

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-101985; File No. SR-NYSEARCA-2024-89)

December 19, 2024

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Amendment No. 1 to a Proposed Rule Change to Adopt Temporary Rule 7.34-E(T) and Revise Rules 1.1 and 7.34-E to Lengthen the Current Extended Trading Sessions

On October 25, 2024, NYSE Arca, Inc. (“NYSE Arca” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² a proposed rule change to adopt temporary rule 7.34-E(T) and revise rules 1.1 and 7.34-E to lengthen the current extended trading sessions. The proposed rule change was published for comment in the Federal Register on November 14, 2024.³ On December 13, 2024, the Exchange filed Amendment No. 1 to the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. Amendment No. 1 amended and replaced the proposed rule change in its entirety. The Commission is publishing this notice to solicit comments on the proposed rule change, as modified by Amendment No. 1, from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to adopt temporary Rule 7.34-E(T) and revise Rules 1.1 and 7.34-E to permit the Exchange to lengthen the current extended trading hours for NMS stocks to 1:30 a.m. E.T. through 11:30 p.m. E.T. on Monday through Thursday, and 1:30 a.m. E.T. through 8:00 p.m. E.T. on Friday. This Amendment No. 1 supersedes the Initial Proposal in its entirety.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 101559 (November 7, 2024), 89 FR 90143 (“Initial Proposal”).

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 Exchange 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 these 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 aspects 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 adopt temporary Rule 7.34-E(T) and revise Rules 1.1 (Definitions) and 7.34-E (Trading Sessions) to permit the Exchange to lengthen current extended trading hours for NMS stocks to 1:30 a.m. E.T. through 11:30 p.m. E.T. on Monday through Thursday, and 1:30 a.m. E.T. through 8:00 p.m. E.T. on Friday. The Exchange also proposes certain technical, conforming changes to Rule 5.1-E(a) (General Provisions and Unlisted Trading Privileges) and Commentary .08 to Rule 9.5320-E (Prohibition Against Trading Ahead of Customer Orders).

Background

The Exchange currently offers three trading sessions each day the Exchange is open for business unless the Exchange determines otherwise, as follows.

The Exchange's first trading session, the Early Trading Session, begins at 4:00 a.m. Eastern Time ("E.T.") and concludes at the commencement of the Core Trading Session.⁴ The Exchange begins accepting orders 90 minutes before the Early Trading Session begins.⁵

The second or Core Trading Session begins for each security at 9:30 a.m. E.T. and ends at the conclusion of Core Trading Hours or the Core Closing Auction, whichever comes later.⁶ The final session is the Late Trading Session, which begins following the conclusion of the Core Trading Session and concludes at 8:00 p.m. E.T.

Current Rule 7.34-E(b) requires that orders entered into the Exchange marketplace include a designation for which trading session(s) the order will remain in effect. The Exchange will reject orders entered without a trading session designation. An order is only eligible to participate in the designated trading session(s) and may remain in effect for one or more consecutive trading sessions on a particular day. Unless otherwise specified, an order designated for a later trading session will be accepted but not eligible to trade until the designated trading session begins. The Exchange will reject orders designated solely for a trading session that has already ended.

Current Rule 7.34-E(c) describes the order types that are permitted in each session, as follows.

⁴ See Rule 7.34-E(a)(1).

⁵ See id.

⁶ See Rule 7.34-E(a)(2). "Core Trading Hours" means the hours of 9:30 am E.T. through 4:00 pm E.T. or such other hours as may be determined by the Exchange from time to time. See Rule 1.1.

Early Trading Session

Orders and modifiers defined in Rule 7.31-E designated for the Early Trading Session are eligible to participate in the Early Trading Session unless otherwise specified in Rule 7.34-E(c)(1)(A) - (F).

Pursuant to Rule 7.34-E(c)(1)(A), Market Orders and Pegged Orders are not eligible to participate in the Early Trading Session, and such orders that include a designation for the Early Trading Session will be rejected. Market Pegged Orders and Discretionary Pegged Orders, regardless of the session designated for the order, may not be entered before or during the Early Trading Session and will also be rejected. Under Rule 7.34-E(c)(1)(B), Limit Orders designated Immediate or Cancel (“IOC”) are ineligible to participate in the Early Open Auction and will be rejected if entered before the Early Open Auction concludes. Pursuant to Rule 7.34-E(c)(1)(C), Limit Orders designated IOC entered before or during the Early Trading Session and designated for the Core Trading Session will be rejected if entered before the Auction Processing Period for the Core Open Auction.

Rule 7.34-E(c)(1)(D) provides that for securities that are not eligible for an auction on the Exchange, Market Orders designated for the Core Trading Session and Auction-Only Orders will be routed to the primary listing market on arrival. Any order routed directly to the primary listing market on arrival will be cancelled if that market is not accepting orders.

Pursuant to Rule 7.34-E(c)(1)(E), Market-on-Open Orders (“MOO Orders”), Market-on-Close Orders (“MOC Orders”), Limit-on-Close Orders (“LOC Orders”), Primary Only Orders, and Directed Orders designated for the Early Trading Session will be rejected.

Finally, pursuant to Rule 7.34-E(c)(1)(F), Non-Displayed Limit Orders, Mid-Point Liquidity Orders (“MPL Orders”), Tracking Orders, and RPI Orders entered before the Auction Processing Period for the Early Open Auction concludes will also be rejected.

Core Trading Session

All orders and modifiers defined in Rule 7.31-E that are designated for the Core Trading Session are eligible to participate in the Core Trading Session unless otherwise specified in Rules 7.34-E(c)(2)(A) - (C).

Pursuant to Rule 7.34-E(c)(2)(A), Market Orders in securities that are not eligible for the Core Open Auction will be routed to the primary listing market until the first opening print of any size on the primary listing market or 10:00 a.m. E.T., whichever is earlier. Pursuant to Rule 7.34-E(c)(2)(B), Auction-Only Orders in securities that are not eligible for an auction on the Exchange will be accepted and routed directly to the primary listing market. Finally, Rule 7.34-E(c)(2)(C) provides that Limit Orders designated IOC entered before or during the Core Trading Session and designated for the Late Trading Session will be rejected if entered before the Auction Processing Period for the Closing Auction.

Late Trading Session

The orders and modifiers defined in Rule 7.31-E that are designated for the Late Trading Session are eligible to participate in the Late Trading Session unless otherwise specified in Rules 7.34-E(c)(3)(A) - (C).

Pursuant to Rule 7.34-E(c)(3)(A), Market Orders and Pegged Orders are not eligible to participate in the Late Trading Session. The Exchange will reject Market Orders and Pegged Orders that include a designation for the Late Trading Session. Further, under Rule 7.34-E(c)(3)(B), orders that are routed directly to the primary listing market on arrival will be

cancelled if that market is not accepting orders. Finally, pursuant to Rule 7.34-E(c)(3)(C), MOO Orders, MOC Orders, LOC Orders, Primary Only Orders, and Directed Orders designated for the Late Trading Session will be rejected.

Customer Disclosures

Rule 7.34-E(d) provides that no ETP Holder may accept an order from a non-ETP Holder for execution in the Early or Late Trading Session without disclosing to such non-ETP Holder that Limit Orders are the only orders that are eligible for execution during the Early and Late Trading Sessions⁷ and that an order must be designated specifically for trading in the Early and/or Late Trading Session to be eligible for trading in the Early and/or Late Trading Session.⁸ In addition, Rule 7.34-E(d)(3) provides that an ETP Holder must disclose to non-ETP Holders that extended hours trading involves material trading risks, including the possibility of lower liquidity, high volatility, changing prices, unlinked markets, an exaggerated effect from news announcements, wider spreads and any other relevant risk. The absence of an updated underlying index value or intraday indicative value is an additional trading risk in extended hours for Derivative Securities Products.

The disclosures required pursuant to Rule 7.34-E(d)(3) may take the form described in subparagraphs (1) through (7) thereunder or such other form as provides substantially similar information, including risks of lower liquidity; higher volatility; changing prices; unlinked markets; news announcements; wider spreads; and lack of calculation or dissemination of underlying index value or intraday indicative value.

⁷ See Rule 7.34-E(d)(1).

⁸ See id. at (d)(2).

Finally, Rule 7.34-E(e) provides that trades on the Exchange executed and reported outside of the Core Trading Session are designated as .T trades.

Proposed Rule Change

As recently announced,⁹ the Exchange proposes to facilitate the trading of NMS securities on the Exchange beginning at 1:30 a.m. E.T. through 11:30 p.m. E.T. on Monday through Thursday, and 1:30 a.m. E.T. through 8:00 p.m. E.T. on Friday. The Exchange would retain the current structure of the Early and Late Trading Sessions, including eligible order types and required disclosures as described above, while extending the beginning of the Early Trading Session and end time of the Late Trading Session and accepting orders earlier than currently.

To effectuate these changes, the Exchange proposes to adopt a temporary Rule 7.34-E titled “7.34-E(T).” The proposed temporary rule would be identical to current Rule 7.34-E with three exceptions.

First, the beginning and ending times of the Early and Late Trading Sessions, respectively, as set forth in Rule 7.34-E(a)(1) and (3) would be changed to reflect the proposed longer extended trading hours. The Exchange proposes to end the Late Trading Session at 8:00 p.m. E.T. on Friday in order to maximize the available time to make changes at the end of the week before weekend testing.

Second, the Exchange would shorten the time it will begin accepting orders before commencement of the Early Trading Session as set forth in proposed Rule 7.34-E(a)(1) from 90 minutes to 30 minutes such that orders would be accepted beginning at 1:00 a.m. E.T. The

⁹ See “The New York Stock Exchange Plans to Extend Weekday Trading on its NYSE Arca Equities Exchange to 22 Hours a Day,” October 25, 2024, available at <https://ir.theice.com/press/news-details/2024/The-New-York-Stock-Exchange-Plans-to-Extend-Weekday-Trading-on-its-NYSE-Arca-Equities-Exchange-to-22-Hours-a-Day/default.aspx>.

Exchange does not propose to change the time when the Core Trading Session would begin or end or make any other rule changes impacting the Core Trading Session.

Third, the Exchange proposes to supplement its current customer disclosures set forth in proposed Rule 7.34-E(d)(3) to add six additional potential risks associated with Extended Hours Trading based on the recently approved rules of 24X National Exchange LLC,¹⁰ as follows:

- Proposed Rule 7.34-E(d)(viii) would address the potential risks of trading during when financial market infrastructure companies such as other markets, banks, Fedwire Funds Service, and certain other providers of settlement services, would be closed. The proposed rule would advise that during hours in which these financial market infrastructure companies are closed may lead to an increased passage of time between execution and final settlement of the resulting transaction. Proposed Rule 7.34-E(d)(viii) is based on and substantially the same as 24X Rule 3.21(g).
- Proposed Rule 7.34-E(d)(ix) would address the potential risks of trading during hours in which primary listing markets may not be open. As proposed, proposed [sic] Rule 7.34-E(d)(ix) would provide that during Extended Hours Trading, the primary listing exchanges for securities traded on the Exchange may not be open and, thus, trading in listed securities may not be occurring on the primary listing exchanges. The proposed rule would also advise customers that the primary listing exchanges may not be available to perform their regulatory surveillance and other regulatory obligations with regard to their listed securities during

¹⁰ See Securities Exchange Act Release No. 101777 (November 27, 2024), 89 FR 97092, 97110-111 (December 06, 2024) (In the Matter of the Application of 24X National Exchange LLC for Registration as a National Securities Exchange; Findings, Opinion, and Order of the Commission) (“Release No. 101777”); see 24X Rule 3.21(g) & (i)(1)-(5).

Extended Hours Trading. Proposed Rule 7.34-E(d)(ix) is based on and substantially the same as 24X Rule 3.21(i)(1).

- Proposed Rule 7.34-E(d)(x) would address the potential risks of trading during hours in which there may be limited or different regulatory protections. As proposed, the rule would advise that the regulatory protections available during Extended Hours Trading may be more limited or different than those available during the Core Trading Session. For example, the proposed rule would note that certain mechanisms that address volatility in individual symbols and the equities market may not be available during Extended Hours Trading. Proposed Rule 7.34-E(d)(x) is based on and substantially the same as 24X Rule 3.21(i)(2).
- Proposed Rule 7.34-E(d)(xi) would address the potential risk of trading because of limited trading alternatives. As proposed, the rule would advise that Exchange may be the only exchange trading certain securities during Extended Hours Trading and that, with more limited trading alternatives during Extended Hours Trading, customers may experience losses if their orders cannot be executed normally due to systems failures or other issues on the Exchange. Proposed Rule 7.34-E(d)(xi) is based on and substantially the same as 24X Rule 3.21(i)(3).
- Proposed Rule 7.34-E(d)(xii) would address the potential risk related to continuous trading during Extended Hours Trading. As proposed, the rule would advise that, with more limited breaks in trading, there may be a greater risk related to system maintenance and testing, as well as the pausing and resumption of trading. Proposed Rule 7.34-E(d)(xii) is based on and substantially the same as 24X Rule 3.21(i)(4).

- Finally, proposed Rule 7.34-E(d)(xiii) would advise that Extended Hours Trading may present additional unforeseen risks in addition to those discussed above.

Proposed Rule 7.34-E(d)(xiii) is based on and substantially the same as 24X Rule 3.21(i)(5).

The current version of Rule 7.34-E would remain operative until transition to the proposed new Extended Trading Hours set forth in Rule 7.34-E(T)(a) becomes operative. As proposed, the Exchange would not commence operation of Extended Hours Trading as set forth in Rule 7.34-E(T)(a) unless the Equity Data Plans (as proposed to be defined in Rule 1.1, discussed below) have established a mechanism to collect, consolidate, process and disseminate quotation and transaction information at all times during Extended Trading Hours that is equivalent to the mechanism established for the Core Trading Session, and (2) have provided the Exchange with notification that they are prepared to collect, consolidate, process and disseminate quotation and transaction information to accommodate Extended Trading Hours. Specifically, prior to commencing operation during Extended Hours Trading as set forth in Rule 7.34-E(T)(a), the Exchange will file a proposed rule change pursuant to Section 19(b) of the Act and the rules thereunder to amend its rules to delete the current version of Rule 7.34-E and preamble and delete the “T” designation in Rule 7.34-E(T), and confirm that the Exchange is able to comply with its obligations under the Act and the rules thereunder during Extended Trading Hours and that such Equity Data Plans are prepared to collect, consolidate, process and disseminate quotation and transaction information at all times during Extended Trading Hours. The Exchange believes that these limitations are designed to reasonably ensure that consolidated

quotation and transaction data are provided in a manner that is consistent with the existing extended hours sessions on exchanges.¹¹

The Exchange would accordingly add the following legend to current Rule 7.34-E (new text underlined):

This version of Rule 7.34-E will remain operative until Extended Hours Trading as set forth in Rule 7.34-E(T) is operative. For the avoidance of doubt, notwithstanding anything to the contrary in these Rules, the Exchange shall not commence operation of Extended Hours Trading as set forth in Rule 7.34-E(T) unless the Equity Data Plans (1) have established a mechanism to collect, consolidate, process and disseminate quotation and transaction information at all times during Extended Trading Hours that is equivalent to the mechanism established for the Core Trading Session, and (2) have provided the Exchange with notification that they are prepared to collect, consolidate, process and disseminate quotation and transaction information to accommodate Extended Trading Hours. Prior to commencing operation during Extended Hours Trading as set forth in Rule 7.34-E(T), the Exchange will file a proposed rule change pursuant to Section 19(b) of the Exchange Act and the rules thereunder to amend its rules to delete the current version of Rule 7.34-E and preamble and delete the “T” designation in Rule 7.34-E(T), and confirm that the Exchange is

¹¹ See Release No. 101777, 89 FR at 97105.

able to comply with its obligations under the Exchange Act and the rules thereunder during Extended Trading Hours and that such Equity Data Plans are prepared to collect, consolidate, process and disseminate quotation and transaction information at all times during Extended Trading Hours. The rule change must be filed with the SEC within 18 months of the SEC's approval of the Exchange's rule filing adopting Rule 7.34-E(T). If the Exchange fails to file such a rule change within 18 months of approval of Rule 7.34-E(T), the Exchange will promptly file a proposed rule change to delete Rule 7.34-E(T).

The proposed language is substantially the same as text contained in 24X Rule 1.5(c) (Definitions). The Exchange would also revise current Rule 1.1 to add two definitions.

First, the Exchange would define "Equity Data Plans" to mean the effective national market system plan(s) governing the collection, consolidation, processing and dissemination of consolidated equity market data via the exclusive securities information processors ("SIPs"), including (1) Consolidated Tape Association Plan ("CTA Plan"), (2) Consolidated Quotation Plan ("CQ Plan"), (3) the Joint Self-Regulatory Organization Plan Governing the Collection, Consolidation and Dissemination of Quotation and Transaction Information for Nasdaq-Listed Securities Traded on Exchanges on an Unlisted Trading Privileges Basis ("UTP Plan"), (4) the CT Plan established by the Limited Liability Company Agreement of CT Plan LLC, and (5) any successor thereto to the named Plan(s). Except for the reference to the CT Plan established by the Limited

Liability Company Agreement of CT Plan LLC, the proposed definition is the same as 24X Rule 1.5(o).

Second, the Exchange would define Extended Hours Trading to mean trading during the Early Trading Session and the Late Trading Session. The term is used without capitalization in current Rule 7.34-E(d) describing required customer disclosures. The Exchange proposes to use the proposed definition in proposed Rule 7.34-E(T)(d) and current Rule 7.34-E(d), with the exception of subsection (d)(4) of the current and proposed temporary rules, which use the phrase generically. The Exchange believes the proposal would add transparency and clarity to the Exchange's rules.

The Exchange would also make certain technical, conforming changes to Rule 5.1-E(a) and Commentary .08 to Rule 9.5320-E as follows.

First, the Exchange would replace obsolete references to the "Opening session" and "Late Trading Session" and the associated session start and end times in Pacific Time in Rule 5.1-E(a)(2)(i) with the defined term "Extended Hours Trading." The Exchange would also delete a stray period at the end of the rule heading. The proposed changes would add transparency and clarity to the Exchange's rules.

Finally, the Exchange would replace the obsolete reference to "6:30 a.m. to 1:00 p.m. Pacific Standard Time" in Commentary .08 to Rule 9.5320-E with "the Core Trading Session." The proposed change would also add transparency and clarity to the Exchange's rules.

The Exchange believes that the proposal will benefit investors and the national market system by increasing market accessibility, promoting capital formation, and facilitating portfolio management. The proposed extended trading sessions would

operate in the same fashion as the current sessions, and the rules that apply to the current sessions would apply to the proposed longer Early and Late Trading Sessions in unmodified form. In addition, all NMS stocks would continue to be eligible to trade in the proposed longer extended hours sessions. Moreover, as discussed below, the existing safeguards applicable to pre-market and post-market sessions including, among other things, operational safeguards, availability of consolidated last sale and quotation information, and specific disclosures to investors regarding the heightened risks of after-hours trading, and market surveillance capabilities, would be applicable to the proposed extended Early and Late Trading Sessions.

Operations

As noted, the proposed longer trading sessions will operate in the same way as the current sessions from an operational perspective. All order types eligible for such sessions and order type behaviors will remain unchanged. The Exchange will also route to away markets between 1:30 a.m. E.T. through 11:30 p.m. E.T. on Monday through Thursday, and 1:30 a.m. E.T. through 8:00 p.m. E.T. on Friday, just as it currently does between 4:00 a.m. E.T. and 9:30 a.m. E.T. and between 4:00 p.m. E.T. and 8:00 p.m. E.T. Order processing during the proposed longer trading sessions will also function the same way as it does in the current sessions. There will be no changes to the ranking, display, or decrementation processes or rules. The Exchange will report the best bid and offer on the Exchange to the appropriate network processor, as it currently does beginning at 4:00 a.m. E.T. using the same formats and delivery mechanisms. Trades executed and reported outside of the Core Trading Session as proposed will be reported to the

appropriate network processor with the “.T” modifier, just as currently. No fee changes are proposed in connection with this proposal.

In addition, the Exchange will continue to work with primary listing exchanges to coordinate trading halts where appropriate, including halts implemented due to significant material events (i.e., a bankruptcy declaration). During the proposed extended Early and Late Trading Sessions, the Exchange would pause trading in the underlying security until trading resumes on the primary listing market for the security. Generally, regardless of trading session, when a halt has been declared on the primary market, the Exchange will also halt trading automatically in the subject security on NYSE Arca. Exchange staff will be available during the proposed extended trading sessions in order to maintain a fair and orderly market, make any necessary rulings or take any action that may be necessary. Similarly, Exchange staff will be available if any action such as declaration of a halt in a NYSE Arca primary symbol would be necessary in the event of a system malfunction or significant material event such as a bankruptcy declaration.

The Exchange notes that, to the extent material corporate news is released during the Extended Trading Hours and the primary listing market does not impose a halt, the requirements of proposed Rule 7.34-E(T)(d)(3)(v) (which is part of the current rule) and proposed Rules 7.34-E(T)(d)(3)(viii)-(xiii) that disclosures be provided to investors relating to the risks associated with news announcements and the additional risks of trading during Extended Trading Hours, respectively, will help ensure that market participants, including investors, are informed about the potential risks associated with trading during that time period.¹²

¹² See Release No. 101777, 89 FR at 97109.

Securities Information Processor (“SIP”) Readiness

The Exchange will submit all quotes and trades that are generated in the extended Early and Late Trading Session to the consolidated quote and trade systems maintained by the SIPs for public dissemination. Accordingly, once these extended trading hours are operative, quotes and trades will be made available to the investing public in the same manner that quotes and trades are currently made available.

The two SIPs -- the Securities Industry Automation Corporation (“SIAC”) and Nasdaq -- both currently operate from 4:00 a.m. E.T. through 8:00 p.m. E.T. The Exchange has informed both SIPs, as well as the Operating Committee of the CTA and the CQ Plans and the UTP Plan (collectively, the “Operating Committee”), of its intention to extend trading hours to commence at 1:30 a.m. E.T. through 11:30 p.m. E.T. on Monday through Thursday, and 1:30 a.m. E.T. through 8:00 p.m. E.T. on Friday, and has submitted change requests to both SIPs requesting that the SIPs similarly extend their hours of operation. The Exchange will work with the Operating Committee and the SIPs regarding the extension of the SIPs’ operating hours and, in the near term, expects to request a vote of the Operating Committee instructing the SIPs to proceed with such extension.

As noted above, the Exchange will not make the proposed extended hours operative unless the Equity Data Plans have established a mechanism to collect, consolidate, process and disseminate quotation and transaction information at all times during Extended Trading Hours that is equivalent to the mechanism established for the Core Trading Session, and provided the Exchange with notification that they are prepared to collect, consolidate, process and disseminate quotation and transaction information to

accommodate Extended Trading Hours. As also previously noted, at that point the Exchange will file a proposed rule change to, among other things, confirm that such Equity Data Plans are prepared to collect, consolidate, process and disseminate quotation and transaction information at all times during Extended Trading Hours.

Market Surveillance

Trading on the Exchange is subject to a comprehensive regulatory program applicable to the current Early, Core, and Late Trading Sessions that includes a suite of surveillances that reviews trading during each trading session as well as routine examinations of ETP Holders consistent with the current exam-based regulatory program. The Exchange's current regulatory program would be fully applicable to trading in the proposed extended Early and Late Trading Sessions.

Customer Disclosures

As noted above, given the potential trading and other risks of extended hours trading Products, Rule 7.34-E(d) prohibits ETP Holders from accepting orders from non-ETP Holders for execution during the Early or Late Trading Session without making the specified disclosures in the Rule. As further discussed above, the Exchange proposes to enhance these disclosures by including additional mandatory disclosures regarding the potential risks associated with trading during Extended Hours Trading based on recently approved 24X Rule 3.21.¹³ The Exchange notes that Rule 7.34-E(d), as amended, would be fully applicable to the proposed extended trading sessions and would place the same disclosure obligation on ETP Holders.

¹³ See text accompanying note 10, supra.

Implementation

The Exchange will begin accepting orders for the extended Early and Late Trading Session as set forth in proposed Rule 7.34-E(T) subject to the effectiveness of this proposed rule change and subject to the conditions set forth in the proposed legend to current Rule 7.34-E described above.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b)(5) of the Act,¹⁴ 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.

Generally, the Exchange believes that the proposal, including the proposed temporary rule to support longer extended hours trading, would remove impediments to and perfect the mechanism of a free and open market and a national market system by providing a rules framework to support the lengthening of the current extended trading hours for NMS stocks to 1:30 a.m. E.T. through 11:30 p.m. E.T. on Monday through Thursday, and 1:30 a.m. E.T. through 8:00 p.m. E.T. on Friday, which the Exchange believes will increase market accessibility, promote capital formation, and facilitate portfolio management.

The Exchange further believes that adopting a temporary rule that would only be operative upon transition to the new proposed Extended Trading Hours, and adding a legend to the current version of Rule 7.34-E specifying that the current rule will remain operative until that

¹⁴ 15 U.S.C. 78f(b)(5).

time, would promote transparency in Exchange rules and add clarity as to which rules are operative and when, thereby reducing potential confusion, and making the Exchange's rules easier to navigate. Moreover, the proposed legend would provide that the Exchange will not commence operation of the longer Extended Trading Hours prior to filing a proposed rule change to amend its rules confirming that the Exchange is able to comply with its obligations under the Act during the longer extended trading session and that the Equity Data Plans are prepared to collect, consolidate, process and disseminate quotation and transaction information at all times during the proposed Extended Trading Hours. This requirement would promote transparency because trading will not occur unless the Equity Data Plans are able to collect, consolidate, process and disseminate consolidated quotation and transaction data during the proposed longer session. The requirement would also be designed to ensure that consolidated quotation and transaction data are provided in a manner that is consistent with the Exchange's current extended hours sessions, and that the proposed change is thus designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to and facilitating transactions in NMS stocks, and perfect the mechanism of a free and open market and a national market system.

Finally, the Exchange believes that applying the current requirements for extended hours trading such as order designation, permitted orders, and mandatory customer disclosures as well as the operational and regulatory safeguards already in place for the current Early, Core, and Late Sessions to the proposed extended sessions, would promote just and equitable principles of trade and protect investors and the public interest. In addition, the proposed enhanced disclosures based on the approved rules of another exchange will, together with the existing

disclosures, provide investors with important information that should help to inform their decisions as to whether trading during the Exchange's proposed longer extended hours is suitable for them. The Exchange believes that the expanded customer disclosures are consistent with the Act and, in particular, the Section 6(b)(5)¹⁵ requirement that an exchange's rules be designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanisms of a free and open market and a national market system, and protect investors and the public interest.

The Exchange believes that adding a definition of Equity Data Plan to Rule 1.1 would remove impediments to and perfect the mechanism of a free and open market and national market system by adding clarity and transparency to the Exchange's rules with respect to the a [sic] critical element that must be in place for the proposed longer extended trading session. As discussed above, trading in the new extended session will not occur unless the Equity Data Plans are able to collect, consolidate, process and disseminate consolidated quotation and transaction data during the new session. Similarly, the Exchange believes that adding a definition of Extended Hours Trading to Rule 1.1 would remove impediments to and perfect the mechanism of a free and open market and national market system by adding clarity to the Exchange's rules through the introduction of a definition that can be utilized immediately and that would not need to be updated once the Exchange migrates to 22 hour trading, 5 days a week. The Exchange further believes that eliminating obsolete legacy material from Rule 5.1-E(a) and Commentary .08 to Rule 9.5320-E similarly removes impediments to and perfects the mechanism of a free and open market by removing confusion that may result from having obsolete material in the Exchange's rulebook. The Exchange believes that eliminating such obsolete material would not

¹⁵ 15 U.S.C. 78f(b)(5).

be inconsistent with the public interest and the protection of investors because investors will not be harmed and in fact would benefit from increased transparency, thereby reducing potential confusion.

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. The proposed change is designed to propose rule changes to lengthen the current extended trading hours for NMS stocks to 1:30 a.m. E.T. through 11:30 p.m. E.T. on Monday through Thursday, and 1:30 a.m. E.T. through 8:00 p.m. E.T. on Friday. The Exchange operates in a highly competitive environment in which unaffiliated exchange competitors and new entrants could compete to offer extended hours trading of similar duration, and the proposal would therefore enable the Exchange to compete on a more level playing field with these competitors.

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. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change, as modified by Amendment No. 1, is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments:

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-NYSEARCA-2024-89 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-2024-89. This file number should be included on the subject line if email 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 (<https://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 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright

protection. All submissions should refer to file number SR-NYSEARCA-2024-89 and should be submitted on or before [INSERT DATE 21 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁶

Sherry R. Haywood,
Assistant Secretary.

¹⁶ 17 CFR 200.30-3(a)(12).