SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-104027; File No. SR-NYSETEX-2025-34]

Self-Regulatory Organizations; NYSE Texas, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend Its Fee Schedule to Introduce Transaction Fees, Credits and Performance-Based Financial Incentives for Lead Market Makers

September 23, 2025.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b-4 thereunder,[2] notice is hereby given that on September 15, 2025, the NYSE Texas, Inc. ("NYSE Texas" or the "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. 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 its Fee Schedule to introduce transaction fees and credits and performance-based financial incentives for Lead Market Makers. The proposed rule 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.

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1 15 U.S.C. 78s(b)(1).

2 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 its Fee Schedule to introduce transaction fees and credits and performance-based financial incentives for Lead Market Makers ("LMMs").[3] The Exchange believes that the proposed rule change would encourage Participants to become LMMs and encourage LMMs to maintain high levels of market quality in NYSE Texas-listed Exchange Traded Products ("ETPs") in which they are registered, including in lower volume securities.

The proposed change responds to the current competitive environment where market participants, including issuers of securities, LMMs, and other liquidity providers, can readily transfer their listings, or direct order flow to competing venues if they deem fee levels, liquidity provision incentive programs, or other factors at a particular venue to be insufficient or excessive. The proposed rule change reflects the current competitive pricing environment and is designed to incentivize market participants to participate on the Exchange as LMMs, thereby further enhancing the market quality of securities listed on the Exchange and encouraging issuers

[3] The term "Lead Market Maker" is defined in Rule 1.1(m) to mean a registered Market Maker that is the exclusive Designated Market Maker in listings for which the Exchange is the primary market.

to list new securities on the Exchange.

The Exchange proposes to implement the fee changes effective September 15, 2025.[4]

Background

Current Market and Competitive Environment

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. Specifically, 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."[5]

As the Commission itself has recognized, the market for trading services in NMS stocks has become "more fragmented and competitive."[6] Indeed, equity trading is currently dispersed across 16 exchanges,[7] 31 alternative trading systems,[8] and numerous broker-dealer internalizers and wholesalers. Based on publicly-available information, no single exchange has more than 20% of the market.[9] Therefore, no exchange possesses significant pricing power in the

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4 The Exchange originally filed to amend the Fee Schedule on September 2, 2025 (SR-NYSETEX-2025-32). SR-NYSETEX-2025-32 was withdrawn on September 15, 2025, and replaced by this filing.

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

6 See Securities Exchange Act Release No. 51808, 84FR 5202, 5253 (February 20, 2019) (File No. S7-05-18) (Transaction Fee Pilot for NMS Stocks Final Rule) ("Transaction Fee Pilot").

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

8 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/atslist.htm.

9 See Cboe Global Markets U.S. Equities Market Volume Summary, available at

execution of equity order flow. More specifically, the Exchange's share of executed volume of equity trades in Tapes A, B and C securities is less than 1.0%.[10]

The Exchange believes that the ever-shifting market share among exchanges from month to month demonstrates that market participants can move order flow or discontinue or reduce use of certain categories of products, in response to fee changes. 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. With respect to non-marketable order flow that would provide displayed liquidity on an Exchange, Participants can choose from any one of the many currently operating registered exchanges to route such order flow. Accordingly, competitive forces constrain exchange transaction fees that relate to orders that would provide liquidity on an exchange.

Proposed Rule Change

In order to encourage quoting on the Exchange in listed ETPs and high levels of market quality, the Exchange proposes certain financial incentives for LMMs, including incentives based on whether the LMM meets certain performance metrics described more fully below.

The Exchange proposes to locate market maker fees and credits in Section G of the Fee Schedule, which is currently for "Listing and Related Fees for Exchange Traded Products and Structured Products," that would be renumbered as Section H. The Exchange would also add three new sections applicable to LMM Transaction Fees and Credits, as follows.

Definitions

Proposed Section GI. would be titled "Definitions for Purposes of LMM Transaction

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http://markets.cboe.com/us/equities/market_share/.

10 See id.

Fees and Credits" and would set forth the following definitions.

"Leveraged Security" would mean a Security that tracks an underlying index by a ratio other than on a one-to-one basis.

"Maximum LMM Spread" would mean time-weighted average LMM spread (LMM Offer minus LMM Bid) divided by the average of the LMM Bid and LMM Offer, in basis points.

"Minimum LMM Shares within 1% of NBBO" would mean the average number of LMM shares quoted throughout the trading day that are within 1% of the National Best Bid and Best Offer divided by two.

"Minimum LMM Shares at the Core Open Auction within 1.5% of the Auction Reference Price" means the average of LMM buy shares and LMM sell shares for Limit Orders quoted within 1.5% of the Auction Reference Price divided by two.

"Minimum LMM Shares at the Closing Auction within 1% of the NBBO" means the average number of LMM buy shares and LMM sell shares for Limit Orders quoted within 1% of the National Best Bid and Best Offer before the end of Core Trading Hours divided by two.

Base Fees and Credits

Proposed Section GII. would be titled "LMM Base Fees and Credits per Share."

The base rates would be for LMMs in NYSE Texas listed ETPs in which the LMM is registered as an LMM for the billing month and would be for executions resulting from single-sided orders. The base fees and credits would apply to all trading sessions and be divided into securities priced at or above $1.00 and those below $1.00.

Liquidity Providing Credit

For orders that provide liquidity in securities priced at $1.00 or more per share, the

Exchange would offer a $0.0035 per share credit for orders providing displayed liquidity and a $0.0030 per share credit for orders providing non-displayed liquidity (including MPL Orders).

For orders that provide liquidity in securities priced below $1.00 per share, the Exchange would offer a credit of 0.10% of the trade value.

Liquidity Removing Fee

For orders that remove liquidity in securities priced at $1.00 or more per share, the Exchange proposes to charge a fee of $0.0030 per share.

For orders that remove liquidity in securities priced less than $1.00 per share, the Exchange would charge LMMs a base fee equivalent to 0.10% of the trade.

Routing Fee

Orders routed away from the Exchange in securities priced at $1.00 or more per share would be charged a base fee of $0.0030 per share.

For orders routed away from the Exchange in securities priced below $1.00, the Exchange would charge LMMs a base fee of 0.30% of the trade value.

In addition, as set forth in footnote * in Section II of the Fee Schedule, Directed Orders routed to OneChronos LLC would be charged $0.0015 per share. Directed Orders are Limit Orders with instructions to route on arrival at its limit price to a specified alternative trading system ("ATS") with which the Exchange maintains an electronic linkage.

Closing Auction Fee

The Exchange does not propose to charge LMMs a fee for orders priced at $1.00 or more per share and below $1.00 per share that are executed in an Opening or Closing Auction.

Performance Metrics-Based Monthly Credits

In addition, the Exchange proposes to adopt certain market quality metrics to be set forth in Section III titled "LMM Performance Metrics-Based Monthly Credit." LMMs that meet the proposed metrics would receive a $600 credit per registered symbols in a month that a security is assigned to an LMM.

The four proposed Performance Metrics for LMMs are Maximum LMM Spread, Minimum LMM Shares within 1% of National BBO, Minimum LMM Shares in Core Open Auction within 1.5% of Auction Reference Price; and

Minimum LMM Shares at the Closing Auction within 1% of the National BBO.

As set forth above, Maximum LMM Spread means time-weighted average LMM spread (LMM Offer minus LMM Bid) divided by the average of the LMM Bid and LMM Offer, in basis points. Minimum LMM Shares within 1% of NBBO means the average number of LMM shares quoted throughout the trading day that are within 1% of the National Best Bid and Best Offer divided by two.

As proposed, an LMM would be considered to have met the Performance Metrics for an assigned security for a billing month if the LMM meets at least two of the four following Performance Metrics, or the assigned security is a "Leveraged Security" in that the assigned security tracks an underlying index by a ratio other than on a one-to-one basis.

Monthly Average LMM Performance Metrics				
Maximum LMM Spread (bps)	**Minimum LMM Shares within 1% of National BBO**	**Minimum LMM Shares in Core Open Auction within 1.5% of Auction Reference Price**	**Minimum LMM Shares at the Closing Auction within 1% of the National BBO**	**Monthly LMM Performance Credit per Registered LMM Security**
55	2,400	2,050	2,500	$600

The following example illustrates how a LMM can earn an incremental credit by meeting the Performance Metrics.

The following example illustrates how a LMM can earn per symbol credits by meeting the Performance Metrics. The LMM would have to meet the following Performance Metrics to earn an incremental credit (as illustrated in the LMM Performance Metrics table above):

- Maximum LMM Spread (“Spread”): 55 basis points (“bps”)
- Minimum LMM Shares within 1% of Last Bid and Offer (“Depth”): 2,400 shares
- Minimum LMM Shares at the Core Open Auction within 1.5% of the Auction Reference Price (“Open Depth”): 2,050 shares
- Minimum LMM Shares at the Closing Auction within 1% of the Last Bid & Offer (“Closing Depth”): 2,500 shares

Assume in the billing month, the LMM in this ETP had a Spread of 30 bps, Depth of 1,000 shares, Open Depth of 4,500 shares, and Closing Depth of 5,000 shares. The LMM in this example met 3 of the 4 Performance Metrics (Spread, Open Depth, and Closing Depth) but did not meet Depth. As a result, the LMM has qualified to earn a month credit of $600 in that registered symbol for that month.

The proposed fees and credits are based on the LMM Performance Metrics applicable to LMMs on the Exchange’s affiliate NYSE Arca, Inc.[11]

The proposed change is not otherwise intended to address other issues, and the Exchange is not aware of any significant problems that market participants would have in complying with the proposed changes.

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11 See NYSE Arca Equities Fees and Charges, at 21-23, available at https://www.nyse.com/publicdocs/nyse/markets/nyse-arca/NYSE_Arca_Marketplace_Fees.pdf.

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.

The Proposed Change is Reasonable

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 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]

Base Fees and Credits

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12 15 U.S.C. 78f(b).

13 15 U.S.C. 78f(b)(4) & (5).

14 See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37495, 37499 (June 29, 2005) (S7-10-04) (Final Rule) ("Regulation NMS").

15 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).

The Exchange believes that the proposal reflects a reasonable and competitive pricing structure designed to incentivize Participants to become LMMs and to incentivize liquidity provision in ETPs listed on the Exchange. The marketplace for listings is extremely competitive and the Exchange is not the only venue for listing ETPs. Competition in ETPs is further exacerbated by the fact that listings can and do transfer from one listing market to another. The proposed rule change is intended to help the Exchange compete as a listing venue. The Exchange believes providing rebates and per symbol credits that are based on the quality of the market in individual securities will allow Participants to anticipate their revenue and incentivize them to provide tight and deep markets in those securities.

Since the proposed credits and fees would be new and the Exchange does not yet have operational LMMs, no Participant currently qualifies for any of the proposed rates. Without a view of Participant activity on other exchanges and off-exchange venues, the Exchange has no way of knowing whether the proposed rule change would result in any LMM qualifying for the any of the rates or, where applicable, adding or removing any liquidity from the Exchange.

Liquidity Providing Credits

The Exchange believes that the proposed credits for providing displayed liquidity in securities priced at or above $1.00 and below $1.00 are reasonable means to incentivize LMMs to direct adding liquidity to the Exchange. The Exchange believes that the proposed credits are reasonable because they would encourage displayed and non-displayed providing liquidity on the Exchange and because market participants benefit from the greater amounts of displayed and non-displayed liquidity present on the Exchange. The Exchange believes it’s reasonable to provide credits of $0.0035 for displayed orders and $0.0030 for non-displayed orders because the proposal would provide for two ways for LMMs to qualify for a credit by adding liquidity, thereby encouraging LMMs to send orders that provide liquidity to the Exchange, which in turn contributes to robust levels of liquidity and promoting price discovery and transparency which benefits all market participants. The Exchange further believes that the proposed rate for orders that provide liquidity in securities priced below $1.00 based on a percentage of the trade value is reasonable because it would encourage price discovery and enhance market quality by encouraging more competitive quoting of orders that add liquidity. Finally, the Exchange believes that the proposed credits are reasonable because they would be comparable to credits provided by other exchanges.[16]

Liquidity Removing Fee

The Exchange believes that the proposed fees for removing liquidity in securities priced at or above $1.00 and securities priced below $1.00 are reasonable because it would provide a financial incentive to bring additional removing flow to a public market. The purpose of these fees is to encourage additional liquidity on the Exchange because market participants benefit from the greater amounts of displayed liquidity present on a public exchange. The Exchange believes the proposed fees will incentivize additional liquidity to a public exchange to qualify for lower fees for removing liquidity, thereby promoting price discovery and transparency and enhancing order execution opportunities for Participants. The proposal is thus reasonable because all market participants would benefit from such increased levels of liquidity. Moreover, the Exchange notes that these proposed fees are also in line with those charged by other exchanges.[17]

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16 For instance, the Exchange's affiliate NYSE Arca, Inc. ("NYSE Arca") offers a $0.0015 credit for adding non-displayed limit orders. See NYSE Arca Equities Fees and Charges, Section II (LMM Base Fees and Credits per Share), available at https://www.nyse.com/publicdocs/nyse/markets/nyse-arca/NYSE_Arca_Marketplace_Fees.pdf.

17 For instance, on NYSE Arca, the fee for LMM removing liquidity is $.0029 and the base fee for removing liquidity for securities priced below $1.00 is 0.30% if the dollar value. See NYSE Arca Equities Fees and

Routing Fee

The Exchange believes that its proposal to charge a fee of $0.0030 per share for all executions that route to and execute on away markets in securities priced at or above $1.00 is reasonable because it is consistent with fees charged on other exchanges.[18] The proposal to charge a fee for all executions of 0.30% of total dollar value for transactions in securities with a price under $1.00 that route to and execute on away markets is similarly reasonable because it is consistent with fees charged on other exchanges.[19] In addition, the Exchange believes that the proposal to charge a fee of 0.0015 per share for Directed Orders routed to OneChronos LLC is also reasonable because the fee is the same charged on the Exchange's affiliates for routing to OneChronos LLC.[20] The Exchange notes that routing functionality offered by the Exchange is optional and Participants can readily select between various providers of routing services, including other exchanges and non-exchange venues. Participants that choose not to utilize Directed Orders would continue to be able to trade on the Exchange in the same manner.

Auction Fees

The Exchange believes that not charging auction fees is reasonable because it would reduce costs for market participants and investors and would facilitate execution of, and enhance trading opportunities for, orders in the Auction. The Exchange notes that market participants are

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Charges, Sections II (LMM Base Fees and Credits per Share) & III (Standard Rates - Transactions (applicable when Tier Rates do not apply), available at https://www.nyse.com/publicdocs/nyse/markets/nyse-arca/NYSE_Arca_Marketplace_Fees.pdf

18 On NYSE Arca, the routing fee is $0.0035 for orders routed that remove liquidity in securities priced at or above $1.00 and 0.35% of the dollar value for securities priced below $1.00. See NYSE Arca Equities Fees and Charges, Sections V (Standard Rates - Routing), available at https://www.nyse.com/publicdocs/nyse/markets/nyse-arca/NYSE_Arca_Marketplace_Fees.pdf.

19 Nasdaq, for example, charges a fee of 0.30% (i.e., 30 basis points) of total dollar volume to remove liquidity for shares executed below $1.00. See NASDAQ Fee Schedule at http://www.nasdaqtrader.com/Trader.aspx?id=PriceListTrading2.

20 NYSE Arca, for example, charges the same fee for routing to OneChronos LLC. See https://www.nyse.com/publicdocs/nyse/markets/nyse-arca/NYSE_Arca_Marketplace_Fees.pdf.

free to direct their order flow to competing venues if they believe other markets offer more favorable fees and credits. On the backdrop of the competitive environment in which the Exchange currently operates, the proposed rule change is a reasonable attempt to encourage order flow to the Exchange to participate in Auctions. The Exchange notes that this is consistent with other marketplaces also do not charge LMMs for orders in assigned securities in the Auction.[21]

Performance-Metrics Based Monthly Credits

The Exchange believes providing rebates based on the quality of the market in individual securities will allow Participants to anticipate their revenue and will incentivize them to provide tight and deep markets in those securities, especially in low volume securities. The Exchange believes the proposed per symbol credits, which would compensate LMMs as long as they meet the prescribed Performance Metrics, is reasonable because it is a more deterministic program from a n Participant's perspective. The Exchange believes the proposed rule change is intended to encourage LMMs to promote price discovery and market quality in assigned securities for the benefit of all market participants. The Exchange believes the proposed rule change is reasonable and appropriate in that the credits are based on the quoting performance on the Exchange. The Exchange notes that the proposed per symbol credits offered by the Exchange is similar to market quality incentive programs already in place on other markets, such as the LMM Performance Metrics-based Incremental Base Credit Adjustments and the Designated Liquidity Provider incentives on the Nasdaq, which requires a member on that exchange to provide meaningful and consistent support to market quality and price discovery in low volume

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21 See NYSE Arca Equities Fees and Charges, at 21, available at https://www.nyse.com/publicdocs/nyse/markets/nyse-arca/NYSE_Arca_Marketplace_Fees.pdf; Cboe BZX Equities Fee Schedule, available at https://www.cboe.com/us/equities/membership/fee_schedule/bzx/.

exchange-traded products by quoting at the National Best Bid and Offer and adding liquidity in a minimum number of such securities. In return, Nasdaq provides the member with an incremental rebate.[22]

The Exchange believes that the proposed credit for adding liquidity is also reasonable because it will encourage liquidity and competition in assigned securities quoted and traded on the Exchange. Submission of additional liquidity to the Exchange would promote price discovery and transparency and enhance order execution opportunities for LMMs from the substantial amounts of liquidity present on the Exchange. All Participants would benefit from the greater amounts of liquidity that will be present on the Exchange, which would provide greater execution opportunities. Moreover, the Exchange believes that the proposed fee change will incentivize Participants to register as an LMM in listed ETPs, which the Exchange believes would benefit all market participants. The Exchange believes per symbol incentives tied to Performance Metrics will allow the Exchange to better maintain and increase its competitive standing. On the backdrop of the competitive environment in which the Exchange currently operates, the proposed rule change is a reasonable attempt to increase liquidity on the Exchange and improve the Exchange's market share relative to its competitors.

The Proposal is an Equitable Allocation of Fees

The Exchange believes its proposal to establish base fees and credits and market quality-based incentives for LMMs equitably allocates its fees among its market participants because all LMMs may qualify for the proposed credits and fees on an equal basis. The Exchange believes its proposal equitably allocates its fees and credits among its market participants by fostering

[22] The Exchange's proposal is modeled on NYSE Arca's current fees. See NYSE Arca Equities Fees and Charges, at 21-22, available at https://www.nyse.com/publicdocs/nyse/markets/nyse-arca/NYSE_Arca_Marketplace_Fees.pdf. See also Nasdaq Equity 7, Section 114(f).

liquidity provision and stability in the marketplace.

Base Fees and Credits

Liquidity Providing Credits

The Exchange believes that the proposed credits for providing displayed and non-displayed liquidity in securities priced at or above $1.00 are equitable because the credits would encourage additional displayed and non-displayed liquidity on the Exchange and because market participants benefit from the greater amounts of displayed liquidity present on the Exchange. The Exchange believes the proposed rule change would improve market quality for all market participants on the Exchange and, as a consequence, attract more liquidity, thereby improving market-wide quality and price discovery. The Exchange further believes that the magnitude of the proposed credits is not unreasonably high compared to the credits offered on other marketplaces, keeping in mind that LMMs are subject to additional requirements and obligations (such as quoting requirements) that do not apply to other market participants.[23]

The proposal neither targets nor will it have a disparate impact on any particular category of market participant. All Participants that choose to become LMMs would be eligible to qualify for the proposed credits by providing liquidity to the Exchange. The Exchange believes that offering credits to LMMs for providing liquidity will attract order flow and liquidity to the Exchange, thereby providing additional price improvement opportunities on the Exchange and benefiting investors generally. As to those market participants that would not qualify for the adding liquidity credits, the proposal represents an equitable allocation of payments because Participants would not be required to meet prescribed quoting, volume or other requirements in order to qualify for the payments other than becoming an LMM. The Exchange thus believes the

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[23] See note 15, supra.

proposed credits could thus provide an incentive for market participants to become LMMs on the Exchange.

Liquidity Removing Fee

The Exchange believes that, for the reasons discussed above, the proposed changes taken together will incentivize LMMs to send additional liquidity to achieve lower fees when removing liquidity from the Exchange, thereby increasing the number of orders that are executed on the Exchange, promoting price discovery and transparency and enhancing order execution opportunities and improving overall liquidity on a public exchange. The Exchange also believes that the proposed change is equitable because it would apply to all similarly situated LMMs that remove liquidity from the Exchange. The proposed change also is equitable because it would be in line with the applicable rates on other marketplaces.[24]

Routing Fee

The Exchange believes that its proposed routing fees, including the fee to route to OneChronos LLC, equitably allocates fees among market participants because the fees would be applicable to all LMMs in an equivalent manner. Moreover, as noted above, the proposed fees for routing shares are also consistent with fees charged on other exchanges.[25]

Auction Fee

The Exchange believes that not charging a fee for orders in an Auction is an equitable allocation of fees and credits among its market participants because the proposal would apply uniformly to all LMMs that execute orders in auctions on the Exchange. As noted above, in today's competitive marketplace, market participants have a choice of where to direct their order

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[24] See note 16, supra.

[25] See notes 16 & 17, supra.

flow or which market to transact on. In the prevailing competitive environment, Exchange members are free to disfavor the Exchange's pricing if they believe that alternatives offer them better value. Accordingly, no Exchange member already operating on the Exchange would be disadvantaged by the proposed allocation of the Exchange's fees and credits.

Performance-Metrics Based Monthly Credits

The Exchange believes the proposed rule change is equitable because the proposal would provide discounts that are reasonably related to the value to the Exchange's market quality associated with higher volumes in listed securities. The Exchange further believes that the proposed incremental rebate is equitable because it is consistent with the market quality and competitive benefits associated with the fee program and because the magnitude of the additional rebate is not unreasonably high in comparison to the rebate paid with respect to other displayed liquidity-providing orders. The Exchange believes that it is equitable to offer increased rebates to LMMs that are subject to obligations specified in Rule 7.23 and they would be subject to additional requirements and obligations (such as meeting Performance Metrics) that other market participants are not. The Exchange believes that the proposal to offer rebates tied to market quality metrics represents an equitable allocation of payments because LMMs would be required to not only meet their Rule 7.23 obligations, but also meet prescribed quoting requirements in order to qualify for the payments, as described above. Where an LMM does not meet at least two Performance Metrics or if the assigned security is not a Leveraged Security, that member will not receive any additional financial benefit. Further, all Participants on the Exchange are eligible to participate and could do so by simply registering as an LMM and meeting the proposed market quality metrics. The Exchange has designed the proposed pricing incentives to be sustainable over the long-term and generally expects that payments made to LMMs will be comparable to payments the Exchange currently makes to its members and comparable to pricing incentives offered by the Exchange's competitors. As such, the Exchange believes that the proposal represents an equitable allocation of dues, fees and credits.

The Proposal is Not Unfairly Discriminatory

The Exchange believes that the proposed rule change is not unfairly discriminatory. In the prevailing competitive environment, LMMs and Market Makers are free to disfavor the Exchange's pricing if they believe that alternatives offer them better value.

Base Fees and Credits

Liquidity Providing Credits

The Exchange believes it is not unfairly discriminatory to adopt credits applicable to LMMs for orders that provide displayed liquidity in listed securities for which they are registered as the LMM, as the proposed credits would be provided on an equal basis to all such Participants. Further, the Exchange believes the proposed additional incremental credit would incentivize LMMs to send orders to the Exchange to qualify for the credits. The Exchange also believes that the proposed change is not unfairly discriminatory because it is reasonably related to the value to the Exchange's market quality associated with higher volume.

Liquidity Removing Fee

The Exchange believes that it is not unfairly discriminatory to adopt fees applicable to LMMs for orders that remove liquidity from the Exchange because it will incentivize submission of additional liquidity to a public exchange to qualify for the lower fees for removing liquidity, thereby promoting price discovery and transparency and enhancing order execution opportunities for Participants. The proposal does not permit unfair discrimination because the new rates for removing liquidity would be applied to all similarly situated LMMs, who would all be eligible for the same credit on an equal basis. Accordingly, no Participant already operating on the Exchange would be disadvantaged by this allocation of fees. Lastly, the Exchange believes that it is subject to significant competitive forces, as described below in the Exchange's statement regarding the burden on competition.

Routing Fee

The Exchange believes that its proposed routing fees, including the fee to route to OneChronos LLC, is not unfairly discriminatory because the proposed fees would be applicable to all Participants in an equivalent manner. Moreover, the 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 changes described in this proposal would be applied to all similarly situated Participants. Moreover, as previously noted, the proposed routing fees are not unfairly discriminatory because they are consistent with fees charged on other exchanges.[26]

Auction Fee

The Exchange believes that not charging a fee for orders in an Auction is not unfairly discriminatory because the proposal would apply to all LMMs that execute orders in auctions on the Exchange in an equal and non-discriminatory manner.

Performance-Metrics Based Monthly Credits

The Exchange believes it is not unfairly discriminatory to adopt an incremental credit applicable to LMMs because both are already subject to additional obligations, as specified in Rule 7.23, and the proposed additional credit would be provided on an equal basis to all similarly situated participant provided each such participant meets the prescribed market quality metrics.

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[26] See note 17, supra.

If an LMM does not meet the required number of Performance Metrics, the member would not receive any incremental credit. Further, the Exchange believes the incremental credit would incentivize each of these Participants to register as an LMM in listed ETPs and send more orders to the Exchange to qualify for higher credits. The Exchange also believes that the proposed rule change is not unfairly discriminatory because it is reasonably related to the value to the Exchange's market quality associated with higher volume. The proposal to offer an additional credit tied to meeting certain market quality requirements neither targets nor will it have a disparate impact on any particular category of market participant. The proposal does not permit unfair discrimination because LMMs already have increased obligations vis-à-vis non-LMM Participants as specified in Rule 7.23, and the proposed requirements would be applied to all similarly-situated LMMs equally. The Exchange believes that the proposed rule change is not unfairly discriminatory because all LMMs and Market Makers that choose to qualify for the incremental credits would be required to meet a minimum number of Performance Metrics in order to receive the credits. Where a Participant does not achieve a certain number of Performance Metrics, it will not receive any incremental credits. Further, all LMMs on the Exchange would be eligible to participate in the program and could do so by simply registering as an LMM and in individual securities and meeting a minimum number of Performance Metrics. As such, the Exchange believes that the proposal is not unfairly discriminatory.

Finally, subject to their obligations specified in Rule 7.23, the submission of additional orders to the Exchange is optional for LMMs in that they could choose the level of trading activity on the Exchange. 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,[27] 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. Instead, as discussed above, the Exchange believes that the proposed changes would encourage the submission of additional liquidity to a public exchange, thereby promoting market depth, price discovery and transparency and enhancing order execution opportunities for LMMs and Participants. As a result, 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."[28]

Intramarket Competition. The proposed changes are designed to incentivize market participants to direct displayed order flow to the Exchange. Greater liquidity benefits all market participants on the Exchange by providing more trading opportunities and encourages Participants to send orders, thereby contributing to robust levels of liquidity, which benefits all market participants on the Exchange. The proposed fees and credits would be available to all similarly-situated market participants, and, as such, the proposed change would not impose a disparate burden on competition among market participants on the Exchange. As noted, the proposal would apply to all similarly situated Participants that have obligations under Rule 7.23 to meet specified obligations, and, as such, on the same and equal terms, who would benefit from

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[27] 15 U.S.C. 78f(b)(8).

[28] Regulation NMS, 70 FR at 37498-99.

the change on the same basis. The Exchange believes the proposed adoption of Performance Metrics would enhance competition as it is intended to increase the Exchange's competitiveness in listed ETPs, and all LMMs would be able to participate on an equal basis. Further, the Directed Order functionality is also available to all Participants and all Participants that will use the functionality to route orders to OneChronos LLC would be charged the proposed fee. The routing of orders to OneChronos LLC is provided by the Exchange on a voluntary basis and no rule or regulation requires that the Exchange offer it or Participants to utilize it, and those that choose not to utilize the functionality would not be impacted by the proposed change. The Exchange also does not believe that the proposed change will impair the ability of Participants to maintain their competitive standing. Accordingly, 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. 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. <u>Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others</u>

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,[29] and Rule 19b-4(f)(2) thereunder[30] 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-NYSETEX-2025-34 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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[29] 15 U.S.C. 78s(b)(3)(A)(ii).

[30] 17 CFR 240.19b-4.

All submissions should refer to file number SR-NYSETEX-2025-34. 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-NYSETEX-2025-34 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.[31]

Sherry R. Haywood,

Assistant Secretary.

[31] 17 CFR 200.30-3(a)(12).