Required fields are shown with yellow backgrounds and asterisks.

Page 1 of * 24

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

File No. * SR 2024 - * 82
Amendment No. (req. for Amendments *)

Filing by NYSE American LLC

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

Initial *	Amendment *	Withdrawal	Section 19(b)(2) *	Section 19(b)(3)(A) *	Section 19(b)(3)(B) *
✓	☐	☐	☐	✓	☐

Pilot	Extension of Time Period for Commission Action *	Date Expires *
☐	☐	

Rule

☐ 19b-4(f)(1)	☐ 19b-4(f)(4)
✓ 19b-4(f)(2)	☐ 19b-4(f)(5)
☐ 19b-4(f)(3)	☐ 19b-4(f)(6)

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 amend the NYSE American Options Fee Schedule

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 12/20/2024

By Martha Redding
(Name *)

(Title *)
Corporate Secretary

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.

Martha Redding

Digitally signed by Martha Redding
Date: 2024.12.20 16:50:33 -05'00'

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 * Add | Remove | View 19b4 American MM Sliding Scale Jan	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 * Add | Remove | View Ex 1 American MM Sliding Scale Jan	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 * Add | Remove | View	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 Add | Remove | View	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 Add | Remove | View	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 Add | Remove | View	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 Add | Remove | View Ex 5 American MM Sliding Scale Jan 2	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 Add | Remove | View	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 the Proposed Rule Change

(a) Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act")[1] and Rule 19b-4 thereunder,[2] NYSE American LLC ("NYSE American" or the "Exchange") proposes to amend the NYSE American Options Fee Schedule ("Fee Schedule") regarding volume thresholds and fees charged under the Market Maker Sliding Scale. The Exchange proposes to implement the fee change effective January 2, 2025.

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 persons on the Exchange staff prepared to respond to questions and comments on the proposed rule change are:

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 purpose of this filing is to modify certain of the volume thresholds and fees charged under the Market Maker Sliding Scale program, as described in more detail below. The Exchange proposes to implement the fee change effective

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

2 17 CFR 240.19b-4.

January 2, 2025.

Section I.C. of the Fee Schedule sets forth the sliding scale of transaction fees charged to NYSE American Options Market Makers (referred to as Market Makers herein), which fees decrease upon the Market Maker trading certain minimum (increasing) monthly volume thresholds as expressed in five tiers (the "MM Sliding Scale").[3] The MM Sliding Scale offers different rates depending on whether volume is non-take or take[4] and offers reduced rates for Market Makers that participate in the Exchange's Prepayment Programs for Market Makers, per Section I.D. of the Fee Schedule.[5]

The Exchange proposes to amend the MM Sliding Scale program by modifying the per contract rate for Market Makers that qualify for tiers 2 and 3 and modifying the volume thresholds required to qualify for tiers 3 and 4.[6] The proposed changes are reflected in the table below, with current rates/thresholds in brackets and proposed rates/thresholds underscored.

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3 See Fee Schedule, Section I.C., NYSE American Options Market Maker Sliding Scale – Electronic, available here, https://www.nyse.com/publicdocs/nyse/markets/american-options/NYSE_American_Options_Fee_Schedule.pdf (excluding any volumes attributable to QCC trades, CUBE Auctions, and Strategy Execution Fee Caps, as these transactions are subject to separate pricing described in Fee Schedule Sections I.F., I.G., and I.J, respectively). The thresholds are based on a Market Makers' volume transacted Electronically as a percentage of total industry Customer equity and Exchange Traded Fund options volumes as reported by the Options Clearing Corporation (the "OCC"). See OCC Monthly Statistics Reports, available here, http://www.theocc.com/webapps/monthly-volume-reports. See also Fee Schedule, Key Terms and Definitions, TCADV (defining TCADV as "Total Industry Customer equity and ETF option average daily volume. TCADV includes OCC calculated Customer volume of all types, including Complex Order transactions and QCC transactions, in equity and ETF options").

4 For purposes of the Sliding Scale, "all eligible volume that does not remove liquidity" qualifies as non-take volume; whereas any volume that removes liquidity qualifies as take volume." See Fee Schedule, Section I.C., note 1. For example, any Market Maker transaction that interacts with resting liquidity is take volume.

5 The Exchange offers Market Makers the opportunity to prepay a portion of certain transactions costs in exchange for reduced rates under the MM Sliding Scale program as well as enabling such Market Makers to qualify their Affiliated OFP or Appointed OFP, if any, to earn enhanced credits under the American Customer Engagement ("ACE") Program per Section I.E. of the Fee Schedule. See Fee Schedule, Section I.D., supra note 3 (describing 1 Year Prepayment Program and Balance of the Year Program). See also Fee Schedule, Section I.E. (setting forth the ACE Program). The Prepayment Program is designed to encourage Market Makers to commit capital to the Exchange as a demonstration of long-term participation on the Exchange as a primary execution venue.

6 See proposed Fee Schedule, Section I.C., NYSE American Options Market Maker Sliding Scale – Electronic. The Exchange is not proposing to modify the minimum volume thresholds required to achieve tiers 1 or 2 nor is the Exchange proposes to modify the per contract rates for Market Makers that achieve tiers 1 or 4.

Tier	Market Maker Electronic ADV as a % of TCADV	Rate per Contract for Non-Take Volume[1]	Rate per Contract for Take Volume[1]	Prepayment Program Participant Rates	
				Rate per Contract for Non-Take Volume[1]	Rate per Contract for Take Volume[1]
1	0.00% to 0.25%	$0.25	$0.25	$0.21	$0.24
2	> 0.25% to 0.70%	$0.23 [$0.22]	$0.25 [$0.24]	$0.19 [$0.18]	$0.23 [$0.22]
3	> 0.70% to 1.25% [1.50%]	$0.12	$0.17	$0.08 [$0.09]	$0.12 [$0.13]
4	> 1.25%[1.50%]	$0.09	$0.14	$0.06	$0.10

In summary, the proposed changes to MM Sliding Scale tiers 2, 3, and 4 are as follows:

- Tier 2. The Exchange proposes to increase by one cent ($0.01) the per contract rate for make and take volume for all Market Makers (whether in the Prepayment Program or not). As proposed, the Exchange will maintain the preferential pricing afforded to prepaying Market Makers (with the same one cent price differential). The Exchange believes that the proposed (slight) increase will not discourage Market Makers from participating in the MM Sliding Scale program.

- Tier 3. The Exchange proposes to decrease by one cent ($0.01) the per contract rate on make and take volume for those Market Makers that participate in the Prepayment Program. As proposed, the Exchange will maintain (and slightly increase) the preferential pricing afforded to Market Makers in the Prepayment Program. Consistent with the proposed change to the minimum volume threshold to qualify for tier 4 (as discussed below), the Exchange proposes to reduce from 1.50% to 1.25% the upper bound of the range of volume required to qualify for tier 3.

- Tier 4. The Exchange proposes to lower the minimum volume threshold to qualify for tier 4 to 1.25% (down from 1.50%), thus making it easier to achieve.

While the Exchange cannot predict with certainty whether any Market Makers would seek to qualify for the rates available through the MM Sliding Scale program, the believes that the MM Sliding Scale, as modified, should continue to attract Market Makers to the Exchange.

Finally, the Exchange proposes to modify Section I.D. of the Fee Schedule regarding the Prepayment Program for NYSE Options Market Makers. As noted herein, the Exchange offers Market Makers the opportunity to prepay a portion of certain transactions costs in exchange for, among other things, reduced rates under the MM Sliding Scale program. Market Makers can commit to either the 1 Year Prepayment Program or the Balance of the Year Program. The Prepayment Program is designed to encourage Market Makers to commit capital to the Exchange as a demonstration of long-term participation on the Exchange as a primary execution venue. The Exchange proposes to add language to Section I.D. to provide that an NYSE American Options Market Maker that restructures while enrolled in the Prepayment Program will maintain its status in the program. The Exchange proposes to make this change to allow any such Market Maker to retain their prepay status and remain in the Prepayment Program without interruption if, for example, it is acquired, merges with another entity, or otherwise reorganizes.

(b) Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[7] in general, and furthers the objectives of Sections 6(b)(4) and (5) of the Act,[8] 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 changes to the Fee Schedule are reasonable, equitable, and not unfairly discriminatory. As a threshold matter, the Exchange is subject to significant competitive forces in the market for options securities transaction services that constrain its pricing determinations in that market. The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system "has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies."[9]

There are currently 18 registered options exchanges competing for order flow. Based on publicly-available information, and excluding index-based options, no single exchange has more than 16% of the market share of executed volume of

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(4) and (5).

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

multiply-listed equity and ETF options trades.[10] Therefore, currently no exchange possesses significant pricing power in the execution of multiply-listed equity & ETF options order flow. More specifically, in November of 2024, the Exchange had 6.09% market share of executed volume of multiply-listed equity & ETF options trades.[11] In such a low-concentrated and highly competitive market, no single options exchange possesses significant pricing power in the execution of option order flow.

The Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can shift order flow or discontinue or reduce use of certain categories of products, in response to fee changes. Accordingly, competitive forces constrain options exchange transaction fees. In response to this competitive marketplace, the Exchange has established incentives to encourage Market Makers to provide liquid and active markets on the Exchange, including by offering the MM Sliding Scale and Prepayment Programs. Market Makers that would like to receive a more favorable per contract rate under the MM Sliding Scale have the option to commit to the Exchange's Prepayment Program, which commitment increases liquidity on the Exchange to the benefit of all market participants. The Exchange provides Market Makers with the flexibility to join annually or at various points in the year to encourage broader participation.

The Exchange believes that the proposed changes to the per contract rates are reasonable because the modified rates are still less expensive for participants in MM Sliding Scale (and the Prepayment Program). The Exchange believes that is it reasonable to continue to offer lower rates to participants in the Prepayment Program because enrollment in that program is voluntary and Market Makers that would like to receive a more favorable per contract rate under the MM Sliding Scale have the option to commit to one of the Prepayment Programs. Similarly, the Exchange believes that the proposal to reduce the minimum volume threshold to achieve tier 4, thus making it easier to achieve, is reasonable because it should incentivize Market Makers to try to achieve this tier, including those that previously qualified for tier 3. Accordingly, the Exchange believes that the MM Sliding Scale, as modified, should continue to encourage Market Makers to commit to directing their order flow to the Exchange in exchange for reduced rates, which would increase volume and liquidity, to the benefit of all market participants by providing more trading opportunities and tighter spreads.

The Exchange believes the proposed changes to the MM Sliding Scale are

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

11 Based on a compilation of OCC data for monthly volume of equity-based options and monthly volume of equity-based ETF options, see id., the Exchanges market share in equity-based options decreased slightly from 7.6%% for the month of November 2023 to 6.09% for the month of November 2024.

equitable and not unfairly discriminatory because the program is available to all Market Makers and is based on the amount of business transacted on – and is designed to attract greater volume to – the Exchange. Market Makers can attempt to trade sufficient monthly volume to achieve one of the MM Sliding Scale tiers, or not. Market Makers likewise have the option of participating in the Prepayment Program to be eligible for further reduced rates under the MM Sliding Scale. Further, the proposed MM Sliding Scale rates are competitive with fees charged by other exchanges and are designed to attract (and compete for) order flow to the Exchange, which provides a greater opportunity for trading by all market participants.[12]

Finally, to the extent the proposed change continues to attract greater volume and liquidity to the Exchange, the Exchange believes the proposed change would improve the Exchange's overall competitiveness and strengthen its market quality for all market participants. In the backdrop of the competitive environment in which the Exchange operates, the proposed rule change is a reasonable attempt by the Exchange to increase the depth of its market and improve its market share relative to its competitors.

The Exchange believes the proposed change to allow NYSE Options Market Makers that undergo a restructuring to retain their prepay status is reasonable because it will ensure that a Market Maker that prepaid can remain in the Prepayment Program without interruption if, for example, it is acquired, merges with another entity, or otherwise reorganizes.

While the Exchange cannot predict with certainty whether any Market Makers would avail themselves of the proposed fee change, the believes that the MM Sliding Scale, as modified, should continue to attract Market Makers to the Exchange.

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

In accordance with Section 6(b)(8) of the Act, the Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Instead, as discussed above, the Exchange believes that the proposed changes 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 all market 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

[12] See, e.g., Cboe Exchange, Inc. ("Cboe") fee schedule, Liquidity Provider Sliding Scale Prepayment. The Exchange further notes that other options exchanges similarly differentiate fees based on maker-taker activity. See, e.g., MIAX Options fee schedule, Market Maker Sliding Scale, at p. 1.

and small."[13]

Intramarket Competition. The proposed change is designed to continue to attract order flow to the Exchange by offering competitive rates based on increased volumes on the Exchange, which would enhance the quality of quoting and may increase the volumes of contracts trade on the Exchange. To the extent that there is an additional competitive burden on non-NYSE American Market Makers, the Exchange believes that this is appropriate because Market Makers have heightened obligations that other market participants do not and the proposal should incent market participants to direct additional order flow to the Exchange, and thus provide additional liquidity that enhances the quality of its markets and increases the volume of contracts traded here. To the extent that this purpose is achieved, all the Exchange's market participants should benefit from the improved market liquidity. Enhanced market quality and increased transaction volume that results from the anticipated increase in order flow directed to the Exchange will benefit all market participants and improve competition on the Exchange.

Intermarket Competition. The Exchange operates in a highly competitive market in which market participants can readily favor one of the 17 competing option exchanges if they deem fee levels at a particular venue to be excessive. In such an environment, the Exchange must continually adjust its fees to remain competitive with other exchanges and to attract order flow to the Exchange. Based on publicly-available information, and excluding index-based options, no single exchange has more than 16% of the market share of executed volume of multiply-listed equity and ETF options trades. Therefore, currently no exchange possesses significant pricing power in the execution of multiply-listed equity & ETF options order flow. More specifically, in November 2024, the Exchange had 6.09% market share of executed volume of multiply-listed equity and ETF options trades.

The Exchange believes that the proposed change reflects this competitive environment and because it modifies the Exchange's fees in a manner designed to promote competition between the Exchange and other execution venues. The proposed adjustments to the MM Sliding Scale should continue to encourage Market Makers to commit to directing their order flow to the Exchange, which would increase volume and liquidity, to the benefit of all market participants by providing more trading opportunities and tighter spreads. Further, the proposed Sliding Scale rates are competitive with fees charged by other exchanges and are designed to attract (and compete for) order flow to the Exchange, which provides a greater opportunity for trading by all market participants.[14]

5. Self-Regulatory Organization's Statement on Comments on the Proposed Rule

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13 See Reg NMS Adopting Release, supra note 9, at 37499.

14 See supra note 12 (regarding Cboe's Liquidity Provider Sliding Scale Prepayment).

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 foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A)(ii) of the Act[15] because it establishes a due, fee, or other charge imposed by the Exchange. At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) of the Act to determine whether the proposed rule change should be approved or disapproved.[16]

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

The proposed rule change is not based on the rules of another self-regulatory organization or of the Commission.

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 the Proposed Rule Change for Publication in the Federal Register

Exhibit 5 – Amendment to the Exchange's Fee Schedule

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[15] 15 U.S.C. 78s(b)(3)(A)(ii).

[16] 15 U.S.C. 78s(b)(2)(B).

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34- ; File No. SR-NYSEAMER-2024-82)

[Date]

Self-Regulatory Organizations; NYSE American LLC; Notice of Filing and Immediate Effectiveness of Proposed Change to amend the NYSE American Options Fee Schedule

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 ("Act")[2] and Rule 19b-4 thereunder,[3] notice is hereby given that, on December 20, 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 amend the NYSE American Options Fee Schedule ("Fee Schedule") regarding volume thresholds and fees charged under the Market Maker Sliding Scale. The Exchange proposes to implement the fee change effective January 2, 2025. 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

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

2 15 U.S.C. 78a.

3 17 CFR 240.19b-4.

concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

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

1. Purpose

The purpose of this filing is to modify certain of the volume thresholds and fees charged under the Market Maker Sliding Scale program, as described in more detail below. The Exchange proposes to implement the fee change effective January 2, 2025.

Section I.C. of the Fee Schedule sets forth the sliding scale of transaction fees charged to NYSE American Options Market Makers (referred to as Market Makers herein), which fees decrease upon the Market Maker trading certain minimum (increasing) monthly volume thresholds as expressed in five tiers (the "MM Sliding Scale").[4] The MM Sliding Scale offers different rates depending on whether volume is non-take or take[5] and offers reduced rates for Market Makers that participate in the Exchange's Prepayment Programs for Market Makers, per

[4] See Fee Schedule, Section I.C., NYSE American Options Market Maker Sliding Scale – Electronic, available here, https://www.nyse.com/publicdocs/nyse/markets/american-options/NYSE_American_Options_Fee_Schedule.pdf (excluding any volumes attributable to QCC trades, CUBE Auctions, and Strategy Execution Fee Caps, as these transactions are subject to separate pricing described in Fee Schedule Sections I.F., I.G., and I.J, respectively). The thresholds are based on a Market Makers' volume transacted Electronically as a percentage of total industry Customer equity and Exchange Traded Fund options volumes as reported by the Options Clearing Corporation (the "OCC"). See OCC Monthly Statistics Reports, available here, http://www.theocc.com/webapps/monthly-volume-reports. See also Fee Schedule, Key Terms and Definitions, TCADV (defining TCADV as "Total Industry Customer equity and ETF option average daily volume. TCADV includes OCC calculated Customer volume of all types, including Complex Order transactions and QCC transactions, in equity and ETF options").

[5] For purposes of the Sliding Scale, "all eligible volume that does not remove liquidity" qualifies as non-take volume; whereas any volume that removes liquidity qualifies as take volume." See Fee Schedule, Section I.C., note 1. For example, any Market Maker transaction that interacts with resting liquidity is take volume.

Section I.D. of the Fee Schedule.[6]

The Exchange proposes to amend the MM Sliding Scale program by modifying the per contract rate for Market Makers that qualify for tiers 2 and 3 and modifying the volume thresholds required to qualify for tiers 3 and 4.[7] The proposed changes are reflected in the table below, with current rates/thresholds in brackets and proposed rates/thresholds underscored.

				Prepayment Program Participant Rates	
Tier	**Market Maker Electronic ADV as a % of TCADV**	**Rate per Contract for Non-Take Volume[1]**	**Rate per Contract for Take Volume[1]**	**Rate per Contract for Non-Take Volume[1]**	**Rate per Contract for Take Volume[1]**
1	0.00% to 0.25%	$0.25	$0.25	$0.21	$0.24
2	> 0.25% to 0.70%	$0.23 [$0.22]	$0.25 [$0.24]	$0.19 [$0.18]	$0.23 [$0.22]
3	> 0.70% to 1.25% [1.50%]	$0.12	$0.17	$0.08 [$0.09]	$0.12 [$0.13]
4	> 1.25%[1.50%]	$0.09	$0.14	$0.06	$0.10

In summary, the proposed changes to MM Sliding Scale tiers 2, 3, and 4 are as follows:

- Tier 2. The Exchange proposes to increase by one cent ($0.01) the per contract

6 The Exchange offers Market Makers the opportunity to prepay a portion of certain transactions costs in exchange for reduced rates under the MM Sliding Scale program as well as enabling such Market Makers to qualify their Affiliated OFP or Appointed OFP, if any, to earn enhanced credits under the American Customer Engagement ("ACE") Program per Section I.E. of the Fee Schedule. See Fee Schedule, Section I.D., supra note 4 (describing 1 Year Prepayment Program and Balance of the Year Program). See also Fee Schedule, Section I.E. (setting forth the ACE Program). The Prepayment Program is designed to encourage Market Makers to commit capital to the Exchange as a demonstration of long-term participation on the Exchange as a primary execution venue.

7 See proposed Fee Schedule, Section I.C., NYSE American Options Market Maker Sliding Scale – Electronic. The Exchange is not proposing to modify the minimum volume thresholds required to achieve tiers 1 or 2 nor is the Exchange proposes to modify the per contract rates for Market Makers that achieve tiers 1 or 4.

rate for make and take volume for all Market Makers (whether in the Prepayment Program or not). As proposed, the Exchange will maintain the preferential pricing afforded to prepaying Market Makers (with the same one cent price differential). The Exchange believes that the proposed (slight) increase will not discourage Market Makers from participating in the MM Sliding Scale program.

- Tier 3. The Exchange proposes to decrease by one cent ($0.01) the per contract rate on make and take volume for those Market Makers that participate in the Prepayment Program. As proposed, the Exchange will maintain (and slightly increase) the preferential pricing afforded to Market Makers in the Prepayment Program. Consistent with the proposed change to the minimum volume threshold to qualify for tier 4 (as discussed below), the Exchange proposes to reduce from 1.50% to 1.25% the upper bound of the range of volume required to qualify for tier 3.
- Tier 4. The Exchange proposes to lower the minimum volume threshold to qualify for tier 4 to 1.25% (down from 1.50%), thus making it easier to achieve.

While the Exchange cannot predict with certainty whether any Market Makers would seek to qualify for the rates available through the MM Sliding Scale program, the believes that the MM Sliding Scale, as modified, should continue to attract Market Makers to the Exchange.

Finally, the Exchange proposes to modify Section I.D. of the Fee Schedule regarding the Prepayment Program for NYSE Options Market Makers. As noted herein, the Exchange offers Market Makers the opportunity to prepay a portion of certain transactions costs in exchange for, among other things, reduced rates under the MM Sliding Scale program. Market Makers can commit to either the 1 Year Prepayment Program or the Balance of the Year Program. The

Prepayment Program is designed to encourage Market Makers to commit capital to the Exchange as a demonstration of long-term participation on the Exchange as a primary execution venue. The Exchange proposes to add language to Section I.D. to provide that an NYSE American Options Market Maker that restructures while enrolled in the Prepayment Program will maintain its status in the program. The Exchange proposes to make this change to allow any such Market Maker to retain their prepay status and remain in the Prepayment Program without interruption if, for example, it is acquired, merges with another entity, or otherwise reorganizes.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[8] in general, and furthers the objectives of Sections 6(b)(4) and (5) of the Act,[9] in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

The proposed changes to the Fee Schedule are reasonable, equitable, and not unfairly discriminatory. As a threshold matter, the Exchange is subject to significant competitive forces in the market for options securities transaction services that constrain its pricing determinations in that market. The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system "has been remarkably successful in promoting market competition in its broader forms that are most

8 15 U.S.C. 78f(b).

9 15 U.S.C. 78f(b)(4) and (5).

important to investors and listed companies."[10]

There are currently 18 registered options exchanges competing for order flow. Based on publicly-available information, and excluding index-based options, no single exchange has more than 16% of the market share of executed volume of multiply-listed equity and ETF options trades.[11] Therefore, currently no exchange possesses significant pricing power in the execution of multiply-listed equity & ETF options order flow. More specifically, in November of 2024, the Exchange had 6.09% market share of executed volume of multiply-listed equity & ETF options trades.[12] In such a low-concentrated and highly competitive market, no single options exchange possesses significant pricing power in the execution of option order flow.

The Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can shift order flow or discontinue or reduce use of certain categories of products, in response to fee changes. Accordingly, competitive forces constrain options exchange transaction fees. In response to this competitive marketplace, the Exchange has established incentives to encourage Market Makers to provide liquid and active markets on the Exchange, including by offering the MM Sliding Scale and Prepayment Programs. Market Makers that would like to receive a more favorable per contract rate under the MM Sliding Scale have the option to commit to the Exchange's Prepayment Program, which commitment increases liquidity on the Exchange to the benefit of all market

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

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

12 Based on a compilation of OCC data for monthly volume of equity-based options and monthly volume of equity-based ETF options, see id., the Exchanges market share in equity-based options decreased slightly from 7.6%% for the month of November 2023 to 6.09% for the month of November 2024.

participants. The Exchange provides Market Makers with the flexibility to join annually or at various points in the year to encourage broader participation.

The Exchange believes that the proposed changes to the per contract rates are reasonable because the modified rates are still less expensive for participants in MM Sliding Scale (and the Prepayment Program). The Exchange believes that is it reasonable to continue to offer lower rates to participants in the Prepayment Program because enrollment in that program is voluntary and Market Makers that would like to receive a more favorable per contract rate under the MM Sliding Scale have the option to commit to one of the Prepayment Programs. Similarly, the Exchange believes that the proposal to reduce the minimum volume threshold to achieve tier 4, thus making it easier to achieve, is reasonable because it should incentivize Market Makers to try to achieve this tier, including those that previously qualified for tier 3. Accordingly, the Exchange believes that the MM Sliding Scale, as modified, should continue to encourage Market Makers to commit to directing their order flow to the Exchange in exchange for reduced rates, which would increase volume and liquidity, to the benefit of all market participants by providing more trading opportunities and tighter spreads.

The Exchange believes the proposed changes to the MM Sliding Scale are equitable and not unfairly discriminatory because the program is available to all Market Makers and is based on the amount of business transacted on – and is designed to attract greater volume to – the Exchange. Market Makers can attempt to trade sufficient monthly volume to achieve one of the MM Sliding Scale tiers, or not. Market Makers likewise have the option of participating in the Prepayment Program to be eligible for further reduced rates under the MM Sliding Scale. Further, the proposed MM Sliding Scale rates are competitive with fees charged by other exchanges and are designed to attract (and compete for) order flow to the Exchange, which provides a greater opportunity for trading by all market participants.[13]

Finally, to the extent the proposed change continues to attract greater volume and liquidity to the Exchange, the Exchange believes the proposed change would improve the Exchange's overall competitiveness and strengthen its market quality for all market participants. In the backdrop of the competitive environment in which the Exchange operates, the proposed rule change is a reasonable attempt by the Exchange to increase the depth of its market and improve its market share relative to its competitors.

The Exchange believes the proposed change to allow NYSE Options Market Makers that undergo a restructuring to retain their prepay status is reasonable because it will ensure that a Market Maker that prepaid can remain in the Prepayment Program without interruption if, for example, it is acquired, merges with another entity, or otherwise reorganizes.

While the Exchange cannot predict with certainty whether any Market Makers would avail themselves of the proposed fee change, the believes that the MM Sliding Scale, as modified, should continue to attract Market Makers to the Exchange.

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

In accordance with Section 6(b)(8) of the Act, the Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Instead, as discussed above, the Exchange believes that the proposed changes 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 all market participants. As a result, the Exchange

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13 See, e.g., Cboe Exchange, Inc. ("Cboe") fee schedule, Liquidity Provider Sliding Scale Prepayment. The Exchange further notes that other options exchanges similarly differentiate fees based on maker-taker activity. See, e.g., MIAX Options fee schedule, Market Maker Sliding Scale, at p. 1.

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."[14]

Intramarket Competition. The proposed change is designed to continue to attract order flow to the Exchange by offering competitive rates based on increased volumes on the Exchange, which would enhance the quality of quoting and may increase the volumes of contracts trade on the Exchange. To the extent that there is an additional competitive burden on non-NYSE American Market Makers, the Exchange believes that this is appropriate because Market Makers have heightened obligations that other market participants do not and the proposal should incent market participants to direct additional order flow to the Exchange, and thus provide additional liquidity that enhances the quality of its markets and increases the volume of contracts traded here. To the extent that this purpose is achieved, all the Exchange's market participants should benefit from the improved market liquidity. Enhanced market quality and increased transaction volume that results from the anticipated increase in order flow directed to the Exchange will benefit all market participants and improve competition on the Exchange.

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

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

power in the execution of multiply-listed equity & ETF options order flow. More specifically, in November 2024, the Exchange had 6.09% market share of executed volume of multiply-listed equity and ETF options trades.

The Exchange believes that the proposed change reflects this competitive environment and because it modifies the Exchange's fees in a manner designed to promote competition between the Exchange and other execution venues. The proposed adjustments to the MM Sliding Scale should continue to encourage Market Makers to commit to directing their order flow to the Exchange, which would increase volume and liquidity, to the benefit of all market participants by providing more trading opportunities and tighter spreads. Further, the proposed Sliding Scale rates are competitive with fees charged by other exchanges and are designed to attract (and compete for) order flow to the Exchange, which provides a greater opportunity for trading by all market participants.[15]

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

Pursuant to Section 19(b)(3)(A)(ii) of the Act, and Rule 19b-4(f)(2) thereunder 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

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15 See supra note 13 (regarding Cboe's Liquidity Provider Sliding Scale Prepayment).

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-NYSEAMER-2024-82 on the subject line.

Paper Comments:

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.

All submissions should refer to file number SR-NYSEAMER-2024-82. 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-2024-82 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.[16]

Sherry R. Haywood,

Assistant Secretary.

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[16] 17 CFR 200.30-3(a)(12).

EXHIBIT 5

Additions underscored
Deletions [bracketed]

NYSE AMERICAN OPTIONS FEE SCHEDULE*

*NYSE American Options is the options trading facility of NYSE American LLC

Effective as of January 2, 2025

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C. NYSE American Options Market Maker Sliding Scale – Electronic. NYSE American Options Market Makers are eligible for reduced per contract rates for Electronic options transactions, including those executed via the BOLD Mechanism, as shown in the table below. The rates shown are applicable to monthly volume within a given tier such that the lower per contract rate applies to volume within that higher tier. In calculating Market Maker Electronic monthly volumes, the Exchange will exclude any volumes attributable to QCC trades, CUBE Auctions, or Strategy Execution Fee Caps as these transactions are subject to separate pricing described in Sections I.F., I.G. and I.J., respectively.

				Prepayment Program Participant Rates	
Tier	**Market Maker Electronic ADV as a % of TCADV**	**Rate per Contract for Non-Take Volume[1]**	**Rate per Contract for Take Volume[1]**	**Rate per Contract for Non-Take Volume[1]**	**Rate per Contract for Take Volume[1]**
1	0.00% to 0.25%	$0.25	$0.25	$0.21	$0.24
2	> 0.25% to 0.70%	$0.23[$0.22]	$0.25[$0.24]	$0.19[$0.18]	$0.23[$0.22]
3	> 0.70% to 1.25%[1.50%]	$0.12	$0.17	$0.08[$0.09]	$0.12[$0.13]
4	> 1.25%[1.50%]	$0.09	$0.14	$0.06	$0.10

[1.] For the purposes of the Sliding Scale transaction charges, all eligible volume that does not remove liquidity will be considered “non-take volume”; whereas all volume that removes liquidity will be considered “take volume.”

D. Prepayment Program. Any NYSE American Options Market Maker is eligible for the rates described in the Market Maker Sliding Scale in Section I. C. A NYSE American Options Market Maker may prepay a portion of the fees it incurs under Section I.C., I.G., I.M., and III.A. In exchange for prepayment of a portion of their Section I.C., I.G., I.M., and III. A. fees, the NYSE American Options Market Maker qualifies for reduced fees under Section I.C. and also qualifies its Affiliated OFP or its Appointed OFP to earn enhanced credits under Section I.E. NYSE American Options Market Makers can commit to a 1-year term (“1 Year Prepayment Program”) or, can commit to prepay for the remainder of the calendar year, effective the following quarter (“Balance of the Year Program”). The choice of a 1 Year Prepayment Program or Balance of the Year Program impacts the enhanced credits an Affiliated OFP or an Appointed OFP of a NYSE American Options Market Maker is eligible for under Section I.E.

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A NYSE American Options Market Maker that participates in the Balance of the Year Program will receive a credit equal to its prepayment amount (i.e., $2,475,000; $1,800,000; or $975,000, respectively) toward fees it incurs under Section I.C., I.G., I.M., and III.A. Once the prepayment credit has been exhausted, the Exchange will invoice the NYSE American Options Market Maker at the applicable rates under Section I.C., I.G., I.M., and III.A. In the event that a NYSE American Options Market Maker does not conduct sufficient activity to exhaust the entirety of their prepayment credit within the calendar year, there will be no refunds issued for any unused portion of their prepayment credit. <u>An NYSE American Options Market Maker that restructures while enrolled in the Prepayment Program will maintain its status in the program.</u>

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