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SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549
Form 19b-4

File No. * SR 2024 - * 62

Amendment No. (req. for Amendments *)

Filing by NYSE American LLC

Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934

Initial * <input checked="" type="checkbox"/>	Amendment * <input type="checkbox"/>	Withdrawal <input type="checkbox"/>	Section 19(b)(2) * <input type="checkbox"/>	Section 19(b)(3)(A) * <input checked="" type="checkbox"/>	Section 19(b)(3)(B) * <input type="checkbox"/>
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Pilot <input type="checkbox"/>	Extension of Time Period for Commission Action * <input type="checkbox"/>	Date Expires * <input type="text"/>	Rule <input type="checkbox"/> 19b-4(f)(1) <input type="checkbox"/> 19b-4(f)(4) <input type="checkbox"/> 19b-4(f)(2) <input type="checkbox"/> 19b-4(f)(5) <input type="checkbox"/> 19b-4(f)(3) <input checked="" type="checkbox"/> 19b-4(f)(6)		
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Notice of proposed change pursuant to the Payment, Clearing, and Settlement Act of 2010
Section 806(e)(1) *

Section 806(e)(2) *

Security-Based Swap Submission pursuant to the Securities Exchange Act of 1934
Section 3C(b)(2) *

Exhibit 2 Sent As Paper Document

Exhibit 3 Sent As Paper Document

Description

Provide a brief description of the action (limit 250 characters, required when Initial is checked *).

Proposal to modify Rule 971.2NYP

Contact Information

Provide the name, telephone number, and e-mail address of the person on the staff of the self-regulatory organization prepared to respond to questions and comments on the action.

First Name * Kathleen Last Name * Murphy

Title * Senior Counsel, NYSE Group Inc.

E-mail * Kathleen.Murphy@ice.com

Telephone * (212) 656-4841 Fax (212) 656-8101

Signature

Pursuant to the requirements of the Securities Exchange of 1934, NYSE American LLC has duly caused this filing to be signed on its behalf by the undersigned thereunto duly authorized.

Date 10/22/2024

(Title *)

By David De Gregorio

Associate General Counsel

(Name *)

David De Gregorio

Digitally signed by David De Gregorio
Date: 2024.10.22 14:23:34 -04'00'

NOTE: Clicking the signature block at right will initiate digitally signing the form. A digital signature is as legally binding as a physical signature, and once signed, this form cannot be changed.

Required fields are shown with yellow backgrounds and astericks.

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

For complete Form 19b-4 instructions please refer to the EFFS website.

Form 19b-4 Information *

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19b4 cCUBE w nstntd ratios Rule 971

The self-regulatory organization must provide all required information, presented in a clear and comprehensible manner, to enable the public to provide meaningful comment on the proposal and for the Commission to determine whether the proposal is consistent with the Act and applicable rules and regulations under the Act.

Exhibit 1 - Notice of Proposed Rule Change *

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Ex. 1 cCUBE w nstntd ratios Rule 971

The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

Exhibit 1A - Notice of Proposed Rule Change, Security-Based Swap Submission, or Advanced Notice by Clearing Agencies *

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The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

Exhibit 2- Notices, Written Comments, Transcripts, Other Communications

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Copies of notices, written comments, transcripts, other communications, If such documents cannot be filed electronically in accordance with Instruction F, they shall be filed in accordance with Instruction G.

Exhibit Sent As Paper Document

Exhibit 3 - Form, Report, or Questionnaire

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Copies of any form, report, or questionnaire that the self-regulatory organization proposes to use to help implement or operate the proposed rule change, or that is referred to by the proposed rule change.

Exhibit Sent As Paper Document

Exhibit 4 - Marked Copies

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The full text shall be marked, in any convenient manner, to indicate additions to and deletions from the immediately preceding filing. The purpose of Exhibit 4 is to permit the staff to identify immediately the changes made from the text of the rule with which it has been working.

Exhibit 5 - Proposed Rule Text

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Ex 5 cCUBE w nstntd ratios Rule 971.

The self-regulatory organization may choose to attach as Exhibit 5 proposed changes to rule text in place of providing it in Item I and which may otherwise be more easily readable if provided separately from Form 19b-4. Exhibit 5 shall be considered part of the proposed rule change

Partial Amendment

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If the self-regulatory organization is amending only part of the text of a lengthy proposed rule change, it may, with the Commission's permission, file only those portions of the text of the proposed rule change in which changes are being made if the filing (i.e. partial amendment) is clearly understandable on its face. Such partial amendment shall be clearly identified and marked to show deletions and additions.

1. Text of Proposed Rule Change

- (a) Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² NYSE American LLC (“NYSE American” or the “Exchange”) proposes to modify Rule 971.2NYP regarding the Customer Best Execution Auction for Complex Orders.

A notice of the proposed rule change for publication in the Federal Register is attached hereto as Exhibit 1 and the text of the proposed rule change is attached as Exhibit 5.

- (b) The Exchange does not believe that the proposed rule change will have any direct effect, or any significant indirect effect, on any other Exchange rule in effect at the time of this filing.

- (c) Not applicable.

2. Procedures of the Self-Regulatory Organization

Senior management has approved the proposed rule change pursuant to authority delegated to it by the Board of the Exchange. No further action is required under the Exchange’s governing documents. Therefore, the Exchange’s internal procedures with respect to the proposed rule change are complete.

The person on the Exchange staff prepared to respond to questions and comments on the proposed rule change is:

Kathleen E. Murphy
Senior Counsel
NYSE Group, Inc.
(212) 656-4841

3. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

- (a) Purpose

The Exchange proposes to modify Rule 971.2NYP regarding the Customer Best Execution Auction for Complex Orders (“Complex CUBE Auction” or “Auction”), which is a paired auction with a price improvement mechanism. The Exchange proposes to modify Rule 971.2NYP (the “Rule”) to permit Complex CUBE Auctions in nonconforming ratios (as defined below). This filing is a competitive filing as it will align Complex CUBE

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

Auctions with auction functionality already available on competing options exchanges.³

Conforming and Nonconforming Complex Orders

Rule 900.3NYP(f) provides that a Complex Order is any order involving the simultaneous purchase and/or sale of two or more option series in the same underlying security (the “legs” or “components” of the Complex Order), for the same account, in a ratio that is equal to or greater than one-to-three (.333) and less than or equal to three-to-one (3.00) (referred to herein as the “conforming ratio” or “conforming ratio requirement”).⁴ The Exchange recently amended its rules to permit Complex Qualified Contingent Cross (“QCC”) Orders with ratios greater than three-to-one or less than one-to-three (“nonconforming ratios”) to trade electronically.⁵ A Complex CUBE Order is subject to the conforming ratio requirement as it is defined, in part, as a “Complex Order” pursuant to Rule 900.3NYP(f).⁶

³ In June 2022, Cboe Exchange, Inc. (“Cboe”) began supporting the electronic processing of certain stock-option orders in nonconforming ratios, including orders submitted to Cboe’s Complex Automated Improvement Mechanism (“c-AIM”). See Cboe Exchange Alert, “Schedule Update - Cboe Options Introduces New Net, Leg Price Increments and Enhanced Electronic, Open Outcry Handling for Complex Orders with Non-Conforming Ratios, Reference ID: C2022060301 available online at https://cdn.cboe.com/resources/release_notes/2022/Schedule-Update-Cboe-Options-Introduces-New-Net-Leg-Price-Increments-and-Enhanced-Electronic-Open-Outcry-Handling-for-Complex-Orders-with-Non-Conforming-Ratios.pdf (providing, in relevant part, that beginning June 12, 2022, “automated handling via COA, COB, AIM, and QCC will be available for applicable non-conforming orders, except in SPX/SPXW”) (referred to herein as the “Cboe Trader Update”). See also Securities Exchange Act Release Nos. 94204 (February 9, 2022), 87 FR 8625 (February 15, 2022) (SR-CBOE-2021-046) (order approving Cboe’s proposal, as amended, to permit complex orders with ratios less than one-to-three and greater than three-to-one to be eligible for electronic processing and to trade in penny increments); 95006 (May 31, 2022), 87 FR 34334 (June 6, 2022) (SR-CBOE-2022-024) (allowing Cboe to retain discretion to determine on a class-by-class basis eligibility for electronic processing of complex orders with ratios less than one-to-three and greater than three-to-one (i.e., ratios other than the conforming ratio requirement). In 2023, Miami International Securities Exchange, LLC (“MIAX”) amended its rules to permit complex orders to trade in nonconforming ratios, including orders submitted to “cPRIME,” its price improvement auction for complex orders. See Securities Exchange Act Release Nos. 94204 (February 9, 2022), 87 FR 8625 (February 15, 2022) (SR-MIAX-2023-01) (immediately effective filing adopting pricing for nonconforming complex orders (per MIAX Rule 518), including as it relates to orders executed in cPRIME (per Rule 515A, Interpretations and Policies .12)). Like the Complex CUBE, both c-AIM and cPRIME are “CUBE-like” paired auctions with price improvement mechanisms. While these CUBE-like auction mechanisms are not identical, the Exchange believes that, for purposes of this proposal, they provide valid bases for comparison.

⁴ The Exchange notes that Complex Orders in conforming ratios may qualify for the “Complex Trade” exception to trade through the NBBO. See Rules 990NY(4) (defining Complex Trade as it relates to order protection) and 991NY(b)(7) (exempting from trade-through liability transactions effected as a portion of a Complex Trade).

⁵ See Securities Exchange Act Release No. 98279 (September 22, 2023), 88 FR 62115 (September 28, 2023) (SR-NYSEAMER-2023-44) (immediately effective rule change to modify Rule 900.3NYP(g)(1) to allow Complex QCC Orders in nonconforming ratios). See also Rule 900.3NYP(g)(1)(G) (“Complex QCC Orders are eligible for electronic processing regardless of the ratio in the component legs”). The Exchange currently permits the execution of certain nonconforming Complex Orders on the Trading Floor. See, e.g., Rule 900.3NYP(h)(6)(B) (regarding Stock/Complex Orders that are only available for trading in Open Outcry and are not subject to the conforming ratio requirement).

⁶ See Rule 971.2NYP(a).

The Exchange proposes to modify the Rule to permit Auctions of Complex CUBE Orders with nonconforming ratios as described herein.

Overview of Complex CUBE Auctions

The Complex CUBE Auction is a paired auction, with a price improvement mechanism, for Complex CUBE Orders.⁷ A Complex CUBE Order is a Complex Order, per Rule 900.3NYP(f) (as described above), that is submitted to the Complex CUBE Auction by an Initiating Participant.⁸ The Initiating Participant represents the Complex CUBE Order as agent and guarantees the execution of such order by submitting a Contra Order.⁹ The time at which the Auction is initiated will also be considered the time of execution for the Complex CUBE Order.¹⁰ To initiate a Complex CUBE Auction, the net price of a Complex CUBE Order to buy (sell) must be equal to or higher (lower) than the CUBE BB (BO).¹¹ ATP Holders that respond to an Auction have the option of submitting a Complex GTX Order, which order is designed to interact with the Complex CUBE Order (if at all), then cancel.¹² A Complex CUBE Auction will end early (i.e., before the Exchange-established minimum duration) based on certain market updates.¹³ At the conclusion of the Auction, the entire Complex CUBE Order will execute within a range of permissible executions with the best-priced available interest during the Auction, or the Complex Contra Order, as applicable.¹⁴

⁷ See generally Rule 971.2NYP (Complex Electronic Cross Transactions). The capitalized terms related to the Complex CUBE as used herein have the same meaning as set forth in the Rule. The definitions relevant to the Auction are set forth in Rule 971.2NYP(a)(1)(A).

⁸ See Rule 971.2NYP(a).

⁹ The Complex CUBE Order may be submitted on behalf of a public customer, broker dealer, or any other entity whereas the Complex Contra Order represents principal interest or non-Customer interest solicited to trade solely with the Complex CUBE Order. See Rule 971.2NYP(a) and (a)(1), respectively.

¹⁰ See Rule 971.2NYP(a)(2).

¹¹ See *id.* See Rule 971.2NYP(a)(1)(A)(ii) regarding the definition of the CUBE BBO.

¹² See Rule 971.2NYP(c)(1)(C)(i). The Exchange notes that, like Complex QCC Orders, Complex GTX Orders are never placed in the Consolidated Book and instead execute or cancel. Compare Rule 900.3NYP(g) with Rule 971.2NYP(c)(1)(C)(i)(b). Unrelated Complex Orders received during the Auction will be treated as responses to the Complex CUBE and will trade with the Complex CUBE Order, if eligible. See Rule 971.2NYP(c)(1)(C)(ii). The Exchange notes that, unlike Complex GTX Orders, “unrelated Complex Orders” are not designated to trade solely in the Complex CUBE Auction (i.e., such orders may execute outside of the Auction).

¹³ See Rule 971.2NYP(c)(3)(A)-(B).

¹⁴ See Rule 971.2NYP(a)(1)(A)(v) (defining the “range of permissible executions”). See also Rule 971.2NYP(c)(4) (regarding the allocation of the Complex CUBE Order). The Exchange notes that, like Complex QCC Orders, Complex CUBE Orders are never placed in the Consolidated Book. Complex QCC Orders execute immediately or cancel and Complex CUBE Orders are guaranteed to execute in full. Compare Rule 900.3NYP(g) with Rule 971.2NYP(a)(1).

Proposed Rule

The Exchange proposes to modify the Rule to allow the execution of Complex CUBE Orders in nonconforming ratios as follows.¹⁵

First, the Exchange proposes to adopt a definition of a “nonconforming Complex CUBE Order.” As proposed, a nonconforming Complex CUBE Order “may have a leg ratio that is greater than three-to-one (3.00) or less than one-to three (.333),”¹⁶ which mirrors the leg ratio description utilized by other options exchanges that permit complex orders in nonconforming ratios to trade in their CUBE-like mechanisms.¹⁷ While other options exchanges have authority to trade nonconforming complex orders outside of their CUBE-like auction mechanisms, this proposal is focused solely on allowing nonconforming Complex CUBE Orders to trade in the Auction.¹⁸

Next, the Exchange proposes to specify the pricing requirements applicable to an Auction of a nonconforming Complex CUBE Order, including that it must be priced within the Complex NBBO.¹⁹ The Complex NBBO, as defined in Rule 980NYP(a)(2), refers to “the derived national best net bid and derived national best net offer for a complex strategy calculated using the NBB and NBO for each component leg of a complex strategy.”²⁰ Thus,

¹⁵ This proposal does not impact existing Complex CUBE Orders, the definitions related thereto, or the processing of such orders in the CUBE Auction. Rather, it specifies only the requirements for and handling of the proposed nonconforming Complex CUBE Orders.

¹⁶ See proposed Rule 971.2NYP(a)(1)(A)(vii).

¹⁷ See, e.g., Cboe Rule 1.1 (providing that a “Nonconforming Complex Order” means “a complex order with a ratio on the options legs less than one-to-three (.333) or greater than three-to-one (3.00)”) and MIAX Rule 518(a)(16) (providing that a “non-conforming ratio” is “where the ratio between the sizes of the components of a complex order comprised solely of options is greater than three-to-one (3.00)”). As noted herein, both Cboe and MIAX permit nonconforming complex orders to trade in their auction mechanisms. See *supra* note 3 (citing Cboe Trader Update permitting c-AIM Auction of Nonconforming Complex Orders and MIAX Rule 515A, Interpretations and Policies .12 permitting cPRIME Auction of Nonconforming Complex Orders).

¹⁸ For example, in its definition of “Complex Order,” Cboe has retained discretion to determine “on a class-by-class basis whether non-conforming complex orders are eligible for electronic processing (see Cboe Rule 1.1) and specifies in the Cboe Trader Update that nonconforming complex orders may participate in its c-AIM (see *supra* note 3). If the Exchange opts to allow Complex Orders in nonconforming ratios (that are not Complex QCC Orders) to trade outside the of Complex CUBE Auction, the Exchange will submit a separate rule filing.

¹⁹ The CUBE BBO for conforming Complex CUBE Orders is comprised of better of the Complex BBO or DBBO. See Rule 971.2NYP(a)(1)(A)(ii)(a)-(b). The Complex BBO is “the best-priced complex order(s) in the same complex strategy to buy (sell).” See Rule 971.2NYP(a)(1)(A)(i). The DBBO has the meaning set forth in Rule 980NYP(a)(5). See Rule 971.2NYP(a)(1)(A)(iii). Rule 980NYP describes the trading of Electronic Complex Orders on the Exchange.

²⁰ See proposed Rule 971.2NYP(a)(1)(A)(ii) (adding definition of “Complex NBBO” as having the meaning set forth in Rule 980NYP(a)(2)). To accommodate this change, the Exchange proposes to re-number the balance of Rule(a)(1)(A). See proposed Rule 971.2NYP(a)(1)(A)(iii)-(vi). The Complex NBBO is an aggregation of NBBO prices, which aggregation is designed to ensure that the component legs of a nonconforming Complex CUBE Order do not trade through the NBBO. Relying on the Complex NBBO is

as proposed:

The “CUBE BB (BO)” for a nonconforming Complex CUBE Order to buy (sell) is the Complex NBB (NBO), provided that for each component leg of the Complex NBB (NBO) that represents displayed Customer interest on the Exchange, the CUBE BB (BO) will improve the price of such displayed Customer interest by at least one cent (\$0.01).²¹

This proposed requirement would ensure that every component leg of a nonconforming Complex CUBE Order trades at a price that is equal to or better than the NBBO and better than displayed Customer interest on the Exchange.

Consistent with the proposed definition of CUBE BBO for nonconforming Complex CUBE Orders, the Exchange proposes to define the “initiating price” for such orders. As proposed, “[t]he ‘initiating price’ for a nonconforming Complex CUBE Order to buy (sell) is the lower (higher) of the Complex CUBE Order’s net price or the price that locks the CUBE BO (BB).”²² The proposed pricing requirements are identical to the requirements for Complex QCC Orders, which also trade in nonconforming ratios.²³ Moreover, the proposed pricing requirements mirror those imposed by competing options exchanges that permit complex orders in nonconforming ratios to be submitted to price improvement auctions like the Complex CUBE.²⁴

akin to the reliance on the DBBO as the DBBO is an aggregation of BBO prices, which aggregation ensures that conforming Complex CUBE Orders do not trade through the BBO).

²¹ See proposed Rule 971.2NYP(a)(1)(A)(vii)(a).

²² See proposed Rule 971.2NYP(a)(1)(A)(vii)(b) (including cross-reference to -- and specifying that -- for purposes of the determining the proposed “initiating price,” the applicable “CUBE BO (BB)” for nonconforming Complex CUBE Orders is as defined in proposed Rule 971.2NYP(a)(1)(A)(vii)(a)).

²³ See Rule 900.3NYP(g)(1)(D)(i)-(iii) (providing, in relevant part, that each option leg of a Complex QCC Order must meet the pricing requirements for a single-leg QCC Order and must also trade at a price that: is equal to or better than the Exchange BBO; is equal to or better than the best-priced Complex Orders on the Exchange; and, if the best-price Complex Order on the Exchange includes displayed Customer interest, improves the price of such displayed Customer interest by at least one cent (\$0.01). The pricing requirements for the proposed nonconforming CUBE Orders are the same as for Complex QCC Orders even though the latter does not rely on the (shorthand) reference “Complex NBBO,” which definition the Exchange adopted *after* it had adopted the Complex QCC Order type (i.e. it is a distinction without a difference).

²⁴ See, e.g., Cboe Trader Update, supra note 3 (proving that, for nonconforming Complex Orders, execution prices for each option leg must be at or inside the NBBO and must improve the local BBO by at least \$0.01 when there is a Priority Customer Order resting at the BBO on that leg. Cboe notes that, “by contrast, conforming complex orders may potentially trade at the same price as a Priority Customer Order resting at the BBO on a given leg (but not all legs) if certain conditions are satisfied,” and cites to Cboe Rules 5.33(f)(2) and 5.85(b)). The same distinction likewise applies for nonconforming versus conforming Complex CUBE Orders, respectively. Compare proposed Rule 971.2NYP(a)(1)(A)(vii)(a)-(b) with Rule 971.2NYP(a)(1)(A)(ii)(a)-(b). See also MIA X Rule 518(c)(1)(v) (providing, in relevant part, that a complex order with a nonconforming ratio, will not be executed at a net price that would cause any option component of the complex strategy to be executed “ahead of a Priority Customer Order at the MBBO [MIA X BBO] on the Simple Order Book” or “at a price that is through the NBBO”).

In addition, the Exchange proposes to modify the Rule to account for leg market updates that would result in the early end of an Auction of a nonconforming Complex CUBE Order. Currently, a Complex CUBE Auction will end early based on certain updates to the contra-side CUBE BBO but only when the CUBE BBO is based on the DBBO (i.e., the leg markets).²⁵ Because nonconforming Complex CUBE Orders are based on the Complex NBBO and not the DBBO, the Exchange proposes to remove reference to the DBBO. As proposed, the Rule would specify that a Complex CUBE Auction will end early upon the arrival of “[a]ny opposite-side interest in the leg markets that adjusts the CUBE BO (BB) to be lower (higher) than the initiating price,”²⁶ which includes updates to the DBBO or Complex NBBO, as applicable. This proposed modification is consistent with early end scenarios on other options exchanges that permit complex orders in nonconforming ratios to be submitted to CUBE-like price improvement auctions.²⁷

Finally, the Exchange proposes to modify the Rule to specify that “Complex GTX Orders are eligible for processing regardless of ratio, including against nonconforming Complex CUBE Orders.”²⁸ As noted here, competing options exchanges already allow complex orders in nonconforming ratios to execute in CUBE-like auctions.²⁹

Implementation

Because of the technology changes associated with this proposed rule change, the Exchange will announce the implementation date by Trader Update, which, subject to effectiveness of this proposed rule change, will be no later than in the first quarter of 2025.

²⁵ See Rule 971.2NYP(c)(3)(B). The Exchange notes that there is no need to modify the early-end scenario set forth in Rule 971.2NYP(c)(3)(A) because this scenario is based on same-side updates to the CUBE BBO that improve the initiating price and applies equally to Auctions of the nonconforming Complex CUBE Orders.

²⁶ See proposed Rule 971.2NYP(c)(3)(B). The Exchange believes that removing reference to the DBBO rather than adding reference to the Complex NBBO results in a proposed Rule provision that is more concise and easier to comprehend.

²⁷ See, e.g., MIAX Rule 515A, Interpretations and Policies .12(d)(viii) (providing that a cPRIME of an Agency Order with a nonconforming ratio will end early upon the arrival of a Priority Customer Order in MIAX’s Simple Order Book (i.e., the leg markets) that “causes any component of the cPRIME Agency Order to lock or cross a Priority Customer Order at (A) the best price opposite the cPRIME Agency Order; or (B) the initiating price”; or (ix) “the NBBO for a component of a cPRIME Agency Order with a nonconforming ratio updates to a price that would cause any option component of the cPRIME Agency Order to be executed at a price through the NBBO”).

²⁸ See proposed Rule 971.2NYP(c)(1)(C)(i)(e). The Exchanges notes that unrelated Complex Orders that trade in a Complex CUBE Auction (i.e., not designated as Complex GTX Orders) are not eligible to trade in nonconforming ratios. As noted herein, if the Exchange opts to allow Complex Orders in nonconforming ratios to trade on the Exchange -- in addition to those designated to trade in an Auction or as Complex QCC Orders, the Exchange will submit a separate rule filing.

²⁹ See, e.g., *supra* notes 3, 17, and 24.

(b) Statutory Basis

For the reasons set forth above, the Exchange believes the proposed rule change is consistent with Section 6(b) of the Act in general, and furthers the objectives of Section 6(b)(5) of the Act, in that it is designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest.

In particular, the proposed rule change will remove impediments to and perfect the mechanism of a free and open market and a national market system because it will enable the Exchange to compete on equal footing with other exchanges that conduct price improvement auctions (like the Complex CUBE) of nonconforming complex orders. First, the proposed definition for the leg ratio of a “nonconforming Complex CUBE Order” is identical to the definitions utilized on other options exchanges that accommodate the trading of complex orders in nonconforming ratios.³⁰ Second, as noted herein, the proposed pricing requirements for a nonconforming Complex CUBE Order, including that the CUBE BBO be based on the Complex NBBO, are substantially the same as the requirements imposed on competing options exchanges.³¹ Similarly, also consistent with the rules of other options exchanges, is the proposed Rule change to account for leg market updates (i.e., to the Complex NBBO) that result in the early end of an Auction of the nonconforming Complex CUBE Order.³² Finally, the proposal to permit the execution of Complex GTX Orders in any ratio, including against nonconforming Complex CUBE Orders, is likewise consistent with rules already in place on competing options exchanges.³³

Finally, the proposed rule change will also promote internal consistency as the Exchange already permits the trading of Complex QCC Orders in nonconforming ratios and the proposed nonconforming Complex CUBE Orders must adhere to the same pricing requirements as such Complex QCC Orders.³⁴ As such, the proposal would ensure that each nonconforming Complex CUBE Order is priced equal to or better than the Complex NBBO and will improve the price of any displayed Customer interest on the Exchange at the NBBO.

In addition, the proposed change 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 because it would provide another venue for nonconforming Complex Orders to execute in

³⁰ See supra note 17 (regarding Cboe and MIAX definitions of nonconforming complex orders).

³¹ See supra notes 3 (regarding the trading of nonconforming complex orders in Cboe’s c-AIM and in MIAX’s cPRIME auction and associated) and 24 (regarding pricing Cboe’s and MIAX’s pricing requirements for nonconforming complex orders).

³² See supra note 27 (regarding leg marker updates that result in the early-end of a cPRIME on MIAX).

³³ See supra notes 3 and 17 (regarding ability of Cboe and MIAX to trade nonconforming complex orders, including in their CUBE-like auction mechanisms).

³⁴ See supra note 23 (regarding pricing requirements for Complex QCC Orders).

a price improvement auction such as the Complex CUBE. The Exchange also believes that the proposed rule change would not permit unfair discrimination among market participants, as all market participants may opt to trade Complex CUBE Orders with nonconforming ratios.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that its proposed rule change will impose any burden on intra-market competition as it would apply equally to all market participants that opt to submit nonconforming Complex CUBE Orders, which orders the Exchange will process in a uniform manner.

The Exchange does not believe that its proposed rule change will impose any burden on inter-market competition that is not necessary or appropriate in furtherance of the purposes of the Act, rather the Exchange believes that its proposal will promote inter-market competition. As noted herein, the proposed change is competitive as other options exchanges currently conduct CUBE-like price improvement auctions of complex orders in nonconforming ratios based on similar pricing requirements and early end scenarios.³⁵ As such, the Exchange's proposal will enhance inter-market competition by providing investors with an additional venue on which to submit for auction Complex Orders in nonconforming ratios. Market participants may find it more convenient to access one exchange over another or may choose to concentrate volume at a particular exchange to maximize the impact of volume-based incentive programs or may prefer the trade execution services of one exchange over another.

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

The Exchange has neither solicited nor received written comments on the proposed rule change.

6. Extension of Time Period for Commission Action

Not applicable.

7. Basis for Summary Effectiveness Pursuant to Section 19(b)(3) or for Accelerated Effectiveness Pursuant to Section 19(b)(2)

The Exchange believes that the proposal qualifies for immediate effectiveness upon filing as a "non-controversial" rule change in accordance with Section 19(b)(3)(A) of the Act³⁶

³⁵ See, e.g., *supra* notes 3 and 17 (regarding ability of Cboe and MIAX to trade nonconforming complex orders, including in their CUBE-like auction mechanisms) and 27 (regarding MIAX leg market updates that cause the early end of cPRIME of nonconforming complex order).

³⁶ 15 U.S.C. 78s(b)(3)(A).

and Rule 19b-4(f)(6) thereunder.³⁷

The Exchange asserts that the proposed rule change (i) will not significantly affect the protection of investors or the public interest, (ii) will not impose any significant burden on competition, and (iii) by its terms, will not become operative for 30 days after the date of this filing, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest. In addition, the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing, or such shorter time as the Commission may designate.

The Exchange does not believe that its proposal would significantly affect the protection of investors or the public interest. The proposed change to permit the submission of nonconforming Complex CUBE, including by adopting specific pricing requirements and an early end scenario based on leg market updates, is not new or unique and is already available on other options exchanges that offer CUBE-like auctions.³⁸ Additionally, the Exchange already permits the trading of Complex QCC Orders in nonconforming ratios and, as proposed, nonconforming Complex CUBE Orders would adhere to the same pricing requirements as such orders.³⁹ As such, this proposal would not impact the protection of investors.

The Exchange does not believe that this proposal would impose any significant burden on competition, as the proposed change applies equally to all market participants that opt to utilize the Complex CUBE Auction, including Auctions of nonconforming Complex CUBE Orders. Rather, the Exchange believes that this proposal should improve competition by providing investors multiple venues to choose from when making decisions on where to route their nonconforming Complex Orders for potential price improvement. As such, the proposed change would offer investors greater flexibility and a choice of where to send their orders. Market participants may find it more convenient to access one exchange over another or may choose to concentrate volume at a particular exchange to maximize the impact of volume-based incentive programs or may prefer the trade execution services of one exchange over another.

For the foregoing reasons, the Exchange believes that this rule filing qualifies for immediate effectiveness as a “non-controversial” rule change. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule changes 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.

³⁷ 17 CFR 240.19b-4(f)(6).

³⁸ See supra notes 3 (regarding the trading of nonconforming complex orders in Cboe’s c-AIM and in MIAX’s cPRIME auction), 24 (regarding pricing Cboe’s and MIAX’s pricing requirements for nonconforming complex orders), and 27 (regarding MIAX leg market updates that cause the early end of cPRIME of nonconforming complex order).

³⁹ See supra note 19 (regarding Complex QCC price requirements).

8. Proposed Rule Change Based on Rules of Another Self-Regulatory Organization or of the Commission

Not applicable.

9. Security-Based Swap Submissions Filed Pursuant to Section 3C of the Act

Not applicable.

10. Advance Notices Filed Pursuant to Section 806(e) of the Payment, Clearing and Settlement Supervision Act

Not applicable.

11. Exhibits

Exhibit 1 – Form of Notice of Proposed Rule Change for Publication in Federal Register

Exhibit 5 – Text of Proposed Changes

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34- ; File No. SR-NYSEAMER-2024-62)

[Date]

Self-Regulatory Organizations; NYSE American LLC; Notice of Filing and Immediate Effectiveness of Proposed Change to Modify Rule 971.2NYP

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 October 22, 2024, 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, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange proposes to modify Rule 971.2NYP regarding the Customer Best Execution Auction for Complex Orders. 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.

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

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

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 modify Rule 971.2NYP regarding the Customer Best Execution Auction for Complex Orders (“Complex CUBE Auction” or “Auction”), which is a paired auction with a price improvement mechanism. The Exchange proposes to modify Rule 971.2NYP (the “Rule”) to permit Complex CUBE Auctions in nonconforming ratios

(as defined below). This filing is a competitive filing as it will align Complex CUBE Auctions with auction functionality already available on competing options exchanges.⁴

⁴ In June 2022, Cboe Exchange, Inc. (“Cboe”) began supporting the electronic processing of certain stock-option orders in nonconforming ratios, including orders submitted to Cboe’s Complex Automated Improvement Mechanism (“c-AIM”). See Cboe Exchange Alert, “Schedule Update - Cboe Options Introduces New Net, Leg Price Increments and Enhanced Electronic, Open Outcry Handling for Complex Orders with Non-Conforming Ratios, Reference ID: C2022060301 available online at https://cdn.cboe.com/resources/release_notes/2022/Schedule-Update-Cboe-Options-Introduces-New-Net-Leg-Price-Increments-and-Enhanced-Electronic-Open-Outcry-Handling-for-Complex-Orders-with-Non-Conforming-Ratios.pdf (providing, in relevant part, that beginning June 12, 2022, “automated handling via COA, COB, AIM, and QCC will be available for applicable non-conforming orders, except in SPX/SPXW”) (referred to herein as the “Cboe Trader Update”). See also Securities Exchange Act Release Nos. 94204 (February 9, 2022), 87 FR 8625 (February 15, 2022) (SR-CBOE-2021-046) (order approving Cboe’s proposal, as amended, to permit complex orders with ratios less than one-to-three and greater than three-to-one to be eligible for electronic processing and to trade in penny increments); 95006 (May 31, 2022), 87 FR 34334 (June 6, 2022) (SR-CBOE-2022-024) (allowing Cboe to retain discretion to determine on a class-by-class basis eligibility for electronic processing of complex orders with ratios less than one-to-three and greater than three-to-one (i.e., ratios other than the conforming ratio requirement). In 2023, Miami International Securities Exchange, LLC (“MIAX”) amended its rules to permit complex orders to trade in nonconforming ratios, including orders submitted to “cPRIME,” its price improvement auction for complex orders. See Securities Exchange Act Release Nos. 94204 (February 9, 2022), 87 FR 8625 (February 15, 2022) (SR-MIAX-2023-01) (immediately effective filing adopting pricing for nonconforming complex orders (per MIAX Rule 518), including as it relates to orders executed in cPRIME (per Rule 515A, Interpretations and Policies .12)). Like the Complex CUBE, both c-AIM and cPRIME are “CUBE-like” paired auctions with price improvement mechanisms. While these CUBE-like auction mechanisms are not identical, the Exchange believes that, for purposes of this proposal, they provide valid bases for comparison.

Conforming and Nonconforming Complex Orders

Rule 900.3NYP(f) provides that a Complex Order is any order involving the simultaneous purchase and/or sale of two or more option series in the same underlying security (the “legs” or “components” of the Complex Order), for the same account, in a ratio that is equal to or greater than one-to-three (.333) and less than or equal to three-to-one (3.00) (referred to herein as the “conforming ratio” or “conforming ratio requirement”).⁵ The Exchange recently amended its rules to permit Complex Qualified Contingent Cross (“QCC”) Orders with ratios greater than three-to-one or less than one-to-three (“nonconforming ratios”) to trade electronically.⁶ A Complex CUBE Order is subject to the conforming ratio requirement as it is defined, in part, as a “Complex Order” pursuant to Rule 900.3NYP(f).⁷ The Exchange proposes to modify the Rule to permit Auctions of Complex CUBE Orders with nonconforming ratios as described herein.

Overview of Complex CUBE Auctions

The Complex CUBE Auction is a paired auction, with a price improvement mechanism, for Complex CUBE Orders.⁸ A Complex CUBE Order is a Complex Order, per Rule 900.3NYP(f) (as described above), that is submitted to the Complex CUBE Auction by an Initiating Participant.⁹ The

⁵ The Exchange notes that Complex Orders in conforming ratios may qualify for the “Complex Trade” exception to trade through the NBBO. See Rules 990NY(4) (defining Complex Trade as it relates to order protection) and 991NY(b)(7) (exempting from trade-through liability transactions effected as a portion of a Complex Trade).

⁶ See Securities Exchange Act Release No. 98279 (September 22, 2023), 88 FR 62115 (September 28, 2023) (SR-NYSEAMER-2023-44) (immediately effective rule change to modify Rule 900.3NYP(g)(1) to allow Complex QCC Orders in nonconforming ratios). See also Rule 900.3NYP(g)(1)(G) (“Complex QCC Orders are eligible for electronic processing regardless of the ratio in the component legs”). The Exchange currently permits the execution of certain nonconforming Complex Orders on the Trading Floor. See, e.g., Rule 900.3NYP(h)(6)(B) (regarding Stock/Complex Orders that are only available for trading in Open Outcry and are not subject to the conforming ratio requirement).

⁷ See Rule 971.2NYP(a).

⁸ See generally Rule 971.2NYP (Complex Electronic Cross Transactions). The capitalized terms related to the Complex CUBE as used herein have the same meaning as set forth in the Rule. The definitions relevant to the Auction are set forth in Rule 971.2NYP(a)(1)(A).

⁹ See Rule 971.2NYP(a).

Initiating Participant represents the Complex CUBE Order as agent and guarantees the execution of such order by submitting a Contra Order.¹⁰ The time at which the Auction is initiated will also be considered the time of execution for the Complex CUBE Order.¹¹ To initiate a Complex CUBE Auction, the net price of a Complex CUBE Order to buy (sell) must be equal to or higher (lower) than the CUBE BB (BO).¹² ATP Holders that respond to an Auction have the option of submitting a Complex GTX Order, which order is designed to interact with the Complex CUBE Order (if at all), then cancel.¹³ A Complex CUBE Auction will end early (i.e., before the Exchange-established minimum duration) based on certain market updates.¹⁴ At the conclusion of the Auction, the entire Complex CUBE Order will execute within a range of permissible executions with the best-priced available interest during the Auction, or the Complex Contra Order, as applicable.¹⁵

Proposed Rule

The Exchange proposes to modify the Rule to allow the execution of Complex CUBE

¹⁰ The Complex CUBE Order may be submitted on behalf of a public customer, broker dealer, or any other entity whereas the Complex Contra Order represents principal interest or non-Customer interest solicited to trade solely with the Complex CUBE Order. See Rule 971.2NYP(a) and (a)(1), respectively.

¹¹ See Rule 971.2NYP(a)(2).

¹² See id. See Rule 971.2NYP(a)(1)(A)(ii) regarding the definition of the CUBE BBO.

¹³ See Rule 971.2NYP(c)(1)(C)(i). The Exchange notes that, like Complex QCC Orders, Complex GTX Orders are never placed in the Consolidated Book and instead execute or cancel. Compare Rule 900.3NYP(g) with Rule 971.2NYP(c)(1)(C)(i)(b). Unrelated Complex Orders received during the Auction will be treated as responses to the Complex CUBE and will trade with the Complex CUBE Order, if eligible. See Rule 971.2NYP(c)(1)(C)(ii). The Exchange notes that, unlike Complex GTX Orders, “unrelated Complex Orders” are not designated to trade solely in the Complex CUBE Auction (i.e., such orders may execute outside of the Auction).

¹⁴ See Rule 971.2NYP(c)(3)(A)-(B).

¹⁵ See Rule 971.2NYP(a)(1)(A)(v) (defining the “range of permissible executions”). See also Rule 971.2NYP(c)(4) (regarding the allocation of the Complex CUBE Order). The Exchange notes that, like Complex QCC Orders, Complex CUBE Orders are never placed in the Consolidated Book. Complex QCC Orders execute immediately or cancel and Complex CUBE Orders are guaranteed to execute in full. Compare Rule 900.3NYP(g) with Rule 971.2NYP(a)(1).

Orders in nonconforming ratios as follows.¹⁶

First, the Exchange proposes to adopt a definition of a “nonconforming Complex CUBE Order.” As proposed, a nonconforming Complex CUBE Order “may have a leg ratio that is greater than three-to-one (3.00) or less than one-to three (.333),”¹⁷ which mirrors the leg ratio description utilized by other options exchanges that permit complex orders in nonconforming ratios to trade in their CUBE-like mechanisms.¹⁸ While other options exchanges have authority to trade nonconforming complex orders outside of their CUBE-like auction mechanisms, this proposal is focused solely on allowing nonconforming Complex CUBE Orders to trade in the Auction.¹⁹

Next, the Exchange proposes to specify the pricing requirements applicable to an Auction of a nonconforming Complex CUBE Order, including that it must be priced within the Complex NBBO.²⁰ The Complex NBBO, as defined in Rule 980NYP(a)(2), refers to “the derived national best net bid and derived national best net offer for a complex strategy calculated using the NBB and

¹⁶ This proposal does not impact existing Complex CUBE Orders, the definitions related thereto, or the processing of such orders in the CUBE Auction. Rather, it specifies only the requirements for and handling of the proposed nonconforming Complex CUBE Orders.

¹⁷ See proposed Rule 971.2NYP(a)(1)(A)(vii).

¹⁸ See, e.g., Cboe Rule 1.1 (providing that a “Nonconforming Complex Order” means “a complex order with a ratio on the options legs less than one-to-three (.333) or greater than three-to-one (3.00)”) and MIAX Rule 518(a)(16) (providing that a “non-conforming ratio” is “where the ratio between the sizes of the components of a complex order comprised solely of options is greater than three-to-one (3.00)”). As noted herein, both Cboe and MIAX permit nonconforming complex orders to trade in their auction mechanisms. See *supra* note 4 (citing Cboe Trader Update permitting c-AIM Auction of Nonconforming Complex Orders and MIAX Rule 515A, Interpretations and Policies .12 permitting cPRIME Auction of Nonconforming Complex Orders).

¹⁹ For example, in its definition of “Complex Order,” Cboe has retained discretion to determine “on a class-by-class basis whether non-conforming complex orders are eligible for electronic processing (see Cboe Rule 1.1) and specifies in the Cboe Trader Update that nonconforming complex orders may participate in its c-AIM (see *supra* note 4). If the Exchange opts to allow Complex Orders in nonconforming ratios (that are not Complex QCC Orders) to trade outside the of Complex CUBE Auction, the Exchange will submit a separate rule filing.

²⁰ The CUBE BBO for conforming Complex CUBE Orders is comprised of better of the Complex BBO or DBBO. See Rule 971.2NYP(a)(1)(A)(ii)(a)-(b). The Complex BBO is “the best-priced complex order(s) in the same complex strategy to buy (sell).” See Rule 971.2NYP(a)(1)(A)(i). The DBBO has the meaning set forth in Rule 980NYP(a)(5). See Rule 971.2NYP(a)(1)(A)(iii). Rule 980NYP describes the trading of Electronic Complex Orders on the Exchange.

NBO for each component leg of a complex strategy.”²¹ Thus, as proposed:

The “CUBE BB (BO)” for a nonconforming Complex CUBE Order to buy (sell) is the Complex NBB (NBO), provided that for each component leg of the Complex NBB (NBO) that represents displayed Customer interest on the Exchange, the CUBE BB (BO) will improve the price of such displayed Customer interest by at least one cent (\$0.01).²²

This proposed requirement would ensure that every component leg of a nonconforming Complex CUBE Order trades at a price that is equal to or better than the NBBO and better than displayed Customer interest on the Exchange.

Consistent with the proposed definition of CUBE BBO for nonconforming Complex CUBE Orders, the Exchange proposes to define the “initiating price” for such orders. As proposed, “[t]he ‘initiating price’ for a nonconforming Complex CUBE Order to buy (sell) is the lower (higher) of the Complex CUBE Order’s net price or the price that locks the CUBE BO (BB).”²³ The proposed pricing requirements are identical to the requirements for Complex QCC Orders, which also trade in nonconforming ratios.²⁴ Moreover, the proposed pricing requirements mirror those imposed by

²¹ See proposed Rule 971.2NYP(a)(1)(A)(ii) (adding definition of “Complex NBBO” as having the meaning set forth in Rule 980NYP(a)(2)). To accommodate this change, the Exchange proposes to re-number the balance of Rule(a)(1)(A). See proposed Rule 971.2NYP(a)(1)(A)(iii)-(vi). The Complex NBBO is an aggregation of NBBO prices, which aggregation is designed to ensure that the component legs of a nonconforming Complex CUBE Order do not trade through the NBBO. Relying on the Complex NBBO is akin to the reliance on the DBBO as the DBBO is an aggregation of BBO prices, which aggregation ensures that conforming Complex CUBE Orders do not trade through the BBO).

²² See proposed Rule 971.2NYP(a)(1)(A)(vii)(a).

²³ See proposed Rule 971.2NYP(a)(1)(A)(vii)(b) (including cross-reference to -- and specifying that -- for purposes of the determining the proposed “initiating price,” the applicable “CUBE BO (BB)” for nonconforming Complex CUBE Orders is as defined in proposed Rule 971.2NYP(a)(1)(A)(vii)(a)).

²⁴ See Rule 900.3NYP(g)(1)(D)(i)-(iii) (providing, in relevant part, that each option leg of a Complex QCC Order must meet the pricing requirements for a single-leg QCC Order and must also trade at a price that: is equal to or better than the Exchange BBO; is equal to or better than the best-priced Complex Orders on the Exchange; and, if the best-price Complex Order on the Exchange includes displayed Customer interest, improves the price of such displayed Customer interest by at least one cent (\$0.01). The pricing requirements for the proposed nonconforming CUBE Orders are the same as for Complex QCC Orders

competing options exchanges that permit complex orders in nonconforming ratios to be submitted to price improvement auctions like the Complex CUBE.²⁵

In addition, the Exchange proposes to modify the Rule to account for leg market updates that would result in the early end of an Auction of a nonconforming Complex CUBE Order. Currently, a Complex CUBE Auction will end early based on certain updates to the contra-side CUBE BBO but only when the CUBE BBO is based on the DBBO (i.e., the leg markets).²⁶ Because nonconforming Complex CUBE Orders are based on the Complex NBBO and not the DBBO, the Exchange proposes to remove reference to the DBBO. As proposed, the Rule would specify that a Complex CUBE Auction will end early upon the arrival of “[a]ny opposite-side interest in the leg markets that adjusts the CUBE BO (BB) to be lower (higher) than the initiating price,”²⁷ which includes updates to the DBBO or Complex NBBO, as applicable. This proposed modification is consistent with early end scenarios on other options exchanges that permit complex orders in

even though the latter does not rely on the (shorthand) reference “Complex NBBO,” which definition the Exchange adopted *after* it had adopted the Complex QCC Order type (i.e. it is a distinction without a difference).

²⁵ See, e.g., Cboe Trader Update, *supra* note 4 (proving that, for nonconforming Complex Orders, execution prices for each option leg must be at or inside the NBBO and must improve the local BBO by at least \$0.01 when there is a Priority Customer Order resting at the BBO on that leg. Cboe notes that, “by contrast, conforming complex orders may potentially trade at the same price as a Priority Customer Order resting at the BBO on a given leg (but not all legs) if certain conditions are satisfied,” and cites to Cboe Rules 5.33(f)(2) and 5.85(b)). The same distinction likewise applies for nonconforming versus conforming Complex CUBE Orders, respectively. Compare proposed Rule 971.2NYP(a)(1)(A)(vii)(a)-(b) with Rule 971.2NYP(a)(1)(A)(ii)(a)-(b). See also MIAX Rule 518(c)(1)(v) (providing, in relevant part, that a complex order with a nonconforming ratio, will not be executed at a net price that would cause any option component of the complex strategy to be executed “ahead of a Priority Customer Order at the MBBO [MIAX BBO] on the Simple Order Book” or “at a price that is through the NBBO”).

²⁶ See Rule 971.2NYP(c)(3)(B). The Exchange notes that there is no need to modify the early-end scenario set forth in Rule 971.2NYP(c)(3)(A) because this scenario is based on same-side updates to the CUBE BBO that improve the initiating price and applies equally to Auctions of the nonconforming Complex CUBE Orders.

²⁷ See proposed Rule 971.2NYP(c)(3)(B). The Exchange believes that removing reference to the DBBO rather than adding reference to the Complex NBBO results in a proposed Rule provision that is more concise and easier to comprehend.

nonconforming ratios to be submitted to CUBE-like price improvement auctions.²⁸

Finally, the Exchange proposes to modify the Rule to specify that “Complex GTX Orders are eligible for processing regardless of ratio, including against nonconforming Complex CUBE Orders.”²⁹ As noted here, competing options exchanges already allow complex orders in nonconforming ratios to execute in CUBE-like auctions.³⁰

Implementation

Because of the technology changes associated with this proposed rule change, the Exchange will announce the implementation date by Trader Update, which, subject to effectiveness of this proposed rule change, will be no later than in the first quarter of 2025.

2. Statutory Basis

For the reasons set forth above, the Exchange believes the proposed rule change is consistent with Section 6(b) of the Act in general, and furthers the objectives of Section 6(b)(5) of the Act, in that it is designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest.

²⁸ See, e.g., MIAX Rule 515A, Interpretations and Policies .12(d)(viii) (providing that a cPRIME of an Agency Order with a nonconforming ratio will end early upon the arrival of a Priority Customer Order in MIAX’s Simple Order Book (i.e., the leg markets) that “causes any component of the cPRIME Agency Order to lock or cross a Priority Customer Order at (A) the best price opposite the cPRIME Agency Order; or (B) the initiating price”; or (ix) “the NBBO for a component of a cPRIME Agency Order with a nonconforming ratio updates to a price that would cause any option component of the cPRIME Agency Order to be executed at a price through the NBBO”).

²⁹ See proposed Rule 971.2NYP(c)(1)(C)(i)(e). The Exchanges notes that unrelated Complex Orders that trade in a Complex CUBE Auction (i.e., not designated as Complex GTX Orders) are not eligible to trade in nonconforming ratios. As noted herein, if the Exchange opts to allow Complex Orders in nonconforming ratios to trade on the Exchange -- in addition to those designated to trade in an Auction or as Complex QCC Orders, the Exchange will submit a separate rule filing.

³⁰ See, e.g., supra notes 4, 18, and 25.

In particular, the proposed rule change will remove impediments to and perfect the mechanism of a free and open market and a national market system because it will enable the Exchange to compete on equal footing with other exchanges that conduct price improvement auctions (like the Complex CUBE) of nonconforming complex orders. First, the proposed definition for the leg ratio of a “nonconforming Complex CUBE Order” is identical to the definitions utilized on other options exchanges that accommodate the trading of complex orders in nonconforming ratios.³¹ Second, as noted herein, the proposed pricing requirements for a nonconforming Complex CUBE Order, including that the CUBE BBO be based on the Complex NBBO, are substantially the same as the requirements imposed on competing options exchanges.³² Similarly, also consistent with the rules of other options exchanges, is the proposed Rule change to account for leg market updates (i.e., to the Complex NBBO) that result in the early end of an Auction of the nonconforming Complex CUBE Order.³³ Finally, the proposal to permit the execution of Complex GTX Orders in any ratio, including against nonconforming Complex CUBE Orders, is likewise consistent with rules already in place on competing options exchanges.³⁴

Finally, the proposed rule change will also promote internal consistency as the Exchange already permits the trading of Complex QCC Orders in nonconforming ratios and the proposed nonconforming Complex CUBE Orders must adhere to the same pricing requirements as such

³¹ See supra note 18 (regarding Cboe and MIAX definitions of nonconforming complex orders).

³² See supra notes 4 (regarding the trading of nonconforming complex orders in Cboe’s c-AIM and in MIAX’s cPRIME auction and associated) and 24 (regarding pricing Cboe’s and MIAX’s pricing requirements for nonconforming complex orders).

³³ See supra note 28 (regarding leg marker updates that result in the early-end of a cPRIME on MIAX).

³⁴ See supra notes 4 and 18 (regarding ability of Cboe and MIAX to trade nonconforming complex orders, including in their CUBE-like auction mechanisms).

Complex QCC Orders.³⁵ As such, the proposal would ensure that each nonconforming Complex CUBE Order is priced equal to or better than the Complex NBBO and will improve the price of any displayed Customer interest on the Exchange at the NBBO.

In addition, the proposed change 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 because it would provide another venue for nonconforming Complex Orders to execute in a price improvement auction such as the Complex CUBE. The Exchange also believes that the proposed rule change would not permit unfair discrimination among market participants, as all market participants may opt to trade Complex CUBE Orders with nonconforming ratios.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that its proposed rule change will impose any burden on intra-market competition as it would apply equally to all market participants that opt to submit nonconforming Complex CUBE Orders, which orders the Exchange will process in a uniform manner.

The Exchange does not believe that its proposed rule change will impose any burden on inter-market competition that is not necessary or appropriate in furtherance of the purposes of the Act, rather the Exchange believes that its proposal will promote inter-market competition. As noted herein, the proposed change is competitive as other options exchanges currently conduct CUBE-like price improvement auctions of complex orders in nonconforming ratios based on

³⁵ See supra note 24 (regarding pricing requirements for Complex QCC Orders).

similar pricing requirements and early end scenarios.³⁶ As such, the Exchange's proposal will enhance inter-market competition by providing investors with an additional venue on which to submit for auction Complex Orders in nonconforming ratios. Market participants may find it more convenient to access one exchange over another or may choose to concentrate volume at a particular exchange to maximize the impact of volume-based incentive programs or may prefer the trade execution services of one exchange over another.

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 Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act³⁷ and Rule 19b-4(f)(6) thereunder.³⁸ Because the proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b-4(f)(6)(iii) thereunder.

A proposed rule change filed under Rule 19b-4(f)(6)³⁹ normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule

³⁶ See, e.g., supra notes 4 and 18 (regarding ability of Cboe and MIAX to trade nonconforming complex orders, including in their CUBE-like auction mechanisms) and 27 (regarding MIAX leg market updates that cause the early end of cPRIME of nonconforming complex order).

³⁷ 15 U.S.C. 78s(b)(3)(A)(iii).

³⁸ 17 CFR 240.19b-4(f)(6).

³⁹ 17 CFR 240.19b-4(f)(6).

19b4(f)(6)(iii),⁴⁰ the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest.

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)⁴¹ of the Act to determine whether the proposed rule change should be approved or disapproved.

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-2024-62 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.

⁴⁰ 17 CFR 240.19b-4(f)(6)(iii).

⁴¹ 15 U.S.C. 78s(b)(2)(B).

All submissions should refer to file number SR-NYSEAMER-2024-62. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<https://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR-NYSEAMER-2024-62 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.⁴²

Sherry R. Haywood,

Assistant Secretary.

⁴² 17 CFR 200.30-3(a)(12).

New text is underlined;
Deleted text is in [brackets]

NYSE American Rules

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Rule 971.2NYP. Complex Electronic Cross Transactions

(a) *Complex CUBE Order.* A Complex CUBE Order is a Complex Order, as defined in Rule 900.3NYP(f), submitted electronically by an ATP Holder (“Initiating Participant”) into the Complex Customer Best Execution Auction (“Complex CUBE Auction” or “Auction”) that the Initiating Participant represents as agent on behalf of a public customer, broker dealer, or any other entity.

(1) The Initiating Participant guarantees the execution of the Complex CUBE Order by submitting a contra-side order (“Complex Contra Order”) representing principal interest or non-Customer interest it has solicited to trade solely with the Complex CUBE Order at a specified “stop price” or an “auto-match limit price” as described in paragraphs (b)(1)(A) and (b)(1)(B) of this Rule. The stop price and auto-match limit price are not displayed.

(A) *Definitions.* The following are definitions for purposes of this Rule.

(i) The “Complex BBO” means the best-priced complex order(s) in the same complex strategy to buy (sell). The Complex BB cannot exceed the DBO and the Complex BO cannot exceed the DBB.

(ii) The “Complex NBBO” has the meaning set forth in Rule 980NYP(a)(2).

(iii)[(ii)] The “CUBE BBO” means the CUBE BB and the CUBE BO.

(a) The CUBE BB for a Complex CUBE Order to buy is comprised of the higher of: the Complex BB or the Complex BB plus one cent (\$0.01) if there is a Customer Complex Order on the Complex BB; or the DBB or the DBB plus one cent (\$0.01) if there is displayed Customer interest on the Exchange BBO and the DBB is calculated using the price of that displayed Customer interest.

(b) The CUBE BO for a Complex CUBE Order to sell is comprised of the lower of: the Complex BO or the Complex BO minus one cent (\$0.01) if there is a Customer Complex Order on the Complex BO; or the DBO or the DBO minus one cent (\$0.01) if there is displayed Customer interest on the Exchange BBO and the DBO is calculated using the price of that displayed Customer interest.

(iv)[(iii)] The “DBBO” has the meaning set forth in Rule 980NYP(a)(5).

(v)[(iv)] The “initiating price” for a Complex CUBE Order to buy (sell) is the lower (higher) of the Complex CUBE Order’s net price or the price that locks the DBO (DBB) or, if the DBO (DBB) includes displayed Customer interest on the Exchange, the DBO (DBB) minus (plus) one cent (\$0.01).

(vi)[(v)] The “range of permissible executions” of a Complex CUBE Order to buy (sell) includes prices equal to or between the initiating price as the upper (lower) bound and the CUBE BB (BO) as the lower (upper) bound. The range of permissible executions will be adjusted based on updates to the CUBE BB (BO) during an Auction. If the CUBE BB (BO) updates to be higher (lower) than the initiating price the Auction will end early pursuant to paragraph (c)(3) of this Rule.

(vii) A “nonconforming Complex CUBE Order” may have a leg ratio that is greater than three-to-one (3.00) or less than one-to three (.333).

(a) The “CUBE BB (BO)” for a nonconforming Complex CUBE Order to buy (sell) is the Complex NBB (NBO), provided that for each component leg of the Complex NBB (NBO) that represents displayed Customer interest on the Exchange, the CUBE BB (BO) will improve the price of such displayed Customer interest by at least one cent (\$0.01).

(b) The “initiating price” for a nonconforming Complex CUBE Order to buy (sell) is the lower (higher) of the Complex CUBE Order’s net price or the price that locks the CUBE BO (BB) as defined in paragraph (vii)(a) immediately above.

(2) Initiation of Auction. To initiate a Complex CUBE Auction, the net price of a Complex CUBE Order to buy (sell) must be equal to or higher (lower) than the CUBE BB (BO). A Complex CUBE Order that does not meet this requirement will be rejected along with the Complex Contra Order. The time at which the Auction is initiated will also be considered the time of execution for the Complex CUBE Order.

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(c) Auction Process. One or more Complex CUBE Auctions in the same complex strategy may occur at the same time. If multiple Complex CUBE Auctions in a complex strategy are running concurrently, the Auctions will conclude sequentially, based on the time each Complex CUBE Auction is initiated, unless an Auction concludes early, per paragraph (c)(3) of this Rule. At the time each Auction concludes, the Complex CUBE Order will be allocated against all eligible RFR Responses available at the time of conclusion. In the event there are multiple Auctions underway that are each terminated early, the Auctions will be processed sequentially based on the time each Complex CUBE Auction is initiated. Once commenced, the Complex CUBE Order

(as well as the Complex Contra Order) may not be cancelled or modified, and will proceed as follows:

(1) Complex CUBE Auction Request for Responses (“RFR”) and Response Time Interval.

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(C) Any ATP Holder may respond to the RFR, provided such response is properly marked specifying the price, size and side of the market (“RFR Response”). Any RFR Response to a Complex CUBE Order to buy (sell) priced below (above) the CUBE BB (BO) will be repriced to the CUBE BB (BO) and will be eligible to trade in the Auction at such price. The Auction will accept RFR Responses as follows:

(i) Complex GTX Order - A Complex GTX Order is an Electronic Complex Order, as defined in Rule 980NYP, with a time-in-force contingency for the Response Time Interval, which must specify price, size and side of the market. A Complex GTX Order must be on the opposite side of a Complex CUBE Order being auctioned and may include an AuctionID to respond to a specific Complex CUBE Auction. A Complex GTX Order submitted without an AuctionID will respond to the Auction that began closest in time to the submission of the Complex GTX Order.

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(e) Complex GTX Orders are eligible for processing regardless of ratio, including against nonconforming Complex CUBE Orders.

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(3) Early Conclusion of Auction. When the Auction concludes early, the Complex CUBE Order will execute pursuant to paragraph (c)(4) of this Rule. An Auction for a Complex CUBE Order to buy (sell) will conclude early if, during the Response Time Interval, the Exchange receives updates to the CUBE BBO as follows.

(A) Any same-side interest that adjusts the CUBE BB (BO) to be higher (lower) than the initiating price.

(B) Any opposite-side interest in the leg markets that adjusts the CUBE BO (BB) to be lower (higher) than the initiating price[, but only when the CUBE BO (BB) is based on the DBO (DBB) (i.e., leg market interest on the Exchange)].

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