

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-69389; File No. SR-NYSEArca-2013-38)

April 17, 2013

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending the NYSE Arca Equities Schedule of Fees and Charges for Exchange Services to Remove Certain Obsolete Text

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 April 4, 2013, 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 Equities Schedule of Fees and Charges for Exchange Services (the “Fee Schedule”) to remove certain obsolete text related to a fee that is no longer charged by the Exchange and a credit that is no longer offered by the Exchange. 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.

¹ 15 U.S.C.78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

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 Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Fee Schedule to remove certain obsolete text related to (i) a designated examining authority ("DEA") fee that is no longer charged by the Exchange and (ii) a "Liquidity Provider Credit" that is no longer offered by the Exchange. The Exchange proposes to implement the fee change immediately.

Pursuant to Rule 17d-1 of the Act, the Exchange may act as the DEA for ETP Holders on NYSE Arca Equities.⁴ The Exchange charges certain fees when it performs DEA services, as provided in the Fee Schedule. In this regard, the Fee Schedule currently includes a reference to a \$75 one-time registration fee per trader. The Exchange no longer charges this particular DEA fee and therefore proposes to remove the obsolete text related thereto from the Fee Schedule.⁵

The first sentence of Footnote 12 in the Fee Schedule currently provides that an ETP Holder that submits certain order types that subsequently match against an inbound marketable

⁴ 17 CFR 240.17d-1.

⁵ The Exchange has not charged this fee since April 2007, which corresponds to the elimination of the same \$75 one-time registration fee per trader on NYSE Arca Options. See Securities Exchange Act Release No. 55679 (April 27, 2007), 72 FR 26190 (May 8, 2007) (SR-NYSEArca-2007-35).

order will not be entitled to receive a Liquidity Provider Credit. However, effective July 1, 2008 the Exchange eliminated the Liquidity Provider Credit.⁶ Therefore, when the Liquidity Provider Credit was eliminated, the first sentence of current footnote 12 became obsolete and so it should have been removed. Because it was not, the Exchange proposes to remove the obsolete text now by deleting the first sentence in footnote 12 in the Fee Schedule.⁷

The Exchange notes that the proposed change is not otherwise intended to address any other issues, and the Exchange is not aware of any problems that ETP Holders would have in complying with the proposed change.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,⁸ in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,⁹ 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 that the proposed change is reasonable because it will result in greater specificity and precision within the Fee Schedule, which would contribute to reasonably ensuring that the fees and credits described therein are clear and accurate. Specifically, the proposed change is reasonable because it will remove obsolete text from the Fee Schedule

⁶ See Securities Exchange Act Release No. 58006 (June 23, 2008), 73 FR 36943 (June 30, 2008) (SR-NYSEArca-2008-64). Prior to July 1, 2008, the Liquidity Provider Credit was offered to ETP Holders for purposes of market data revenue sharing in Tape B securities. See Id. At the time of SR-NYSEArca-2008-64, current footnote 12 was changed from footnote 9 in the Fee Schedule to footnote 8.

⁷ The Exchange is proposing that the remaining text of footnote 12 remain unchanged.

⁸ 15 U.S.C. 78f(b).

⁹ 15 U.S.C. 78f(b)(4) and (5).

related to a DEA fee that is no longer charged by the Exchange and a Liquidity Provider Credit that is no longer offered by the Exchange. The Exchange also believes that the proposed change is equitable and not unfairly discriminatory because all readers of the Fee Schedule, including all ETP Holders, would benefit from the increased specificity that this proposed change would provide.

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 not designed to address any competitive issues. Rather, the proposed change is designed to provide greater specificity and precision within the Fee Schedule, which would contribute to reasonably ensuring that the fees and credits described therein are clear and accurate.

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)¹⁰ of the Act and subparagraph (f)(2) of Rule 19b-4¹¹ thereunder, because it establishes a due, fee, or other charge imposed by NYSE Arca.

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

¹⁰ 15 U.S.C. 78s(b)(3)(A).

¹¹ 17 CFR 240.19b-4(f)(2).

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)¹² 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-2013-38 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-2013-38. 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

¹² 15 U.S.C. 78s(b)(2)(B).

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 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 offices of NYSE. 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-2013-38, 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.¹³

Kevin M. O'Neill
Deputy Secretary

¹³ 17 CFR 200.30-3(a)(12).