

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-66811; File No. SR-NYSEArca-2012-29)

April 13, 2012

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending NYSE Arca Equities Rule 7.31(t) to Provide for Limit-on-Open Orders and Market-on-Open Orders

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 April 3, 2012, 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 and II below, which Items have been prepared by the Exchange. The Exchange has designated the proposed rule change as constituting a rule change under Rule 19b-4(f)(6) under the Act,³ which renders the proposal effective upon filing with the Commission. 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 NYSE Arca Equities Rule 7.31(t) to provide for Limit-on-Open Orders (“LOO Orders”) and Market-on-Open Orders (“MOO Orders”). The text of the proposed rule change is available at the Exchange, www.nyse.com, and the Commission’s Public Reference Room.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 17 CFR 240.19b-4(f)(6).

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

The Exchange proposes to amend NYSE Arca Equities Rule 7.31(t) to provide for LOO and MOO Orders.

NYSE Arca Equities Rule 7.31(t) currently provides for Auction-Only Orders, which are limit or market orders that are only executed within an auction.⁴ As proposed, LOO and MOO Orders would be defined under NYSE Arca Equities Rule 7.31(t)(1) and (2), respectively, as specific types of Auction-Only Orders. More specifically, a LOO Order would be defined as an Auction-Only Limit Order that is to be executed only during the Market Order Auction, which is the auction that opens the Core Trading Session on the Exchange for Exchange-listed securities.⁵ Any portion of a LOO Order that remains unfilled after completion of the Market Order Auction would be cancelled. A MOO Order would be defined as an Auction-Only Market Order that is

⁴ An Auction-Only Order is executable during the next auction following entry of the order. If the order is not executed in the auction, the balance is cancelled. An Auction-Only Order is only available for auctions that take place on the Exchange. Auction-Only Orders are not routed to other exchanges and are cancelled where the next auction after entry of the order is cancelled or does not occur. An Auction-Only Order may not be designated as good until cancelled.

⁵ The Market Order Auction is described in NYSE Arca Equities Rule 7.35(c).

to be executed only during the Market Order Auction. As with LOO Orders, any portion of a MOO Order that remains unfilled after completion of the Market Order Auction would be cancelled. MOO and LOO orders would not participate in the Opening Auction, as defined in NYSE Arca Equities Rule 7.35(b), the Closing Auction, as defined in NYSE Arca Equities Rule 7.35(e), or Trading Halt Auctions, as defined in NYSE Arca Equities Rule 7.35(f).

The Exchange also proposes the following technical amendments to NYSE Arca Equities Rule 7.35(c):

- First, the Exchange proposes to remove certain text from NYSE Arca Equities Rule 7.35(c) that cross-references New York Stock Exchange (“NYSE”) Rule 123D and NYSE-listed securities subject to a sub-penny trading condition, which was previously described within NYSE Rule 123D(3). NYSE has removed this text from NYSE Rule 123D and eliminated the sub-penny trading condition in its entirety.⁶ The proposed removal of the cross-reference would therefore remove obsolete text from NYSE Arca Equities Rule 7.35(c).
- Second, the Exchange proposes to specify that, for purposes of NYSE Arca Equities Rule 7.35(c), and unless stated otherwise, references to Market Orders include Auction-Only Market Orders. This proposed change would add greater specificity regarding the handling of Auction-Only Market Orders, including MOO Orders, during the Market Order Auction.
- Third, the Exchange proposes to delete duplicative text from NYSE Arca Equities Rule 7.35(c) describing that, after the first opening print on the primary market, all Market Orders and Limit Orders are processed pursuant to NYSE Arca Equities Rule 7.37.
- Finally, the Exchange proposes to specify in NYSE Arca Equities Rule 7.35(c)(3)(A)(3) that only Market Orders that are eligible for both the Market Order Auction and the Core Trading Session, but are not executed in the Market Order Auction, become eligible for execution in the Core Trading Session immediately upon conclusion of the Market Order Auction.⁷ This proposed change would add greater specificity regarding the handling of certain Market Orders, like MOO Orders, that are not eligible for the Core Trading Session.

⁶ See Securities Exchange Act Release No. 58936 (November 13, 2008), 73 FR 69704 (November 19, 2008) (SR-NYSE-2008-117).

⁷ The Exchange also proposes to remove duplicative text from NYSE Arca Equities Rule 7.35(c)(3)(A)(4).

Because of the related technology changes that this proposed rule change would require, the Exchange proposes to announce the date on which LOO and MOO Orders would be available via Trader Update.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Securities Exchange Act of 1934 (the “Act”),⁸ in general, and furthers the objectives of Section 6(b)(5),⁹ 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. The proposed rule change is also not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

As proposed, LOO and MOO Orders would be a subset of the existing Auction-Only Orders that are currently available on the Exchange. In this regard, the availability of LOO and MOO Orders would enhance the tools available to ETP Holders when entering their trading interest by providing for an Auction-Only Order that could only be executed during the Market Order Auction. Furthermore, the proposed addition of LOO and MOO Orders on the Exchange could contribute to the quality of the Exchange’s opening by increasing the amount of liquidity that ETP Holders are willing to enter to participate in the Market Order Auction. For these reasons, the Exchange believes that its proposal to provide for LOO and MOO Orders would remove impediments to and perfect the mechanism of a free and open market and a national

⁸ 15 U.S.C. 78f(b).

⁹ 15 U.S.C. 78f(b)(5).

market system and, in general, protect investors and the public interest. The Exchange notes that order types similar to LOO and MOO Orders are available on other exchanges.¹⁰ Accordingly, making these order types available for ETP Holders to utilize would promote just and equitable principles of trade and foster cooperation and coordination with persons engaged in facilitating transactions in securities. Furthermore, LOO and MOO Orders would be available for all ETP Holders to utilize on the Exchange. In this regard, the Exchange believes that the proposed rule change is not designed to permit unfair discrimination. The proposed technical changes would also benefit ETP Holders and investors by adding greater specificity and precision to the Exchange's Rules.

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

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 if consistent with the protection of investors and the public interest, provided that the self-regulatory organization has given the Commission written notice of its intent to file the

¹⁰ See NASDAQ Stock Market LLC ("NASDAQ") Rule 4752(a)(3) and (4), which define "Limit On Open Order" and "Market On Open Order," respectively. See also BATS Exchange, Inc. ("BATS") Rule 11.23(a)(14) and (16), which define "Limit-On-Open" orders and "Market-On-Open" orders, respectively.

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 proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act¹¹ and Rule 19b-4(f)(6) thereunder.¹² 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.

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-2012-29 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-2012-29. 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

¹¹ 15 U.S.C. 78s(b)(3)(A).

¹² 17 CFR 240.19b-4(f)(6).

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-2012-29 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.¹³

Kevin M. O'Neill
Deputy Secretary

¹³ 17 CFR 200.30-3(a)(12).