

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-77067; File No. SR-NYSEARCA-2016-24)

February 5, 2016

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending the NYSE Arca Options Fee Schedule

Pursuant to Section 19(b)(1)¹ of the Securities Exchange Act of 1934 (the “Act”)² and Rule 19b-4 thereunder,³ notice is hereby given that, on February 1, 2016, 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 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 the Substance of the Proposed Rule Change

The Exchange proposes to amend the NYSE Arca Options Fee Schedule (“Fee Schedule”). The Exchange proposes to implement the fee change effective February 1, 2016. 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

¹ 15 U.S.C.78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

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 purpose of this filing is to clarify an aspect of the tiers for the Firm and Broker Dealer Monthly Firm Cap. The Exchange proposes to have the clarification effective February 1, 2016.

Currently, for trade-related charges for standard options, the Exchange has a Firm and Broker Dealer Monthly Fee Cap ("Firm Cap") that places a limit, or cap, of \$100,000 per month on combined Firm Proprietary Fees and Broker Dealer Fees for transactions in standard options contracts cleared in the customer range for Manual (Open Outcry) Executions, and QCC Transactions executed by a Floor Broker from the Floor of the Exchange. The Firm Cap excludes Strategy Executions, Royalty Fees, and firm trades executed via a Joint Back Office agreement, and also excludes Mini option contracts.

On August 1, 2015, the Exchange adopted Tiered Caps based on the Firm's achieving one of the higher Customer and Professional Customer Monthly Posting Credit Tiers.⁴ Firms receiving the base Posting Credit for Customer or Professional Customer Order executions in Penny Pilot issues would continue to be capped at a \$100,000 per month Firm Cap. Firms that achieve a higher Customer and Professional Customer Monthly Posting Credit Tier would be capped at progressively lower totals, dependent on achieving higher tiers.

⁴ See Exchange Act Release No. 75704 (August 14, 2015) 80 FR 50683(August 20, 2015) (SR-NYSEArca-2015-71).

At the time the Tiered Caps were adopted, there were six Customer and Professional Customer Monthly Posting Credit Tiers. Recently, on November 2, 2015, the Exchange adopted a seventh Customer and Professional Customer Monthly Posting Credit Tier.⁵ However, at the time that the additional Customer and Professional Customer Monthly Posting Credit Tier was added, there was no modification to the Firm and Broker Dealer Monthly Firm Cap Tiers, nor was there any intention to do so.

The Exchange has received a request for clarification, and in the interest of reducing any possible investor confusion, proposes to amend the Fee Schedule to provide that the Firm Cap currently applicable to Tier 6 is also applicable to Tier 7, as follows (proposed new text underlined):

FIRM AND BROKER DEALER MONTHLY FIRM CAP TIERS	
CUSTOMER AND PROFESSIONAL CUSTOMER MONTHLY POSTING CREDIT TIER ACHIEVED	FIRM CAP
Base or Tier 1	\$100,000
Tier 2	\$ 85,000
Tier 3	\$ 80,000
Tier 4	\$ 75,000
Tier 5	\$ 70,000
Tier 6 <u>or 7</u>	\$ 65,000

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,⁶ in general, and furthers the objectives of Sections 6(b)(4) and (5) of the Act,⁷ in

⁵ See Exchange Act Release No. 76438 (November 13, 2015) 80 FR 72465 (November 19, 2015) (SR-NYSEArca-2015-108).

⁶ 15 U.S.C. 78f(b).

⁷ 15 U.S.C. 78f(b)(4) and (5).

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 Exchange believes the proposed change clarifying Tiered Firm Caps is reasonable, equitable, and not unfairly discriminatory, because the proposed rule change does not change any fees, but rather clarifies that the Firm Cap level currently in place for the Customer and Professional Customer Monthly Posting Credit Tier 6 would also be applicable to the Customer and Professional Customer Monthly Posting Credit Tier 7. Accordingly, the proposed rule change is designed to promote transparency and reduce investor confusion by aligning all of the eligible Customer and Professional Monthly Posting Credit Tiers with the Firm Caps.

For these 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,⁸ 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. Instead, the Exchange believes that the proposed change would continue to encourage competition, including by attracting a wider variety of business to the Exchange, which would continue to make the Exchange a more competitive venue for, among other things, order execution and price discovery.

The Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues.

In such an environment, the Exchange must continually review, and consider adjusting, its fees and credits to remain competitive with other exchanges. For the reasons described

⁸ 15 U.S.C. 78f(b)(8).

above, the Exchange believes that the proposed rule change reflects this competitive environment.

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)⁹ of the Act and subparagraph (f)(2) of Rule 19b-4¹⁰ thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

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)¹¹ 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

⁹ 15 U.S.C. 78s(b)(3)(A).

¹⁰ 17 CFR 240.19b-4(f)(2).

¹¹ 15 U.S.C. 78s(b)(2)(B).

- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-NYSEARCA-2016-24 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-NYSEARCA-2016-24. 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 such 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-2016-24, 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.¹²

Brent J. Fields
Secretary

¹² 17 CFR 200.30-3(a)(12).