SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-76023; File No. SR-NYSEARCA-2015-83)

September 29, 2015

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Modifying Certain Proprietary Options Data Products

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 18, 2015, NYSE Arca, Inc. (the "Exchange" or "NYSE Arca") 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 modify certain proprietary options data products. The text of 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.

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.

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[1] 15 U.S.C. 78s(b)(1).

[2] 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 modify certain proprietary options data products.

The Exchange currently offers the following real-time options market data feeds through its ArcaBook for Arca Options data product (collectively, "Current Options Products"):[3]

- "ArcaBook for Arca Options – Trades" makes available NYSE Arca Options last sale information on a real-time basis as it is reported to the Options Price Reporting Authority ("OPRA") and disseminated on a consolidated basis under the OPRA Plan.[4]
- "ArcaBook for Arca Options – Top of Book" makes available NYSE Arca Options best bids and offers ("BBO") (including orders and quotes) on a real-time basis as reported to OPRA and disseminated on a consolidated basis under the OPRA Plan.
- "ArcaBook for Arca Options – Series Status" makes available series status messages for each individual options series (and in the case of complex

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3 See Securities Exchange Act Release No. 67720 (August 23, 2012), 77 FR 52769 (August 30, 2012) (SR-NYSEArca-2012-89) (proposing to offer certain proprietary options data products).

4 The OPRA Plan is a national market system plan approved by the Securities and Exchange Commission ("Commission") pursuant to Section 11A of the Securities Exchange Act of 1934 (the "Act") and Rule 608 thereunder (formerly Rule 11Aa3-2). See Securities Exchange Act Release No. 17638 (March 18, 1981), 22 S.E.C. Docket 484 (March 31, 1981). The full text of the OPRA Plan is available at http://www.opradata.com. The OPRA Plan provides for the collection and dissemination of last sale and quotation information on options that are traded on the participant exchanges. Section 5.2(c) of the OPRA Plan also permits OPRA Plan participants to disseminate unconsolidated market information to certain of their members under certain circumstances.

orders, per-instrument) relating to events such as a delayed opening or trading halt.

- "ArcaBook for Arca Options – Order Imbalance" makes available order imbalance information prior to the opening of the market and during a trading halt.
- "ArcaBook for Arca Options – Depth of Book" makes available NYSE Arca Options quotes and orders at the first five price levels in each series on a real-time basis.
- "ArcaBook for Arca Options – Complex" makes available NYSE Arca Options quote and trade information (including orders/quotes, requests for responses, and trades) for the complex order book on a real-time basis.[5]

The Exchange charges a single fee for its ArcaBook for Arca Options data product, which includes all six of the Current Options Products. The Exchange also charges a separate fee for ArcaBook for Arca Options – Complex for subscribers that seek to obtain this Current Options Product on a standalone basis.[6]

The Exchange proposes to modify the Current Options Products as follows:

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5 See Rule 6.62(e), which defines complex orders, and Rule 6.91, that describes electronic complex order trading, including requests for responses.

6 See Securities Exchange Act Release No. 68005 (Oct. 9, 2012), 77 FR 63362 (Oct. 16, 2012) (SR-NYSEArca-2012-106) (establishing fees for certain proprietary options market data products). See also Securities Exchange Act Release Nos. 69523 (May 6, 2013), 78 FR 27452 (May 10, 2013) (SR-NYSEArca-2013-41) (establishing a schedule of NYSE Arca Options proprietary market data fees); 69554 (May 10, 2013), 78 FR 28917 (May 16, 2013) (SR-NYSEArca-2013-47) (establishing non-display usage fees and amending the professional end-user fees); 71933 (April 11, 2014), 79 FR 21821 (April 17, 2014) (SR-NYSEArca-2014-34) (amending the professional user fees); 73010 (Sept. 5, 2014), 79 FR 54307 (Sept. 11, 2014)(SR-NYSEArca 2014-94) (amending fees for non-display use); 73588 (Nov. 13, 2014), 79 FR 68922 (Nov. 19, 2014)(SR-NYSEArca-2014-129) (establishing fees for the complex order book feed).

First, the Exchange proposes to combine in one market data product, called "Arca Options Top," the data made available currently in "ArcaBook for Arca Options – Trades," "ArcaBook for Arca Options – Top of Book," "ArcaBook for Arca Options – Series Status," and "ArcaBook for Arca Options – Order Imbalance." Offering a data product that combines, in one market data product, last sale data, BBO, and order imbalance information and series status messages, would provide greater efficiencies and better sequencing for vendors and subscribers that currently choose to integrate the data after receiving it from the Exchange. As with ArcaBook for Arca Options – Trades and ArcaBook for Arca Options – Top of Book, Arca Options Top would provide last sale and BBO information on a real-time basis as reported to OPRA and disseminated on a consolidated basis under the OPRA Plan.[7] Other exchanges offer options data products that similarly combine data elements.[8]

Second, the Exchange proposes to modify "ArcaBook for Arca Options – Depth of Book" market data product so that quotes and orders would be available at the first three price levels in each series on a real-time basis rather than at the first five price levels. The Exchange also proposes to change the name of this product to "Arca Options Deep." The Exchange believes that reducing the number of levels in the feed will reduce the size of the messages by a

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[7] See supra note 4. The manner in which the Exchange proposes to disseminate the products would comply with Section 5.2(c) of the OPRA Plan, pursuant to which the Exchange may not disseminate the products "on any more timely basis than the same information is furnished to the OPRA System for inclusion in OPRA's consolidated dissemination of Options Information."

[8] For example, Chicago Board Options Exchange ("CBOE"), NASDAQ Options Market ("NOM"), and NASDAQ OMX PHLX LLC ("PHLX") offer proprietary products that include both last sale and BBO information. See, e.g., Securities Exchange Act Release No. 73955 (Dec. 30, 2014), 80 FR 598 (Jan. 6, 2015) (SR-CBOE-2014-094); NOM Rules, Chapter VI, Section 1(a)(3) and Securities Exchange Act Release No. 64652 (June 13, 2011), 76 FR 35498 (June 17, 2011) (SR-NASDAQ-2011-075); and Securities Exchange Act Release No. 67352 (July 5, 2012), 77 FR 40930 (July 11, 2012) (SR-Phlx-2012-83), respectively.

significant amount, which the Exchange anticipates will reduce customers' bandwidth needs while retaining the functionality of this product.

Finally, the Exchange proposes to change the name of the "ArcaBook for Arca Options – Complex" market data product to "Arca Options Complex."

The proposed Arca Options Top, Arca Options Deep and Arca Options Complex market data products (the "Arca Options Products") would be distributed in a new format, Exchange Data Protocol (XDP), aligning the format of the Arca Options Products with that of other market data products offered by the Exchange. This format change would not affect the real-time data content other than as described herein.

The Exchange does not propose to make any changes to the fees. The single fee charged for the Current Options Products that comprise the ArcaBook for Arca Options market data product would similarly apply to subscribers to of all three proposed market data products – Arca Options Top, Arca Options Deep and Arca Options Complex. The standalone fee that now applies to "ArcaBook for Arca Options – Complex," would likewise apply to Arca Options Complex market data product. The Exchange proposes to change the references to the names of the products in the NYSE Arca Options Proprietary Market Data Fee Schedule to the names of the products as proposed.

As with the Current Options Products, each of the Arca Options Products would be offered through the Exchange's Liquidity Center Network ("LCN"), a local area network in the Exchange's Mahwah, New Jersey data center that is available to users of the Exchange's co-location services. The Exchange would also offer the products through the Exchange's Secure Financial Transaction Infrastructure ("SFTI") network, through which all other users and member organizations access the Exchange's trading and execution systems and other proprietary market data products.

The Exchange will announce the date that the Arca Options Products will be available through an NYSE Market Data Notice.

The proposed change is not intended to address any issues other than those described herein, and the Exchange is not aware of any problems that vendors or subscribers would have in complying with the proposed change.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b)[9] of the Act, in general, and furthers the objectives of Section 6(b)(5)[10] of the Act, in particular, in that 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, and it is not designed to permit unfair discrimination among customers, brokers, or dealers.

The Exchange also believes this proposal is consistent with Section 6(b)(5) of the Act because it protects investors and the public interest and promotes just and equitable principles of trade by providing investors with improved options for receiving market data. The proposed rule changes would benefit investors by facilitating their prompt access to the real-time information contained in the Arca Options Products.

In particular, the Exchange believes that combining last sale data, best bids and offers, order imbalance information and series status messages in the Arca Options Top product is reasonable because it would provide greater efficiencies and reduce errors for vendors and

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9 15 U.S.C. 78f(b).

10 15 U.S.C. 78f(b)(5).

subscribers that currently choose to integrate the data after receiving it from the Exchange. In addition, the change to the Arca Options Deep product reflects the interests and needs of vendors by streamlining the product using smaller message sizes. The changes are reasonable because they would provide vendors and subscribers with higher quality market data products.

In adopting Regulation NMS, the Commission granted self-regulatory organizations and broker-dealers increased authority and flexibility to offer new and unique market data to consumers of such data. It was believed that this authority would expand the amount of data available to users and consumers of such data and also spur innovation and competition for the provision of market data. The Exchange believes that the options data product changes proposed herein are precisely the sort of market data product evolutions that the Commission envisioned when it adopted Regulation NMS. The Commission concluded that Regulation NMS – by lessening regulation of the market in proprietary data – would itself further the Act's goals of facilitating efficiency and competition:

> [E]fficiency is promoted when broker-dealers who do not need the data beyond the prices, sizes, market center identifications of the NBBO and consolidated last sale information are not required to receive (and pay for) such data. The Commission also believes that efficiency is promoted when broker-dealers may choose to receive (and pay for) additional market data based on their own internal analysis of the need for such data.[11]

By removing "unnecessary regulatory restrictions" on the ability of exchanges to sell their own data, Regulation NMS advanced the goals of the Act and the principles reflected in its legislative history.

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11 See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496 (June 29, 2005).

The Exchange further notes that the existence of alternatives to the Exchange's products, including real-time consolidated data, free delayed consolidated data, and proprietary data from other sources, ensures that the Exchange is not unreasonably discriminatory because vendors and subscribers can elect these alternatives.

The proposed options data products will help to protect a free and open market by providing additional data to the marketplace and give investors greater choices. In addition, the proposal would not permit unfair discrimination because the products will be available to all of the Exchange's customers and broker-dealers through both the LCN and SFTI.

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

In accordance with Section 6(b)(8) of the Act,[12] 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 market for proprietary data products is currently competitive and inherently contestable because there is fierce competition for the inputs necessary to the creation of proprietary data. Numerous exchanges compete with each other for listings, trades, and market data itself, providing virtually limitless opportunities for entrepreneurs who wish to produce and distribute their own market data. This proprietary data is produced by each individual exchange, as well as other entities (such as internalizing broker-dealers and various forms of alternative trading systems, including dark pools and electronic communication networks), in a vigorously competitive market. It is common for market participants to further and exploit this competition by sending their order flow and transaction reports to multiple markets, rather than providing them all to a single market.

[12] 15 U.S.C. 78f(b)(8).

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[13] and Rule 19b-4(f)(6) thereunder.[14] 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)[15] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b4(f)(6)(iii),[16] 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

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13 15 U.S.C. 78s(b)(3)(A)(iii).

14 17 CFR 240.19b-4(f)(6).

15 17 CFR 240.19b-4(f)(6).

16 17 CFR 240.19b-4(f)(6)(iii).

Commission shall institute proceedings under Section 19(b)(2)(B)[17] of the Act to determine whether the proposed rule change should be approved or disapproved.

## 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-2015-83 on the subject line.

Paper comments:

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-NYSEARCA-2015-83. 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

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[17] 15 U.S.C. 78s(b)(2)(B).

Street, NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal offices 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-2015-83, 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.[18]

Robert W. Errett
Deputy Secretary

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[18] 17 CFR 200.30-3(a)(12).