

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-77830; File No. SR-NYSEArca-2016-72)

May 13, 2016

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Changes to Procedures Regarding Establishing the LBMA Silver Price

Pursuant to Section 19(b)(1)¹ of the Securities Exchange Act of 1934 (“Act”)² and Rule 19b-4 thereunder,³ notice is hereby given that, on May 12, 2016, NYSE Arca, Inc. (“Exchange” or “NYSE Arca”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I and II 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 changes to the methodology utilized by CME Group, Inc. (“CME Group”) and Thomson Reuters to establish the London Bullion Market Association (“LBMA”) Silver Price (formerly the London Silver Price). The LBMA Silver Price is the price used with respect to calculation of the net asset value for the iShares Silver Trust, ETFS Silver Trust, and ETFS Precious Metals Basket Trust, each of which is currently listed on the Exchange under NYSE Arca Equities Rule 8.201, and is the underlying benchmark for ProShares Ultra Silver and ProShares UltraShort Silver, each of which is currently listed on the Exchange under NYSE Arca Equities Rule 8.200. The proposed rule change is available on the Exchange’s

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

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.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is submitting this proposed rule change in connection with changes to the methodology, as described below, used by CME Group and Thomson Reuters to establish the LBMA Silver Price (formerly the London Silver Price), to be implemented on May 16, 2016. The LBMA Silver Price is the price used with respect to calculation of the net asset value for the iShares Silver Trust, ETFS Silver Trust, and ETFS Precious Metals Basket Trust (together, the "Silver Trusts"), each of which is currently listed on the Exchange under NYSE Arca Equities Rule 8.201 (Commodity-Based Trust Shares), and is the underlying benchmark for ProShares Ultra Silver and ProShares UltraShort Silver (together, the "Silver Funds"), each of which is currently listed on the Exchange under NYSE Arca Equities Rule 8.200 (Trust Issued Receipts).⁴

As of August 14, 2014, the London Silver Price (now known as the "LBMA Silver

⁴ ETFS White Metals Basket Trust, shares of which were previously listed and traded on the Exchange under NYSE Arca Equities Rule 8.201, was delisted from the Exchange on March 3, 2016.

Price”) replaced the “London Silver Fix” as the mechanism for pricing silver. As of such date, CME Group has provided the price platform and methodology for the LBMA Silver Price and Thomson Reuters has been responsible for governance and oversight of the LBMA Silver Price. Currently, six price participants have been accredited to contribute to the LBMA Silver Price as follows: China Construction Bank, HSBC Bank USA NA, JPMorgan Chase Bank, The Bank of Nova Scotia - ScotiaMocatta, The Toronto Dominion Bank and UBS AG.

In connection with implementation of the LBMA Silver Price as a replacement for the London Silver Fix, the Exchange filed a proposed rule change regarding the change to the benchmark price for the Silver Trusts and the change to the “Underlying Benchmark” for the Silver Funds from the London Silver Fix to the London Silver Price.⁵ Specifically, with respect to the Silver Trusts, the Exchange proposed to change the benchmark price used by the Silver Trusts for calculation of the net asset value of shares of each of such trust. In addition, the Exchange proposed to reflect a change in the Underlying Benchmark applicable to the Silver Funds. In this filing, the Exchange describes new measures to be implemented by CME Group and Thomson Reuters on May 16, 2016 relating to the LBMA Silver Price.

The LBMA Silver Price Mechanism⁶

⁵ See Securities Exchange Act Release No. 72847 (August 14, 2014), 79 FR 49350 (August 20, 2014) (SR–NYSEArca–2014–88) (notice of filing and immediate effectiveness of proposed rule change (1) to reflect a change to the value used by the iShares Silver Trust, ETFS Silver Trust, ETFS White Metals Basket Trust and ETFS Precious Metals Basket Trust with respect to calculation of the net asset value of shares of each trust; and (2) to reflect a change to the underlying benchmark for ProShares Ultra Silver and ProShares UltraShort Silver) (the “Prior Notice”).

⁶ The description in the Prior Notice of the London Silver Price mechanism was based, in part, on the “ETFS Silver Registration Statement”, defined in the Prior Notice as follows: Post-Effective Amendment No. 1 on Form S-1 under the 1933 Act for the ETFS White Metals Basket Trust, filed with the Commission on August 13, 2014 (No. 333-195441); Post-Effective Amendment No. 1 on Form S-3 under the 1933 Act for the ETFS Precious

As described in the Prior Notice, according to the ETFS Silver Registration Statement, as of August 15, 2014, CME Group has conducted an “equilibrium auction” once daily during London trading hours among LBMA-authorized participating bullion banks and market makers (“silver participants”) that establishes a price -- the LBMA Silver Price -- which provides reference silver prices for that day’s trading.⁷

CME Group has established an electronic, over-the-counter, auction market for silver

Metals Basket Trust, filed with the Commission on August 13, 2014 (No. 333-195675); Post-Effective Amendment No. 1 on Form S-3 under the 1933 Act for the ETFS Silver Trust, filed with the Commission on August 8, 2014 (No. 333-195514).

⁷ The term “LBMA Silver Price” means the price for an ounce of silver set by LBMA-authorized participating bullion banks and market makers in the electronic, over-the-counter auction operated by CME Group at approximately 12:00 noon London time, on each working day and disseminated by Thomson Reuters. CME Group provides the electronic auction platform on which the price is calculated, while the LBMA accredits market participants. Thomson Reuters is responsible for governance and oversight of the LBMA Silver Price, and is regulated by the Financial Conduct Authority (“FCA”) for its role as the benchmark administrator. The LBMA Silver Price is regulated under the FCA’s Market Conduct (MAR) Sourcebook (MAR 8.3). As the LBMA Silver Price Administrator, Thomson Reuters has adopted and issued the LBMA Silver Price Administrator Code of Conduct and has undertaken to perform the LBMA Silver Price Administrator responsibilities in accordance with MAR 8.3. Among the LBMA Silver Price Administrator’s responsibilities are that it: (1) have in place effective arrangements and procedures that allow the regular monitoring and surveillance of the auction process; (2) monitor the benchmark submissions in order to identify breaches of its practice standards and conduct that may involve manipulation, or attempted manipulation, of the specified benchmark it administers and provide to the oversight committee of the specified benchmark timely updates of suspected breaches of practice standards and attempted manipulation; (3) notify the FCA and provide all relevant information where it suspects that, in relation to the specified benchmark it administers, there has been (i) a material breach of the benchmark administrator's practice standards; (ii) conduct that may involve manipulation or attempted manipulation of the specified benchmark it administers; or (iii) collusion to manipulate or to attempt to manipulate the specified benchmark it administers; (4) ensure that the specified benchmark it administers is determined using adequate benchmark submissions; and (5) establish an oversight committee. The LBMA Silver Price Oversight Committee reviews and maintains the definition, setting, scope and methodology of the benchmark. See Thomson Reuters Benchmark Services—LBMA Silver Price Administrator Code of Conduct, available at <http://financial.thomsonreuters.com/content/dam/openweb/documents/pdf/financial/lbma-silver-price-administrator-code-of-conduct-2015.pdf>.

participants that discovers the LBMA Silver Price over multiple auction rounds that begin at 12:00 noon London time each business day. The LBMA Silver Price is the result of an “equilibrium auction” because it establishes a price for a troy ounce of silver London Good Delivery Bars⁸ that will clear the maximum amount of bids and offers for silver entered by order-submitting silver participants each day. Once the LBMA Silver Price, which is calculated in US dollars, is established, Thomson Reuters disseminates that day’s LBMA Silver Price to the markets and other market data providers such as Bloomberg via the Thomson Reuters Eikon and Elektron systems.

CME Group Auction Process

As described in the Prior Notice, the CME Group auction process begins with a notice of an auction round issued to silver participants before the commencement of the auction round stating a silver price in US dollars at which the auction round will be conducted. An auction round lasts 30 seconds. Silver participants electronically place bid and offer orders at the round’s stated price and indicate whether the orders are for their own account or for the account of clients. The Prior Notice stated that all auction round order information other than the identity of those placing orders are displayed electronically in real time for all silver participants. The CME Group system administrator observes all auction round bid and offer order information, including the identity of those submitting orders. As long as the auction is open, silver participants may alter, change or withdraw their orders.

At the end of the auction round, the CME Group system evaluates the equilibrium of the

⁸ A London Good Delivery Bar is acceptable for delivery in settlement of a transaction on the over-the counter market. A London Good Delivery Bar must contain between 750 ounces and 1,100 ounces of silver with a minimum fineness (or purity) of 999.0 parts per 1,000. A London Good Delivery Bar must also bear the stamp of one of the refiners who are on the LBMA-approved list.

bid and offer orders submitted. If bid and offer orders indicate an imbalance outside of acceptable tolerances established for the CME Group system (e.g., too many purchase orders submitted compared to sell orders or vice versa), a CME Group system algorithm calculates a new auction round price principally based on the volume weighting of bid and offer orders submitted in the immediately completed auction round. To clear the imbalance, the CME Group system then issues another notice of auction round to silver participants at the newly calculated price. During this next 30 second auction round, silver participants again submit orders, and after it ends, the CME Group system evaluates for order imbalances. If order imbalances persist, a new auction price will be calculated and a further auction round will occur. This auction round process continues until an equilibrium within specified tolerances is determined to exist. Once the CME Group system determines that orders are in equilibrium within system tolerances, the auction process ends and the equilibrium auction round price becomes the LBMA Silver Price.

Currently, the LBMA Silver Price and all bid and offer order information for all auction rounds become publicly available electronically via Thomson Reuters instantly after the conclusion of the equilibrium auction. The CME Group system also simultaneously matches bid and offer orders from the equilibrium auction for bilateral settlement among the silver participants. Orders reflecting any imbalance between bids and offers that are within the CME Group system tolerances are then allocated to the first tier participants for settlement.

On March 22, 2016, CME Group and Thomson Reuters issued a press release⁹ announcing implementation of new measures relating to the LBMA Silver Price Benchmark,

⁹ See “CME Group and Thomson Reuters to Enhance LBMA Silver Price Benchmark”, dated March 22, 2016 (“March 22 Press Release”).

effective May 16, 2016.¹⁰ The following are the principal new measures to be implemented. First, a “blind auction” will be introduced. Only prices will be visible during each round. Once an auction round has ended, aggregate buy and sell volumes will be publicly available. Second, with respect to sharing the imbalance in the auction, the imbalance (where applicable) will be shared equally among all registered participants of the auction, even if a participant has not placed an order in the auction for that day. Currently, the imbalance is shared only among participants that have placed an order in the auction for that day.¹¹ Third, in exceptional circumstances, the calculation agent (CME Group) can increase the imbalance threshold during an auction, within an approved range, to establish the LBMA Silver Price and settle the auction.

The Prior Notice stated that the LBMA Silver Price auction process is fully auditable by third parties since an audit trail exists from the time of each notice of an auction round. The LBMA Silver Price auction process will continue to be fully auditable. Moreover, the LBMA Silver Price’s audit trail and active, real time surveillance of the auction process by the CME Group system administrator combined with silver participants’ agreement to abide by CME Group silver market rules and the Thomson Reuters code of conduct will deter manipulative and abusive conduct in establishing each day’s LBMA Silver Price.¹²

¹⁰ CME Group, Thomson Reuters and the independent Silver Price Oversight Committee previously announced in a press release a change to the LBMA Silver Price protocol, in place since January 29, 2016, to suspend an auction if CME Group and Thomson Reuters believe the integrity of the auction or participants is threatened. See “Developments to LBMA Silver Price Benchmark--Joint Statement by Thomson Reuters, CME Group and the independent Silver Price Oversight Committee”, dated February 4, 2016. According to the March 22 Press Release, this change in protocol allows for the auction to be stopped, reset and restarted to address significant price movements during the auction, which are inconsistent with the underlying market.

¹¹ As an equilibrium auction, settlement occurs when, at the end of a round, the total of buy and sell orders are within a predefined imbalance tolerance.

¹² According to LBMA, the Prudential Regulation Authority (PRA) at the Bank of England

2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(5)¹³ that an exchange have rules that are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest.

The Exchange believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices in that, according to the LBMA,¹⁴ the LBMA Silver Price mechanism is electronic, auction-based and auditable. In the Prior Notice, the Exchange represented that it believed that the LBMA Silver Price (formerly, the London Silver Price) mechanism serves as an appropriate replacement to the London Silver Fix for purposes of determining the net asset value of shares of the Silver Trusts or as the Underlying Benchmark applicable to the Silver Funds because of the transparency of the auction process, the participation of an increased number of market participants compared to the London Silver Fix, and the auditability of the silver pricing mechanism. The CME Group system administrator will observe all auction round bid and offer order information, including the identity of those submitting orders. While aggregate bid and offer volumes would no longer be disclosed during

now has overall responsibility for the prudential regulation of banks, building societies, credit unions, insurers and major investment firms, many of whom are active in the bullion market. The conduct of financial institutions is overseen by the FCA, which was formed from the former Financial Services Authority and is separate from the Bank of England.

¹³ 15 U.S.C. 78f(b)(5).

¹⁴ See “LBMA Silver Price Solution: CME Group & Thomson Reuters,” dated July 11, 2014, available at: http://www.lbma.org.uk/blog/lbma_media_centre/post/silverpricesolution/.

the auction round, the London Silver Price and all bid and offer order information for all auction rounds will become publicly available electronically via Thomson Reuters after the conclusion of the equilibrium auction. The LBMA Silver Price is widely disseminated by one or more major market data vendors and/or exchanges.

The proposed rule change is designed to perfect the mechanism of a free and open market and, in general, to protect investors and the public interest in that the LBMA Silver Price auction process is fully transparent in real time to the general public at the close of each equilibrium auction. The LBMA Silver Price auction process also is fully auditable by third parties since an audit trail exists from the time of each notice of an auction round. Moreover, the LBMA Silver Price's audit trail and active, real time surveillance of the auction process by the CME Group system administrator combined with silver participants' agreement to abide by CME Group silver market rules and the Thomson Reuters code of conduct deters manipulative and abusive conduct in establishing each day's LBMA Silver Price.

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, it has become effective pursuant to Section 19(b)(3)(A) of the Act¹⁵ and Rule 19b-4(f)(6) thereunder.¹⁶

A proposed rule change filed pursuant to Rule 19b-4(f)(6) under the Act¹⁷ normally does not become operative for 30 days after the date of its filing. However, Rule 19b-4(f)(6)(iii)¹⁸ permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange states that waiver of the 30-day delayed operative date is consistent with the protection of investors and the public interest because: (1) CME and Thomson Reuters will implement the changes described above beginning May 16, 2016; (2) waiver of the 30-day delayed operative date would accommodate trading of the Silver Trusts and Silver Funds as of May 16, 2016; (3) the Silver Trusts and the Silver Funds do not control the date on which changes to the LBMA Silver Price auction procedures are implemented; and (4) the Silver Trusts and Silver Funds collectively represent approximately \$6.9 billion in market value, and any trading suspension would cause significant harm to investors. Based on the foregoing, the Commission believes the waiver of the operative delay is consistent with the protection of investors and the public interest. Therefore, the Commission hereby waives the operative delay

¹⁵ 15 U.S.C. 78s(b)(3)(A).

¹⁶ 17 CFR 240.19b-4(f)(6). As required under Rule 19b-4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the text of the 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.

¹⁷ 17 CFR 240.19b-4(f)(6).

¹⁸ 17 CFR 240.19b-4(f)(6)(iii).

and designates the proposal operative upon filing.¹⁹

At any time within 60 days of the filing of the 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 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-2016-72 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-2016-72. 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

¹⁹ For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

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-2016-72 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

Brent J. Fields
Secretary

²⁰ 17 CFR 200.30-3(a)(12).