



SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-103805; File No. SR-NYSEAMER-2025-54]

Self-Regulatory Organizations; NYSE American LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Adopt a Provision that the Exchange Will Not Review a Compliance Plan Submitted by a Listed Company that is Below Compliance with a Continued Listing Standard if the Company Owes Any Unpaid Fees to the Exchange and Will Commence Suspension and Delisting Procedures if Such Fees are Not Paid in Full
August 28, 2025.

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 August 21, 2025, NYSE American LLC (“NYSE American” or the “Exchange”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I and II below, which Items have been substantially prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange proposes to adopt a provision that the Exchange will not review a compliance plan (a “Plan”) submitted by a listed company that is below compliance with a continued listing standard if the company owes any unpaid fees to the Exchange as of the date of the letter in which the Exchange informs the company of its non-compliance (the “Deficiency Letter”) and as disclosed by the Exchange in the Deficiency Letter. If a company fails to pay in full all outstanding listing or annual fees disclosed in the Deficiency Letter by the company’s compliance plan submission deadline date, suspension and delisting procedures will commence

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

promptly in accordance with Sections 1010 and 1202 of the Company Guide. Similarly, at the beginning of each calendar year fiscal quarter during the Plan Period (as defined below), the Exchange will disclose to the company in writing the amount of all unpaid listing and annual fees owed by the company to the Exchange as of the end of the just-completed quarter. If the company does not pay in full all of the outstanding fees disclosed in such report within 45 days of the date of receipt of such report, suspension and delisting procedures will commence promptly in accordance with Sections 1010 and 1202. A company will also not be deemed back into compliance prior to the completion of its Plan Period unless it has paid in full all of the outstanding fees disclosed in the most recent such report and suspension and delisting procedures will commence promptly in accordance with Sections 1010 and 1202 if such company has not paid in full all of the outstanding fees disclosed in the most recent such report as of the plan end date. The text of the proposed rule change is available on the Exchange's website at <https://www.nyse.com/> and at the principal office of the Exchange.

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

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

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

1. Purpose

Section 1009 ("Continued Listing Evaluation and Follow-Up") of the NYSE American Company Guide ("Company Guide") provides that when the Exchange identifies a listed company as being below certain continued listing criteria set forth in Sections 1001 through 1006 of the Company Guide (and not able to otherwise qualify under an initial listing standard), the

Exchange will notify the company of such non-compliance by letter and provide the company with an opportunity to provide the Exchange with a Plan advising the Exchange of action the company has taken, or will take, that would bring it into conformity with continued listing standards within 18 months of receipt of the letter.⁴ If a company submits a Plan, it must include specific milestones, quarterly financial projections, and details related to any strategic initiatives the company plans to complete. The company generally has 30 days from the receipt of a letter from the Exchange identifying an event of non-compliance (the “Plan Deadline”) to submit its Plan to the Exchange for review; otherwise, the Exchange will promptly initiate suspension and delisting procedures. The Plan must demonstrate how the company will return to compliance with the applicable continued listing standard by the end of the Plan Period authorized by the Exchange (the “Plan Period”). Exchange staff will evaluate the Plan, including any additional documentation that supports the Plan, and make a determination as to whether the company has made a reasonable demonstration in the Plan of an ability to come into conformity with the relevant standard(s) within the Plan Period. The Exchange will make such determination within 45 days of receipt of the proposed Plan, and will promptly notify the company of its determination in writing.

If the Exchange accepts the Plan, the Exchange will review the company for compliance with the Plan on a quarterly basis. If the company does not show progress consistent with the Plan, the Exchange staff will review the circumstances and variance, and determine whether such variance warrants the commencement of delisting procedures. Should the Exchange staff determine to proceed with delisting proceedings, it may do so regardless of the company’s continued listing status at that time.

The Exchange staff has to undertake a significant amount of work in reviewing and analyzing each Plan submitted by a noncompliant company. In addition, the review of quarterly

⁴ The Exchange staff may establish a time period of less than 18 months for a company to regain compliance with some or all of the continued listing standards if it determines that the nature and circumstances of the company's particular continued listing status warrant such shorter period of time.

updates with respect to each Plan requires significant additional work by Exchange staff. In connection with an initial Plan review and each subsequent update, the staff engages in a detailed review and analysis of the company's filed financial and other disclosures, as well as supplemental documentation submitted by the company in support of the Plan or to evidence progress in successful implementation of the Plan. The staff is required to become deeply informed about the business and financial condition and the prospects of the company, including any material risks faced by the company. In order to achieve this level of understanding, the staff typically engages in multiple detailed conversations with management in addition to the extensive documentary review that is undertaken. This process requires significant expenditure of staff resources, including the significant involvement of senior staff members.

Given the significant work required to review and analyze Plans, as well as to undertake the required quarterly review with respect to a Plan, the Exchange believes it is especially important to ensure that companies that wish to have a Plan accepted or continued by the Exchange have paid all outstanding annual and listing fees (as set forth in Section 140 *et seq* of the Company Guide) by the Plan Deadline or any required quarterly review of such Plan. In particular, the Exchange notes that the large majority of companies that submit Plans are doing so because they have fallen below compliance with the requirement of Section 1003(a) of the Company Guide that provide that a company is noncompliant if it has a specified number of multiple years of losses in addition to stockholders' equity below specified levels. In many cases, companies that are below compliance with this requirement have limited liquidity and are often delayed in paying their annual and listing fees. It has been the Exchange's experience that when these companies fail to regain compliance under a Plan and are subject to delisting they have often not paid all outstanding fees at the time of delisting and, in certain cases, never pay their outstanding fees.

For the foregoing reasons, the Exchange proposes to amend Section 1009 to provide that the Exchange will not review a Plan submitted by a listed company that is below compliance

with a continued listing standard if the company owes any unpaid fees to the Exchange as of the date of the Deficiency Letter and as disclosed by the Exchange in the Deficiency Letter. This proposal is modeled on substantially similar amendments recently adopted to Sections 802.02 and 802.03 of the NYSE Listed Company Manual.⁵ If a company fails to pay in full all outstanding listing or annual fees disclosed in the Deficiency Letter by the company's Plan Deadline date, the Exchange will promptly initiate suspension and delisting procedures in accordance with Sections 1010 and 1202. Similarly, at the beginning of each quarter during the Plan Period, the Exchange will disclose to the company in writing the amount of all unpaid listing and annual fees owed by the company to the Exchange as of the end of the just-completed quarter. If the company does not pay in full all of the outstanding fees disclosed in such report within 45 days of the date of such report, the Exchange will promptly initiate suspension and delisting procedures with respect to such company in accordance with Sections 1010 and 1202. A company will also not be deemed back into compliance prior to the completion of its Plan Period unless it has paid in full all of the outstanding fees disclosed in the most recent such report and the Exchange will promptly initiate suspension and delisting procedures in accordance with Sections 1010 and 1202 if such company has not paid in full all of the outstanding fees disclosed in the most recent such report as of the end of the Plan Period.

The Exchange notes that companies that are delayed in submitting their periodic reports to the SEC may be granted a compliance period of up to 12 months from the extended due date of the delayed filing under Section 1007 of the Company Guide. However, the Exchange does not propose to require the payment of outstanding fees before granting or extending compliance periods under Section 1007. The Exchange does not expend a similar amount of effort in reviewing and approving compliance periods for late filers to that required in reviewing Plans for quantitative non-compliance, as the issues involved are generally narrower and more technical in

⁵ See note 12 *infra* [sic].

nature and do not require a review of a compliance plan that encompasses all of a company's business and financial condition. The Exchange also notes that companies that are delayed in filing their periodic reports are often in good financial health and do not present significant risks of quantitative non-compliance or of being delisted without paying their outstanding fees.

Section 1003(h) of the Company Guide applies to a listed issuer that is not compliant with the provisions of Section 811 of the Company Guide ("Erroneously Awarded Compensation") (referred to as a "clawback requirement delinquency") and provides a process for an issuer subject to a clawback requirement delinquency to come back into compliance with Exchange rules that is similar to the process set forth in Section 1007 of the Company Guide described above. However, the Exchange does not propose to apply the proposed provision with respect to the payment of outstanding fees before granting or extending compliance periods under Section 1003(h). While the Exchange does not yet have very much experience in applying Section 1003(h), the Exchange does not anticipate that it will generally expend a similar amount of effort in reviewing and approving compliance periods for clawback delinquencies to that required in reviewing Plans for quantitative non-compliance, as the Exchange expects the issues involved in clawback delinquencies to generally be narrower and more technical in nature and to not require a review of a compliance plan that encompasses all of a company's business and financial condition.

In addition to the detail provided immediately above, the Exchange notes that Sections 1003(h) and 1007 already contain specified timelines to cure noncompliance arising thereunder. Accordingly, the Exchange does not believe that the procedures for plan submission detailed in Section 1009 are applicable to companies that are noncompliant with the requirements of Sections 1003(h) or 1007. Therefore, the Exchange proposes to add language to Section 1009 stating that such section is not applicable to events of noncompliance with Sections 1003(h) or 1007.

In addition to the aforementioned changes, the Exchange proposes to amend Section 1009 of the Company Guide to conform language related to its suspension and delisting procedures. Therefore, throughout Section 1009, the Exchange proposes to clarify the circumstances that will lead it to commence suspension and delisting proceedings promptly in accordance with Sections 1010 and 1202

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,⁶ in general, and furthers the objectives of Section 6(b)(5) of the Act⁷ in particular, in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes the proposed rule change furthers the protection of investors in that it will help the Exchange to ensure that it has sufficient resources to fund its regulatory activities relating to the review and approval and the ongoing monitoring of Plans submitted by companies that are below continued listing standards.

The Exchange does not believe that the proposed requirement is unfairly discriminatory. The Exchange notes that the proposal would only require listed companies to pay fees that were already due and payable and ensure payment of those fees in connection with a process that is resource-intensive and costly for the Exchange.

The Exchange also notes that companies that are delayed in submitting their periodic reports to the SEC may be granted a compliance period of up to 12 months from the extended

⁶ 15 U.S.C. 78f(b).

⁷ 15 U.S.C. 78f(b)(5).

due date of the delayed filing under Section 1007 of the Company Guide. However, the Exchange does not propose to adopt a similar provision with respect to the payment of outstanding fees before granting or extending compliance periods under Section 1007. The Exchange does not expend a similar amount of effort in reviewing and approving compliance periods for late filers to that required in reviewing Plans for quantitative non-compliance, as the issues involved are generally narrower and more technical in nature and do not require a review of a compliance plan that encompasses all of a company's business and financial condition. The Exchange also notes that companies that are delayed in filing their periodic reports are often in good financial health and do not present significant risks of quantitative non-compliance. For the foregoing reasons, the Exchange does not believe that the proposal is unfairly discriminatory on the grounds that it is not applied to companies that are non-compliant with Section 1007.

Section 1003(h) of the Company Guide applies to a listed issuer that is not compliant with the provisions of Section 811 of the Company Guide ("Erroneously Awarded Compensation") (referred to as a "clawback requirement delinquency") and provides a process for an issuer subject to a clawback requirement delinquency to come back into compliance with Exchange rules that is similar to the process set forth in Section 1007 of the Company Guide described above. However, the Exchange does not propose to apply the proposed provision with respect to the payment of outstanding fees before granting or extending compliance periods under Section 1003(h). While the Exchange does not yet have very much experience in applying Section 1003(h), the Exchange does not anticipate that it will generally expend a similar amount of effort in reviewing and approving compliance periods for clawback delinquencies to that required in reviewing Plans for quantitative non-compliance, as the Exchange expects the issues involved in clawback delinquencies to generally be narrower and more technical in nature and to not require a review of a compliance plan that encompasses all of a company's business and financial condition. For the foregoing reasons, the Exchange does not believe that the proposal is

unfairly discriminatory on the grounds that it is not applied to companies that are non-compliant with Section 1003(h).

The Exchange believes that the proposal is consistent with Section 6(b)(7) of the Act,⁸ in that it provides a fair procedure for the prohibition or limitation by the Exchange of the continued listing of listed companies. Specifically, the Exchange believes it is fair to require listed companies to pay outstanding listing and annual fees before the Exchange approves a Plan or required periodic review of a Plan, as listed companies are already required by Exchange rules (as set forth in Section 140 et seq) to pay these fees when due. Furthermore, the proposal provides significant notice and clarity as to which fees must be paid in order to remain in the Plan process, by limiting the required payments to fees that are due and disclosed to the company as of the date of the Deficiency Letter or as disclosed in a written report to the company dated as of the end of each fiscal quarter during the Plan Period. In addition, the Exchange notes that the Plan acceptance and periodic review process requires significant incremental work on the part of Exchange staff.

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 notes that the proposed amendments would simply require listed companies to pay fees to the Exchange that were already due and payable under applicable Exchange rules. Specifically, the Exchange believes it is fair to require listed companies to pay all outstanding listing and annual fees before the Exchange approves a Plan or required periodic review of a Plan, as listed companies are already required by Exchange rules (as set forth in Section 140 et seq) to pay such fees when due. In addition, the Exchange notes that the Plan acceptance and periodic review process requires significant incremental work on the part of Exchange staff.

As the proposal would not result in any change in the cost of a listing on the Exchange, the Exchange does not believe that it imposes any additional burden on competition.

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 Act⁹ and Rule 19b-4(f)(6) thereunder.¹⁰ 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 for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b-4(f)(6)¹¹ thereunder.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments:

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or

⁹ 15 U.S.C. 78s(b)(3)(A)(iii).

¹⁰ 17 CFR 240.19b-4(f)(6).

¹¹ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires the Exchange to give the Commission 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 of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

- Send an email to rule-comments@sec.gov. Please include file number SR-NYSEAMER-2025-54 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-2025-54. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<https://www.sec.gov/rules/sro.shtml>).

Copies of the filing will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection.

All submissions should refer to file number SR-NYSEAMER-2025-54 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.¹²

Vanessa A. Countryman,

Secretary.

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¹² 17 CFR 200.30-3(a)(12).