

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-77521; File No. SR-NYSEArca-2016-53)

April 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 to Add Fees for Reserve Market Maker Options Trading Permits

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 March 25, 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 Substance of the Proposed Rule Change

The Exchange proposes to amend the NYSE Arca Options Fee Schedule (“Fee Schedule”) to add fees for Reserve Market Maker Options Trading Permits. The Exchange proposes to implement the fee change effective April 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

¹ 15 U.S.C.78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

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 purpose of this filing is to add fees for Reserve Market Maker Options Trading Permits (each a “Reserve OTP”).

Under the current NYSE Arca Fee Schedule (Fee Schedule),⁴ an OTP Holder or OTP Firm⁵ acting as a Market Maker must pay a monthly fee for each Options Trading Permit (“OTP”) it utilizes.⁶ In order to act as a Market Maker⁷ on the Exchange Floor, an individual must be specifically named on the relevant Market Maker’s OTP. On occasions when a Market Maker operating on the Floor may is [sic] absent, the OTP Holder or OTP Firm may wish to have a

⁴ See Fee Schedule, available here, https://www.nyse.com/publicdocs/nyse/markets/arca-options/NYSE_Arca_Options_Fee_Schedule.pdf.

⁵ An OTP Holder is a natural person, in good standing, that has been issued an OTP. See Rule 1.1.(q). An OTP Firm is a sole proprietorship, partnership, corporation, limited liability company or other organization in good standing, who has been issued an OTP or upon whom an OTP Holder has conferred trading privileges on the Exchange. See Rule 1.1.(r).

⁶ OTPs are issued by the Exchange for effecting approved securities transactions on the Exchange’s Trading Facilities. See Rule 1.1.(p). The cost of each OTP ranges from \$6,000, for the first OTP, to \$1,000 for the fifth or greater OTP, as the cost decreases as the number of OTPs utilized per month increases. See *supra* n. 4. The first OTP allows a Market Maker to quote in up to 175 issues; a Market Maker is required to have four OTPs to quote all issues on the Exchange. See *id.*

⁷ A Market Maker is an individual who is registered with the Exchange for the purpose of making transactions as a dealer-specialist on the Floor of the Exchange or for the purpose of submitting quotes electronically and making transactions as a dealer-specialist through the NYSE Arca OX electronic trading system. See Rule 6.32(a).

Market Maker Authorized Trader⁸ (“MMAT”) employee engage in open outcry trading to cover for the absent Market Maker. However, an MMAT may only step in to cover for the absent Market Maker if it is specifically named on the relevant OTP; if such individual is not named, the OTP Holder or OTP Firm would be charged the full monthly fee if it activates the OTP to allow that individual to stand in for as briefly as one day.⁹

To provide an option to Market Maker firms to address such short-term absences in a more economical way, the Exchange recently adopted paragraph (i) to Rule 6.2 (Admission to and Conduct on the Options Trading Floor) to create a Reserve OTP.¹⁰ A Reserve OTP would permit an OTP Holder or OTP Firm to have a qualified MMAT employee cover for the absent Market Maker under the firm’s OTP, effectively empowering the individual acting as a qualified MMAT to act as a Market Maker in lieu of the absent individual until such time as the absent Market Maker returns.¹¹

The Exchange now proposes to charge each OTP Holder and OTP Firm a \$175 monthly fee for a Reserve OTP. The fee would be assessed to each OTP Holder and OTP Firm that notifies the Exchange that it would like to utilize a Reserve OTP, such that an MMAT in its

⁸ A Market Maker Authorized Trader is an authorized trader who performs market making activities pursuant to Rule 6 on behalf of an OTP Holder or OTP Firm registered as a Market Maker. See Rule 6.1A(a)(9). A Market Maker Authorized Trader must meet the same registration requirements as a Market Maker before they can be designated as a Market Maker Authorized Trader. See Rule 6.33.

⁹ The Monthly OTP fee is based on the maximum number of OTPs held by an OTP Firm or OTP Holder during a calendar month. See supra n. 4, endnote 1.

¹⁰ See Securities Exchange Act Release No. 77440 (March 24, 2016), (SR-NYSEArca-2016-50) (adopting Reserve OTP on immediately effective basis, with waiver of 30-day operative delay). In its filing, the Exchange noted that other options exchanges likewise offer a “Reserve” concept. See, e.g., Securities Exchange Act Release No. 66237 (January 25, 2012), 77 FR 4848 (January 31, 2012) (SR-NYSEAmex-2012-02) (amending Rule 902NY to create a Reserve Floor Market Maker Amex Trading Permit (“Reserve ATP”)).

¹¹ See id.; see also Rule 6.2(i).

employ would be eligible to be named to the OTP to act as a Floor Market Maker to cover for another Floor Market Maker who is otherwise absent from the Trading Floor that day. The proposed fee change would be implemented on April 1, 2016.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of 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 Exchange believes the proposed fee is equitably allocated and not unfairly discriminatory because it would apply equally to all OTP Holders or OTP Firms that opt to utilize the Reserve OTP alternative. The Exchange believes that the proposed fee is reasonable because it provides a method for OTP Holders and OTP Firms to have fully qualified personnel step in for absent employees without having to pay the full fee every month that the OTP is used by such substitute persons. The Exchange believes the option of a Reserve OTP would encourage the efficient use of personnel resources for OTP Holders and OTP Firms, which contributes to fair and orderly markets. The Exchange notes that the proposed \$175 fee is consistent with fees on other option exchanges.¹⁴

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

¹² 15 U.S.C. 78f(b).

¹³ 15 U.S.C. 78f(b)(4) and (5).

¹⁴ See NYSE Amex Options Fee Schedule, Section III.A. (charging \$175 monthly fee for Reserve Floor Market Maker ATP), [available here, https://www.nyse.com/publicdocs/nyse/markets/amex-options/NYSE_Amex_Options_Fee_Schedule.pdf](https://www.nyse.com/publicdocs/nyse/markets/amex-options/NYSE_Amex_Options_Fee_Schedule.pdf).

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

In accordance with Section 6(b)(8) of the Act,¹⁵ 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 proposed fee would enable the Exchange to compete more effectively with options exchanges that already provide the cost-effective alternative of a “Reserve” trading permit to address personnel coverage for absent Floor Market Makers.¹⁶ The Exchange believes that by improving the competitiveness of Exchange Market Makers it would, in turn, promote competition for order flow among market participants and the options exchanges.

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)¹⁷ of the Act and subparagraph (f)(2) of Rule 19b-4¹⁸ 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

¹⁵ 15 U.S.C. 78f(b)(8).

¹⁶ See supra n. 14.

¹⁷ 15 U.S.C. 78s(b)(3)(A).

¹⁸ 17 CFR 240.19b-4(f)(2).

Commission shall institute proceedings under Section 19(b)(2)(B)¹⁹ 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-2016-53 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-2016-53. 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

¹⁹ 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 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-2016-53, 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.²⁰

Robert W. Errett
Deputy Secretary

²⁰ 17 CFR 200.30-3(a)(12).