Session or Late Trading Session, because the Exchanges state that TRF trades may not reflect the actual market in a security, and thus the Exchanges state that excluding TRF trades would provide for a more accurate snapshot of the current market.<sup>13</sup> The Exchanges believe the proposed changes to the calculations of the Auction Reference Price for auctions on the Exchanges would better reflect more recent trading activity, and such price may reflect a more recent valuation for a security, to the benefit of investors. The Exchanges state that the proposed rule changes would therefore promote the fair and orderly operation of auctions on the Exchanges by using reference prices that are consistent with the most recent market activity in a given security, which would also allow more buy and sell interest to participate in such auctions.<sup>14</sup> Because of the technology changes associated with the proposed changes, the Exchanges propose to announce the implementation date of these changes by Trader Update and anticipate that such changes will be implemented before the end of the fourth quarter of 2025.<sup>15</sup>

II. Proceedings to Determine Whether to Approve or Disapprove SR-NYSE-2025-28, SR-NYSEAMER-2025-47, SR-NYSETEX-2025-24, SR-NYSEARCA-2025-60 and Grounds for Disapproval Under Consideration

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<sup>12</sup> See id.

<sup>13</sup> See id.

<sup>14</sup> See id.

<sup>15</sup> See id.

The Commission is instituting proceedings pursuant to Section 19(b)(2)(B) of the Act<sup>16</sup> to determine whether the proposed rule changes 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 proposals. 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 comments on the proposed rule changes.

Pursuant to Section 19(b)(2)(B) of the Act,<sup>17</sup> the Commission is providing notice of the grounds for disapproval under consideration. The Commission is instituting proceedings to allow for additional analysis of the proposals' consistency with Section 6(b)(5) of the Act, which requires, among other things, that the rules of a national securities exchange be "designed to prevent fraudulent and manipulative acts and practices" and "to protect investors and the public interest."<sup>18</sup>

The Commission asks that commenters address the sufficiency of the Exchanges' statements in support of the proposals, which are set forth in the Notices,<sup>19</sup> in addition to any other comments they may wish to submit about the proposed rule changes. In particular, the Commission seeks comment on the proposals' exclusion of TRF data in the calculation of the Auction Reference Price as well as whether the proposals are consistent with Section 6(b)(5) of

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<sup>16</sup> 15 U.S.C. 78s(b)(2)(B).

<sup>17</sup> Id.

<sup>18</sup> 15 U.S.C. 78f(b)(5).

<sup>19</sup> See Notice, supra notes 3 and 4.

the Act,<sup>20</sup> and specifically, whether the proposed rule changes are designed to prevent fraudulent and manipulative acts and practices.

### III. Procedure: Request for Written Comments

The Commission requests that interested persons provide written submissions of their views, data, and arguments with respect to the issues identified above, as well as any other concerns they may have with the proposals. In particular, the Commission invites the written views of interested persons concerning whether the proposed rule changes are consistent with Section 6(b)(5) or any other provision of the Act, and 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 views, data, and arguments, the Commission will consider, pursuant to Rule 19b-4, any request for an opportunity to make an oral presentation.<sup>21</sup>

Interested persons are invited to submit written data, views, and arguments regarding whether the proposed rule changes 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*].

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

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<sup>20</sup> 15 U.S.C. 78f(b)(5).

<sup>21</sup> Section 19(b)(2) of the Act, as amended by the Securities Acts Amendments of 1975, Pub. L. 94-29 (June 4, 1975), grants 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).

- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include file number SR-NYSE-2025-28, SR-NYSEAMER-2025-47, SR-NYSETEX-2025-24, or SR-NYSEARCA-2025-60 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-NYSE-2025-28, SR-NYSEAMER-2025-47, SR-NYSETEX-2025-24, or SR-NYSEARCA-2025-60. The 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 filings will be available for inspection and copying at the principal offices of the Exchanges. 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-NYSE-2025-28, SR-NYSEAMER-2025-47, SR-NYSETEX-2025-24, or

SR-NYSEARCA-2025-60 and should be submitted on or before [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.<sup>22</sup>

**Sherry R. Haywood,**

*Assistant Secretary.*

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<sup>22</sup> 17 CFR 200.30-3(a)(57).