

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-64875; File No. SR-NYSEArca-2011-43)

July 13, 2011

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Its Fee Schedule by Adding Definitions for the Strategy Executions that Qualify for Transaction Fee Caps

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 June 30, 2011, NYSE Arca, Inc. (the “Exchange” or “NYSE Arca”) 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 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 its Fee Schedule by adding definitions for the Strategy Executions that qualify for transaction fee caps. The text of the proposed rule change is available at the Exchange, at www.nyse.com, at the Commission’s Public Reference Room, and at the Commission’s website at www.sec.gov.

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

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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

NYSE Arca proposes to amend its Fee Schedule by adding definitions for the Strategy Executions that qualify for transaction fee caps. The Exchange does not propose to change any fees in the Fee Schedule.

In 2003, the Exchange amended its Fee Schedule to cap transaction fees for Strategy Executions involving reversals and conversions, dividend spreads, and box spreads.³ The Exchange subsequently expanded the Strategy Executions eligible for the transaction fee cap to include short stock interest spreads, merger spreads and jelly rolls.⁴ In its previous rule filings, the Exchange described the requirements that Strategy Executions must meet to qualify for the transaction fee cap; however these Strategy Executions were not defined in the Fee Schedule. The Exchange is now proposing to define the Strategy Executions in order to provide additional clarity and transparency in the Fee Schedule.⁵

The Exchange proposes to define each of the six Strategy Executions that qualify for the cap in new endnote 9:⁶

³ See Exchange Act Release No. 48363 (August 19, 2003), 68 FR 51625 (August 27, 2003) (SR-PCX-2003-39) (the “2003 Release”).

⁴ See Exchange Act Release No. 51787 (June 6, 2005), 70 FR 34174 (June 13, 2005) (SR-PCX-2005-65) (the “2005 Release”) and Exchange Act Release No. 60101 (June 11, 2009), 74 FR 29249 (June 19, 2009) (SR-NYSEArca-2009-49) (the “2009 Release”).

⁵ The Commission notes that the definitions proposed by the Exchange in the instant filing slightly differ from the definitions set forth in the 2003 Release, the 2005 Release, and the 2009 Release.

⁶ The Chicago Board Options Exchange, Incorporated (“CBOE”) already has these strategies, with the exception of the box spread, defined in its fee schedule. See (<http://www.cboe.com/publish/feeschedule/CBOEFeeSchedule.pdf>).

- A “reversal” is established by combining a short security position with a short put and a long call position that shares the same strike and expiration. A “conversion” is established by combining a long position in the underlying security with a long put and a short call position that shares the same strike and expiration.
- A “dividend spread” is defined as transactions done to achieve a dividend arbitrage involving the purchase, sale and exercise of in-the-money options of the same class, executed prior to the date on which the underlying stock goes ex-dividend.
- A “box spread” is defined as transactions involving a long call option and a short put option at one strike, combined with a short call option and long put at a different strike, to create synthetic long and synthetic short stock positions, respectively.
- A “short stock interest spread” is defined as transactions done to achieve a short stock interest arbitrage involving the purchase, sale and exercise of in-the-money options of the same class.
- A “merger spread” is defined as transactions done to achieve a merger arbitrage involving the purchase, sale and exercise of options of the same class and expiration date, each executed prior to the date on which shareholders of record are required to elect their respective form of consideration, i.e., cash or stock.

A “jelly roll” is created by entering into two separate positions simultaneously. One position involves buying a put and selling a call with the same strike price and expiration. The second position involves selling a put and buying a call, with the same strike price, but with a different expiration from the first position.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Securities Exchange Act of 1934 (the “Act”),⁷ in general, and Section 6(b)(5) of the Act,⁸ in particular, in that it is designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanisms of a free and open market and a national

⁷ 15 U.S.C. 78f.

⁸ 15 U.S.C. 78f(b)(5).

market system and, in general, to protect investors and the public interest. In this respect, the Exchange is not proposing any changes to the fees within its Fee Schedule, but rather adding definitions for the Strategy Executions that qualify for the transaction fee caps. This change will better inform investors and the public of the necessary requirements for a Strategy Execution to qualify for the fee caps.

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.

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 foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A)(i)⁹ of the Act and Rule 19b-4(f)(1)¹⁰ thereunder, as constituting a stated interpretation of the meaning, administration and enforcement of an existing rule of the Exchange. The proposed rule change provides definitions for existing terms in the Fee Schedule, and the definitions are consistent with the manner in which the Exchange interpreted those terms. 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.

⁹ 15 U.S.C. 78s(b)(3)(A)(i).

¹⁰ 17 CFR 240.19b-4(f)(1).

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 e-mail to rule-comments@sec.gov. Please include File Number SR-NYSEArca-2011-43 on the subject line.

Paper comments:

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

All submissions should refer to File Number SR-NYSEArca-2011-43. This file number should be included on the subject line if e-mail 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; the Commission does not edit personal identifying information from submissions. You should

submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NYSEArca-2011-43 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹¹

Cathy H. Ahn
Deputy Secretary

¹¹ 17 CFR 200.30-3(a)(12).