

DC 20415, Attention: Cyrus S. Benson, or sent via electronic mail to [Cyrus.Benson@opm.gov](mailto:Cyrus.Benson@opm.gov) or faxed to (202) 606-0910 or via telephone at (202) 936-0401.

**SUPPLEMENTARY INFORMATION:** As required by the Paperwork Reduction Act of 1995 OPM is soliciting comments for this collection. The information collection (OMB No. 3206-0141) was previously published in the **Federal Register** on February 6, 2023 at 88 FR 7765, allowing for a 60-day public comment period. No comments were received for this collection. The purpose of this notice is to allow an additional 30 days for public comments. The Office of Management and Budget is particularly interested in comments that:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected; and

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

OPM 2809, Health Benefits Election form, is used by annuitants and former spouses to elect, cancel, suspend, or change health benefits enrollment during periods other than open season.

#### Analysis

*Agency:* Retirement Operations, Retirement Services, Office of Personnel Management.

*Title:* Health Benefits Election Form (written).

*OMB Number:* 3206-0141.

*Frequency:* On Occasion.

*Affected Public:* Individuals or Households.

*Number of Respondents:* 20,000.

*Estimated Time per Respondent:* 30 minutes.

*Total Burden Hours:* 10,000.

*Title:* Health Benefits Election Form (verbal).

*Number of Respondents:* 10,000.

*Estimated Time per Respondent:* 10 minutes.

*Total Burden Hours:* 1,667.

U.S. Office of Personnel Management.

**Stephen Hickman,**

*Federal Register Liaison.*

[FR Doc. 2023-06814 Filed 3-31-23; 8:45 am]

**BILLING CODE 6325-38-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-97214; File No. SR-NYSEAMER-2023-23]

### Self-Regulatory Organizations; NYSE American LLC; Notice of Filing and Immediate Effectiveness of Proposed Change To Amend Rule 7.25E

March 28, 2023.

Pursuant to Section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934 (“Act”)<sup>2</sup> and Rule 19b-4 thereunder,<sup>3</sup> notice is hereby given that, on March 22, 2023, 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 Rule 7.25E, which governs the allocation of securities to Designated Market Makers. The proposed rule change is available on the Exchange's website at [www.nyse.com](http://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 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.

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

<sup>2</sup> 15 U.S.C. 78a.

<sup>3</sup> 17 CFR 240.19b-4.

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

##### 1. Purpose

The Exchange proposes to amend Rule 7.25E, which governs the allocation of securities to Designated Market Makers (“DMMs”). Specifically, the Exchange proposes to require issuers to select all DMM units to interview. The Exchange also proposes to correct a typographical error.

##### Background and Proposed Rule Change

Rule 7.25E currently provides two options for the allocation of securities to DMMs: (1) the issuer selects the DMM unit; or (2) the issuer delegates selection of the DMM unit to the Exchange.

If the issuer proceeds under the first option, Rule 7.25E(b)(1)(A) provides that the listing company will select a minimum of four DMMs to interview from the pool of DMMs eligible to participate in the allocation process.<sup>4</sup> The Exchange proposes amending Rule 7.25E(b)(1)(A) to require that issuers select all DMM units to interview. To effectuate this change, the Exchange would delete “a minimum of four” and add “all” after “select” and before “DMM units to interview.”

The proposed change would conform Rule 7.25E(b)(1)(A) with Rule 103B(III)(A)(1) of the Exchange's affiliate New York Stock Exchange LLC (“NYSE”), which does not specify a minimum number of DMMs to be interviewed. The Exchange believes that not specifying a number of DMMs to be interviewed would ensure that all eligible DMM units would have an opportunity to participate in the allocation process at all times irrespective of the number of DMMs operating on the Exchange.

In addition, the Exchange proposes a non-substantive change to Rule 7.25E(b)(1)(A) to replace “shall” with “must” before “select.” Finally, the Exchange also proposes to correct the heading in Rule 7.25E(b)(1), which should read “Issuer Selection.” These proposed changes would further align the Exchange's Rule with NYSE Rule 103B.

##### 2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act,<sup>5</sup> in general, and furthers the objectives of

<sup>4</sup> See Rule 7.25E(b)(1)(A). As of the date of this filing, there are currently three active DMMs on the Exchange.

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

Section 6(b)(5),<sup>6</sup> in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in 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.

Specifically, the Exchange believes that the proposed amendments to Rule 7.25E(b)(1)(A) to provide that issuers interview all DMMs would promote just and equitable principles of trade because no eligible DMM unit would be excluded from the issuer interview. For the same reason, the Exchange believes the proposal is designed to remove impediments to, and perfect the mechanism of a free and open market and a national market system. The Exchange believes that requiring all DMM units to participate in issuer interviews would also continue to foster competition and optimal performance among DMMs. In addition, the Exchange believes that harmonizing the Exchange's rule with that of its NYSE affiliate would provide greater harmonization among affiliated exchanges that have adopted substantially similar requirements for DMM interviews, thereby resulting in similarly efficient administration of listing interviews across exchanges.

Finally, the Exchange's proposed technical, non-substantive changes—correcting a typographical error and replacing “will” with “must”—adds clarity and transparency to the Exchange's Rules and reduces potential investor confusion, which would remove impediments to and perfect the mechanism of a free and open market and a national market system.

#### *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 believes that the proposed changes would continue to foster competition and optimal performance among DMMs, thereby enhancing the quality of the services DMMs provide to issuers. Further, the Exchange believes that the proposed changes would not be burdensome to issuers since issuers are currently interviewing all DMMs. Even assuming an increase in the burden on issuers during the allocation process if

the number of DMMs on the Exchange should increase, the Exchange believes that any such increased burden would be small relative to the benefits that additional competition among DMM units may provide. Issuers could, moreover, permit the Exchange to select the DMM unit pursuant to the process found in Rule 7.25E(b)(2).

#### *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 Act<sup>7</sup> and Rule 19b-4(f)(6) thereunder.<sup>8</sup> 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)<sup>9</sup> normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),<sup>10</sup> 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)<sup>11</sup> of the Act to determine whether the proposed rule change should be approved or disapproved.

<sup>7</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>8</sup> 17 CFR 240.19b-4(f)(6).

<sup>9</sup> 17 CFR 240.19b-4(f)(6).

<sup>10</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>11</sup> 15 U.S.C. 78s(b)(2)(B).

#### **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 (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-NYSEAMER-2023-23 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-2023-23. 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 (<http://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 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NYSEAMER-2023-23 and should be submitted on or before April 24, 2023.

<sup>6</sup> 15 U.S.C. 78f(b)(5).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>12</sup>

**Sherry R. Haywood,**

*Assistant Secretary.*

[FR Doc. 2023-06781 Filed 3-31-23; 8:45 am]

BILLING CODE 8011-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-97211; File No. SR-NASDAQ-2023-006]

### Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To List and Trade Shares of the SGI Dynamic Tactical ETF Under Nasdaq Rule 5750 (“Proxy Portfolio Shares”)

March 28, 2023.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on March 17, 2023, The Nasdaq Stock Market LLC (“Nasdaq” or “Exchange”) filed with the Securities and Exchange Commission (“SEC” or “Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange proposed a rule change relating to the SGI Dynamic Tactical ETF (the “Fund”) of The RBB Fund, Inc. (the “Company”), to list and trade shares of the Fund under Nasdaq Rule 5750 (“Proxy Portfolio Shares”). The shares of the Fund are collectively referred to herein as the “Shares.”

#### 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 Exchange 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 these 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 aspects of such statements.

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

##### 1. Purpose

The Exchange has adopted Nasdaq Rule 5750, which governs the listing and trading of Proxy Portfolio Shares on the Exchange.<sup>3</sup>

The Fund is an actively-managed exchange-traded fund (“ETF”). The Shares will be offered by the Company, which was established as a Maryland corporation on February 29, 1988.<sup>4</sup> The Company, which is registered with the Commission as an investment company under the 1940 Act, has filed a registration statement on Form N-1A (“Registration Statement”) relating to the Fund with the Commission.<sup>5</sup> The Fund is a series of the Company. Summit Global Investments, LLC (“Adviser”) is the investment adviser to the Fund. SG Trading Solutions, LLC, is the sub-adviser (“Sub-Adviser”) to the Fund. Quasar Distributors, LLC is the principal underwriter and distributor of the Fund’s Shares. U.S. Bank Global Fund Services acts as the administrator, transfer agent and provides fund accounting services to the Fund. U.S. Bank, N.A. acts as the custodian to the Fund.

Nasdaq Rule 5750(b)(5) provides that if the investment adviser to the Investment Company (as defined herein) issuing Proxy Portfolio Shares<sup>6</sup> is

<sup>3</sup> The Exchange adopted Nasdaq Rule 5750 in Securities Exchange Act Release No. 89110 (June 22, 2020), 85 FR 38461 (June 26, 2020) (SR-NASDAQ-2020-032).

<sup>4</sup> The Commission has issued an order, upon which the Company may rely, granting certain exemptive relief under the Investment Company Act of 1940 (the “1940 Act”). See Investment Company Act Release No. 34857 (March 15, 2023) (“Exemptive Order”). Investments made by the Fund will comply with the conditions set forth in the Application and the Exemptive Order. The description of the operation of the Fund herein is based, in part, on the Registration Statement and Exemptive Order. The Exchange will not commence trading in the Fund’s Proxy Portfolio Shares until the Registration Statement is effective.

<sup>5</sup> The Registration Statement (File No. 811-05518) is available on the Commission’s website at [https://www.sec.gov/Archives/edgar/data/0000831114/000139834422007151/fp0074774\\_485apos.htm](https://www.sec.gov/Archives/edgar/data/0000831114/000139834422007151/fp0074774_485apos.htm).

<sup>6</sup> The term “Proxy Portfolio Share” means a security that: (A) represents an interest in an investment company registered under the Investment Company Act of 1940 (“Investment Company”) organized as an open-end management investment company, that invests in a portfolio of securities selected by the Investment Company’s investment adviser consistent with the Investment Company’s investment objectives and policies; (B) is issued in a specified aggregate minimum number in return for a deposit of a specified Proxy Basket or Custom Basket, as applicable, and/or a cash

registered as a broker-dealer or is affiliated with a broker-dealer, such investment adviser will erect and maintain a “fire wall” between the investment adviser and personnel of the broker-dealer or broker-dealer affiliate, as applicable, with respect to access to information concerning the composition of and/or changes to the Fund Portfolio,<sup>7</sup> the Proxy Basket and/or Custom Basket, as applicable.<sup>8</sup> In addition, Nasdaq Rule 5750(b)(5) further requires that changes to the Fund Portfolio, the Proxy Basket and/or Custom Basket must be subject to procedures designed to prevent the use and dissemination of material nonpublic information regarding the Fund Portfolio, and/or the Proxy Basket, and/or Custom Basket, as applicable, or changes thereto.<sup>9</sup>

amount with a value equal to the next determined net asset value; (C) when aggregated in the same specified minimum number, may be redeemed at a holder’s request, which holder will be paid specified Proxy Basket or Custom Basket, as applicable, and/or a cash amount with a value equal to the next determined net asset value; and (D) the portfolio holdings for which are disclosed within at least 60 days following the end of every fiscal quarter.

<sup>7</sup> The term “Fund Portfolio” means the identities and quantities of the securities and other assets held by the Investment Company that will form the basis for the Investment Company’s calculation of net asset value at the end of the business day.

<sup>8</sup> The term “Proxy Basket” means the identities and quantities of the securities and other assets included in a basket that is designed to closely track the daily performance of the Fund Portfolio, as provided in the exemptive relief under the 1940 Act applicable to a series of Proxy Portfolio Shares. The website for each series of Proxy Portfolio Shares shall disclose the following information regarding the Proxy Basket as required under Rule 5750, to the extent applicable: (A) Ticker symbol; (B) CUSIP or other identifier; (C) Description of holding; (D) Quantity of each security or other asset held; and (E) Percentage weight of the holding in the portfolio. For purposes of this proposed rule change, the term Custom Basket means a portfolio of securities that is different from the Proxy Basket and is otherwise consistent with the exemptive relief issued pursuant to the 1940 Act applicable to a series of Proxy Portfolio Shares.

<sup>9</sup> An investment adviser to an open-end fund is required to be registered under the Investment Advisers Act of 1940 (the “Advisers Act”). As a result, the Adviser, Sub-Adviser, and their related personnel are subject to the provisions of Rule 204A-1 under the Advisers Act relating to codes of ethics. This Rule requires investment advisers to adopt a code of ethics that reflects the fiduciary nature of the relationship to clients as well as compliance with other applicable securities laws. Accordingly, procedures designed to prevent the communication and misuse of non-public information by an investment adviser must be consistent with Rule 204A-1 under the Advisers Act. The Adviser and Sub-Adviser are each not registered as a broker-dealer and are not affiliated with broker-dealers. The Adviser and Sub-Adviser will each implement and maintain a “fire wall” with respect to any future broker-dealer affiliates regarding access to information concerning the composition of and/or changes to the Fund Portfolio, Proxy Portfolio, and/or Custom Basket, as applicable. In addition, Rule 206(4)-7 under the

Continued

<sup>12</sup> 17 CFR 200.30-3(a)(12).

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

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