

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-104237; File No. SR-NYSEARCA-2025-75]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend the NYSE Arca Equities Fees and Charges

November 21, 2025.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² notice is hereby given that on September 30, 2025, NYSE Arca, Inc. (“NYSE Arca” or the “Exchange”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange proposes to amend the NYSE Arca Equities Fees and Charges (“Fee Schedule”) with respect to Retail Tiers. The Exchange proposes to implement the fee changes effective October 1, 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.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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

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

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

1. Purpose

The Exchange proposes to amend the Fee Schedule with respect to Retail Tiers. More specifically, the Exchange proposes to amend the fee for Retail Orders³ with a time-in-force of Day that remove liquidity and to remove a modifier for certain Retail Orders that are executed against other Retail Orders.

The proposed change responds to the current competitive environment where ETP Holders have a choice among both exchange and off-exchange venues of where to route marketable retail order flow.

The Exchange proposes to implement the fee changes effective October 1, 2025.

Background

The Exchange operates in a highly competitive market. The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices,

³ A Retail Order is an agency order that originates from a natural person and is submitted to the Exchange by an ETP Holder, provided that no change is made to the terms of the order to price or side of market and the order does not originate from a trading algorithm or any other computerized methodology. See Securities Exchange Act Release No. 67540 (July 30, 2012), 77 FR 46539 (August 3, 2012) (SR-NYSEArca-2012-77).

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.”⁴

While Regulation NMS has enhanced competition, it has also fostered a “fragmented” market structure where trading in a single stock can occur across multiple trading centers. When multiple trading centers compete for order flow in the same stock, the Commission has recognized that “such competition can lead to the fragmentation of order flow in that stock.”⁵ Indeed, equity trading is currently dispersed across 16 exchanges,⁶ numerous alternative trading systems,⁷ and broker-dealer internalizers and wholesalers, all competing for order flow. Based on publicly available information, no single exchange currently has more than 17% market share.⁸ Therefore, no exchange possesses significant pricing power in the execution of equity order flow. More specifically, the Exchange currently has less than 10% market share of executed volume of equities trading.⁹

⁴ See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (File No. S7-10-04) (Final Rule) (“Regulation NMS”).

⁵ See Securities Exchange Act Release No. 61358, 75 FR 3594, 3597 (January 21, 2010) (File No. S7-02-10) (Concept Release on Equity Market Structure).

⁶ See Cboe U.S Equities Market Volume Summary, available at https://markets.cboe.com/us/equities/market_share. See generally <https://www.sec.gov/fast-answers/divisionsmarketregmrexchangesshtml.html>.

⁷ See FINRA ATS Transparency Data, available at <https://otctransparency.finra.org/otctransparency/AtsIssueData>. A list of alternative trading systems registered with the Commission is available at <https://www.sec.gov/foia/docs/atslist.htm>.

⁸ See Cboe Global Markets U.S. Equities Market Volume Summary, available at http://markets.cboe.com/us/equities/market_share/.

⁹ See *id.*

The Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can move order flow, or discontinue or reduce use of certain categories of products. While it is not possible to know a firm's reason for shifting order flow, the Exchange believes that one such reason is because of fee changes at any of the registered exchanges or non-exchange venues to which a firm routes order flow. The competition for Retail Orders is even more stark, particularly as it relates to exchange versus off-exchange venues.

The Exchange thus needs to compete in the first instance with non-exchange venues for Retail Order flow, and with the 15 other exchange venues for that Retail Order flow that is not directed off-exchange. Accordingly, competitive forces compel the Exchange to use exchange transaction fees and credits, particularly as they relate to competing for Retail Order flow, because market participants can readily trade on competing venues if they deem pricing levels at those other venues to be more favorable.

To respond to this competitive environment, the Exchange has established a number of Retail Tiers, e.g., Retail Tier 1, Retail Tier 2, Retail Tier 3, Retail Tier 4 and Retail Step-Up Tier, which are designed to provide an incentive for ETP Holders to route Retail Orders to the Exchange by providing higher credits for adding liquidity correlated to an ETP Holder's higher trading volume in Retail Orders on the Exchange. Under four of these five tiers, ETP Holders also do not pay a fee when such Retail Orders have a time-in-force of Day that remove liquidity from the Exchange.¹⁰

¹⁰ Additionally, footnote (e) under the Retail Tiers pricing table provides that "ETP Holders that increase Retail Orders with a time-in-force of Day that add and remove that is an increase over May 2022 of at least 0.05% of CADV would not pay a fee for Retail Removing with a time-in-force of Day." See Retail Tiers in Section VII. Tier Rates - Round Lots and Odd Lots (Per Share Price \$1.00 or Above) on the Fee Schedule.

Proposed Rule Change

The Exchange proposes to adopt a fee of \$0.0025 per share for Retail Orders with a time-in-force of Day that remove liquidity if an ETP Holder executes 170 million or more shares of such orders in a billing month. As proposed, the first 170 million shares of such orders would continue to be not charged a fee. The proposed volume threshold and fee would apply to Retail Orders with a time-in-force of Day that remove liquidity under Retail Tier 1, Retail Tier 2, Retail Tier 3 and Retail Step-Up Tier. The proposed volume threshold and fee would also apply to Retail Orders with a time-in-force of Day that add and remove that is an increase over May 2022 of at least 0.05% of CADV, as provided in footnote (e) under the Retail Tiers pricing table. With this proposed rule change, footnote (e) would provide that “ETP Holders that increase Retail Orders with a time-in-force of Day that add and remove that is an increase over May 2022 of at least 0.05% of CADV qualify for no fee for Retail Removing with a time-in-force of Day for the first 170 million shares in the month, and a fee of \$0.0025 for shares above 170 million shares in the month.”

Additionally, pursuant to footnote (d) under the Retail Tiers pricing table, ETP Holders that qualify for current Retail Tier 1, Retail Tier 2, Retail Tier 3 and Retail Step-Up Tier are not charged a fee or provided a credit for Retail Orders where each side of the executed order (1) shares the same MPID and (2) is a Retail Order with a time-in-force of Day. The Exchange proposes to remove the “time-in-force of Day” modifier attached to such Retail Orders. With this proposed rule change, all Retail Orders where each side of the executed order shares the same MPID and each side of the executed order is a Retail Order would not be charged a fee or provided a credit, as provided in footnote (d) under Retail Tiers. When both sides of an execution are not Retail Orders or do not share the same MPID, the Exchange will continue to

not charge a fee for removing liquidity and will continue to provide the credits as provided in the Retail Tiers pricing table.

The proposed rule change is designed to be available to all ETP Holders on the Exchange that qualify for the Retail Tiers and thus provide ETP Holders an opportunity to receive enhanced rebates by quoting and trading more on the Exchange. The Exchange notes that the proposed fee of \$0.0025 per share for Retail Orders impacted by this proposed rule change is lower than the standard fee for orders on the Exchange that remove liquidity.

The Exchange believes the proposed rule change would continue to encourage additional liquidity on the Exchange. The Exchange does not know how much Retail Order flow ETP Holders choose to route to other exchanges or to off-exchange venues. Without having a view of ETP Holders' activity on other markets and off-exchange venues, the Exchange has no way of knowing how this proposed rule change would impact ETP Holders in terms of the number of Retail Orders directed to the Exchange or to other trading venues.

The Exchange believes that it is reasonable to charge ETP Holders a fee for Retail Orders with a time-in-force of Day that remove liquidity and exceed a specified monthly shares threshold. The Exchange notes that other marketplaces offer various incentives based on trading activity. For instance, pursuant to its Retail Order Process, Nasdaq charges a fee of \$0.0025 per share for shares executed in excess of 8 million shares in the month that remove liquidity while not charging a fee for shares executed below 8 million shares in the month that remove liquidity.¹¹

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of

¹¹ See RFTY Strategies (Retail Order Process) at <https://nasdaqtrader.com/Trader.aspx?id=PriceListTrading2>.

the Act,¹² in general, and furthers the objectives of Sections 6(b)(4) and (5) of the Act,¹³ in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

The Proposed Fee Change is Reasonable

As discussed above, the Exchange operates in a highly fragmented and competitive market. The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Specifically, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system “has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.”¹⁴

Given this competitive environment, the proposal represents a reasonable attempt to attract additional order flow to the Exchange.

As noted above, the competition for Retail Order flow is stark given the amount of retail limit orders that are routed to non-exchange venues. 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. ETP Holders can choose from any one of the 16 currently operating registered exchanges, and numerous off-exchange venues, to route such order flow.

Accordingly, competitive forces constrain exchange transaction fees, particularly as they relate

¹² 15 U.S.C. 78f(b).

¹³ 15 U.S.C. 78f(b)(4) and (5).

¹⁴ See supra note 5.

to competing for retail orders. Stated otherwise, changes to exchange transaction fees can have a direct effect on the ability of an exchange to compete for order flow.

The Exchange believes it is reasonable to adopt a volume threshold and a corresponding fee when the volume threshold is exceeded by ETP Holders executing Retail Orders. The Exchange believes that the new requirement will encourage increased participation from retail liquidity providers while maintaining a competitive and performance-based pricing structure that better reflects current market conditions and trading volumes. The Exchange believes the proposed fee change would continue to encourage increased participation from retail liquidity providers and the volume threshold more closely aligns with current market volume and is therefore a relevant benchmark. The Exchange also believes it is reasonable to remove the “time-in-force of Day” modifier for Retail Orders so that all Retail Orders, not just those with a time-in-force of Day modifier, would not be charged a fee or provided a credit, as provided on the Exchange’s Fee Schedule for Retail Orders that are executed against other Retail Orders where both orders share the same MPID.

The Exchange believes the proposed change is also reasonable because it is designed to attract higher volumes of Retail Orders transacted on the Exchange by ETP Holders which would benefit all market participants by offering greater price discovery, increased transparency, and an increased opportunity to trade on the Exchange.

The Exchange believes that the proposal represents a reasonable effort to provide enhanced order execution opportunities for ETP Holders. All ETP Holders would benefit from the greater amounts of liquidity on the Exchange, which would represent a wider range of execution opportunities. The Exchange notes that market participants are free to shift their order flow to competing venues if they believe other markets offer more favorable fees and credits.

On the backdrop of the competitive environment in which the Exchange currently operates, the proposed rule change is a reasonable attempt to increase liquidity on the Exchange and improve the Exchange's market share relative to its competitors.

The Proposed Fee Change is an Equitable Allocation of Fees and Credits

The Exchange believes the proposal equitably allocates fees and credits among market participants because all ETP Holders that participate on the Exchange would be subject to the proposed rule change on an equal basis. The Exchange believes its proposal equitably allocates its fees and credits among its market participants by fostering liquidity provision and stability in the marketplace.

The Exchange believes the proposed changes to Retail Orders are an equitable allocation of fees because the proposed changes, taken together, will incentivize ETP Holders to continue to direct their Retail Order flow to the Exchange. The Exchange also believes that the proposed rule change is equitable because it would apply to all similarly situated ETP Holders. As previously noted, the Exchange operates in a competitive environment, particularly as it relates to attracting Retail Orders to the Exchange. The Exchange does not know how much order flow ETP Holders choose to route to other exchanges or to off-exchange venues. The Exchange believes that pricing is just one of the factors that ETP Holders consider when determining where to direct their order flow. Among other things, factors such as execution quality, fill rates, and volatility, are important and deterministic to ETP Holders in deciding where to send their order flow.

The Exchange believes that the proposed rule change equitably allocates its fees and credits because maintaining the proportion of Retail Orders in exchange-listed securities that are executed on a registered national securities exchange (rather than relying on certain available

off-exchange execution methods) would contribute to investors' confidence in the fairness of their transactions and would benefit all investors by deepening the Exchange's liquidity pool, supporting the quality of price discovery, promoting market transparency and improving investor protection.

The Proposed Fee Change is not Unfairly Discriminatory

The Exchange believes that the proposed rule change is not unfairly discriminatory. In the prevailing competitive environment, ETP Holders are free to disfavor the Exchange's pricing if they believe that alternatives offer them better value. Moreover, the proposal neither targets nor will it have a disparate impact on any particular category of market participant. The Exchange believes that the proposal does not permit unfair discrimination because the proposal would be applied to all similarly situated ETP Holders and all ETP Holders would be similarly subject to the proposed changes. Accordingly, no ETP Holder already operating on the Exchange would be disadvantaged by the proposed allocation of fees. The Exchange further believes that the proposed change would not permit unfair discrimination among ETP Holders because the general and tiered rates are available equally to all ETP Holders.

As described above, in today's competitive marketplace, order flow providers have a choice of where to direct liquidity-providing order flow, in particular, Retail Orders. The Exchange notes that the submission of Retail Orders is optional for ETP Holders in that they could choose whether to submit Retail Orders and, if they do, the extent of its activity in this regard. The Exchange believes that it is subject to significant competitive forces, as described below in the Exchange's statement regarding the burden on competition.

For the foregoing reasons, the Exchange believes that the proposal is consistent with the Act.

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

In accordance with Section 6(b)(8) of the Act,¹⁵ the Exchange believes that the proposed rule change would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Instead, as discussed above, the Exchange believes that the proposed changes would encourage the submission of additional liquidity to a public exchange, thereby promoting market depth, price discovery and transparency and enhancing order execution opportunities for ETP Holders. As a result, the Exchange believes that the proposed change furthers the Commission's goal in adopting Regulation NMS of fostering integrated competition among orders, which promotes "more efficient pricing of individual stocks for all types of orders, large and small."¹⁶

Intramarket Competition. The Exchange believes the proposed rule change does not impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that the proposed change represents a significant departure from previous pricing offered by the Exchange or its competitors. The proposed change is designed to attract additional order flow to the Exchange. The Exchange believes that the proposed changes would continue to incentivize market participants to direct order flow to the Exchange. Greater overall order flow, trading opportunities, and pricing transparency would benefit all market participants on the Exchange by enhancing market quality and would continue to encourage ETP Holders to send their orders to the Exchange, thereby contributing towards a robust and well-balanced market ecosystem. All ETP Holders would be subject to the proposed changes, and, as such, the proposed changes would not impose a

¹⁵ 15 U.S.C. 78f(b)(8).

¹⁶ See supra note 5.

disparate burden on competition among market participants on the Exchange. As noted, the proposal would apply to all similarly situated ETP Holders on the same and equal terms, who would benefit from the changes on the same basis. Accordingly, the proposed change would not impose a disparate burden on competition among market participants on the Exchange.

Intermarket Competition. The Exchange believes the proposed rule change does not impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange operates in a highly competitive market in which market participants can readily choose to send their orders to other exchanges and off-exchange venues if they deem fee levels at those other venues to be more favorable. As noted above, the Exchange's market share of intraday trading (i.e., excluding auctions) is currently less than 10%. In such an environment, the Exchange must continually adjust its fees and rebates to remain competitive with other exchanges and with off-exchange venues. Because competitors are free to modify their own fees and credits in response, and because market participants may readily adjust their order routing practices, the Exchange does not believe this proposed fee change would impose any burden on intermarket competition.

The Exchange believes that the proposed change could promote competition between the Exchange and other execution venues, including those that currently offer similar order types and comparable transaction pricing, by encouraging additional orders to be sent to the Exchange for execution.

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,¹⁷ and Rule 19b-4(f)(2) thereunder¹⁸ the Exchange has designated this proposal as establishing or changing a due, fee, or other charge imposed on any person, whether or not the person is a member of the self-regulatory organization, which renders the proposed rule change effective upon filing. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

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

Electronic Comments:

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-NYSEARCA-2025-75 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.

¹⁷ 15 U.S.C. 78s(b)(3)(A)(ii).

¹⁸ 17 CFR 240.19b-4.

All submissions should refer to file number SR-NYSEARCA-2025-75. 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-NYSEARCA-2025-75 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.¹⁹

Sherry R. Haywood,

Assistant Secretary.

¹⁹ 17 CFR 200.30-3(a)(12).