

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-64525; File No. SR-NYSEArca-2011-30)

May 19, 2011

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending its Rules to Remove the Concept of an “Odd Lot Dealer”

Pursuant to Section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934 (the “Act”)<sup>2</sup> and Rule 19b-4 thereunder,<sup>3</sup> notice is hereby given that on May 12, 2011, 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 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 amend its rules to remove the concept of an “Odd Lot Dealer.” The text of the proposed rule change is available at the Exchange, the Commission’s Public Reference Room, [www.nyse.com](http://www.nyse.com), and the Commission’s website at [www.sec.gov](http://www.sec.gov).

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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<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 15 U.S.C. 78a.

<sup>3</sup> 17 CFR 240.19b-4.

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

1. Purpose

NYSE Arca Equities proposes to amend its rules to remove the concept of an Odd Lot Dealer.

An Odd Lot Dealer is any Market Maker who has agreed to buy and sell securities in odd lots (*i.e.*, orders less than 100 shares) at the Best Protected Bid and the Best Protected Offer throughout the duration of Core Trading Hours and who is registered as an Odd Lot Dealer in accordance with NYSE Arca Equities Rule 7.25.

Before August 13, 2009, the Exchange charged \$0.03 per share for odd lot orders executed against orders residing in the book in Tape A and Tape B securities, and \$0.0035 per share for Tape C securities and paid a \$0.02 per share credit to Market Makers that executed against an odd lot order.<sup>4</sup> The Exchange also had odd lot pricing associated with odd lots routed to different market centers.<sup>5</sup> As of August 13, 2009, the Exchange eliminated this differential odd lot pricing structure and thereafter charged and credited ETP Holders executing odd lots in the same way that it charged and credited them for round-lot executions, thereby simplifying the Exchange's fee structure.<sup>6</sup> Thereafter, in November 2009, the Exchange eliminated the requirement that for each security in which a Market Maker was registered as a Lead Market Maker ("LMM"), the LMM also was required to register as an Odd Lot Dealer in that security.<sup>7</sup> Thereafter, LMMs could choose to register as an Odd Lot Dealer, but were not be required to do so.

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<sup>4</sup> See Exchange Act Release No. 60495 (Aug. 13, 2009), 74 FR 41957 (August 19, 2009) (SR-NYSEArca-2009-72).

<sup>5</sup> Id. at 41958.

<sup>6</sup> Id.

<sup>7</sup> See Exchange Act Release No. 61025 (November 18, 2009), 74 FR 61726 (November 25, 2009) (SR-NYSEArca-2009-102).

Since March 2010, no Market Maker has maintained a registration as an Odd Lot Dealer. Because (1) Exchange systems can process odd lot orders and they are treated the same as round lot and mixed lot orders for purposes of ranking and execution, (2) there is no financial incentives or requirements to act as an Odd Lot Dealer, and (3) there currently is no ETP Holder acting as an Odd Lot Dealer, the Exchange believes that it is appropriate to eliminate the concept of Odd Lot Dealer from its rules. As such, the proposed rule change eliminates the description of an Odd Lot Dealer (or references to rules relating to Odd Lot Dealers) and make conforming changes in NYSE Arca Equities Rules 1.1, 7.25, 7.31, 7.38, 10.12 and 10.13.<sup>8</sup>

In addition, the Exchange proposes to delete Rule 7.38(c) which prohibits ETP Holders from: (i) combining odd lot orders given by different customers into a round lot order or orders unless specifically requested to do so by the customers giving the orders; (ii) unbundling round lots for the purpose of entering odd lot limit orders in comparable amounts; (iii) failing to aggregate odd lot orders into round lots when such orders are for the same account or for various accounts in which there is a common monetary interest; and (iv) entering both buy and sell odd lot limit orders in the same stock before one of the orders is executed for the purpose of capturing the spread in the stock. The Exchange proposes to delete these requirements because the issues associated with such odd lot orders are moot now that the Exchange's systems can process odd lot orders in the same manner as round lot and mixed lot orders for purposes of ranking and execution.

## 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Securities

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<sup>8</sup> To add clarity, Rule 7.37 also would be amended to provide that round lot, mixed lot and odd lot orders shall be treated in the same manner in the NYSE Arca Marketplace.

Exchange Act of 1934 (the “Act”),<sup>9</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act,<sup>10</sup> in particular, in that it is 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 a national market system, and, in general, to protect investors and the public interest. The Exchange does not believe that the removal of rules surrounding Odd Lot Dealers will affect the protection of investors or public interest because Exchange systems can process odd lot orders and they are treated the same as round lot and mixed lot orders for purposes of ranking and execution, there is no financial incentive or requirements to act as an Odd Lot Dealer, and there currently is no ETP Holder acting as an Odd Lot Dealer.

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 foregoing proposed rule change: (1) does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) by its terms does not become operative for 30 days after the date of this filing, 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

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<sup>9</sup> 15 U.S.C. 78f(b).

<sup>10</sup> 15 U.S.C. 78f(b)(5).

Section 19(b)(3)(A) of the Act<sup>11</sup> and Rule 19b-4(f)(6) thereunder.<sup>12</sup>

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.

#### 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](mailto:rule-comments@sec.gov). Please include File Number SR-NYSEArca-2011-30 on the subject line.

##### Paper Comments:

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-NYSEArca-2011-30. 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

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<sup>11</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>12</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires a self-regulatory organization to provide the Commission with written notice of its intent to file the proposed rule change, along with a brief description and 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. The Exchange has fulfilled this requirement.

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-2011-30 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.<sup>13</sup>

Cathy H. Ahn  
Deputy Secretary

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<sup>13</sup> 17 CFR 200.30-3(a)(12).