

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-71367; File No. SR-NYSEArca-2014-03)

January 22, 2014

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending NYSE Arca Equities Rule 7.31(b)(2) to Specify that the Exchange Would Not Apply Limit Order Price Protection to Limit Orders Entered Before Core Trading Hours that are Designated for the Core Trading Session or the Market Order Auction

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 January 9, 2014, 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 NYSE Arca Equities Rule 7.31(b)(2) to specify that the Exchange would not apply limit order price protection to limit orders entered before Core Trading Hours that are designated for the Core Trading Session or the Market Order Auction. The text of the proposed rule change is available on the Exchange’s website at [www.nyse.com](http://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

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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.

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 is proposing to amend NYSE Arca Equities Rule 7.31(b)(2) to specify that the Exchange would not apply limit order price protection to limit orders entered before Core Trading Hours that are designated for the Core Trading Session or the Market Order Auction. The Exchange also proposes to add a descriptive heading of "Limit Order Price Protection" to Rule 7.31(b)(2).

Pursuant to Rule 7.31(b)(2), a limit order will be rejected if it is priced a specified percentage away from the contra-side national best bid ("NBB") or national best offer ("NBO"), i.e., a limit order price protection. The specified percentage is equal to the corresponding "numerical guideline" percentage set forth in paragraph (c)(1) of Rule 7.10 (Clearly Erroneous Executions) for the Core Trading Session. As set forth in Rule 7.34, the Exchange operates three sessions: the Opening Session, the Core Trading Session, and the Late Trading Session. The limit order price protection features set forth in Rule 7.31(b)(2) are currently applicable to limit orders entered during all three sessions.

During the Opening Session, the Exchange accepts limit orders that are designated for the Core Trading Session. Limit orders designated for the Core Trading Session are not eligible to participate in the Opening Session, but are eligible to participate in the Market Order Auction.<sup>4</sup> The Exchange also accepts Auction-only Limit Orders during the Opening Session, and these

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<sup>4</sup> See NYSE Arca Equities Rule 7.34(d)(1)(G)(ii).

limit orders are similarly not eligible for execution during the Opening Session, but are eligible to participate in the Market Order Auction.

Currently, limit orders entered during the Opening Session that are designated for the Core Trading Session or the Market Order Auction are evaluated upon arrival of whether they are priced a specified percentage away of the then-applicable NBB or NBO and rejected if priced outside such parameters. For example, if a limit order designated for the Core Trading Session is entered at 7:30 a.m. Eastern, which is two hours before the Core Trading Session begins, it will be evaluated based on the NBB or NBO at 7:30 a.m. Eastern of whether it should be rejected, even though it would not be eligible to execute at that time.

The Exchange does not believe that the original purpose of the price protection feature, which is to reject orders that are priced so far away from the prevailing quote in the market that they could cause significant price dislocation,<sup>5</sup> is served by rejecting an order that is not eligible to execute at the time of arrival. Specifically, the Exchange does not believe that rejecting limit orders designated for the Core Trading Session or Market Order Auction based on the then-applicable NBB or NBO would prevent significant price dislocation because such orders would not have been eligible to execute at that NBB or NBO. Rather, the NBB or NBO could have moved by the time such orders are eligible to execute, and therefore rejecting such orders before they are eligible to execute would have denied such orders the opportunity to execute.

Instead, the Exchange believes that orders designated for the Core Trading Session or the Market Order Auction should be accepted by Exchange systems and not subject to the limit order price protection upon arrival so that such orders may populate the Exchange's book in advance

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<sup>5</sup> See Securities Exchange Act Release No. 64847 (July 12, 2011), 76 FR 41844 (July 15, 2011) (SR-NYSEArca-2011-45). The limit order price protection feature also mitigates the potential for clearly erroneous executions to occur.

of the Core Trading Session. In particular, the Exchange believes that allowing all eligible limit orders to participate in the Market Order Auction would promote the objective of price discovery by ensuring that all interest intended for such Auction, regardless of the NBB or NBO at time of arrival, would be eligible to be considered for the Auction. Accordingly, the Exchange proposes to amend Rule 7.31(b)(2) to specify that that the Exchange would not apply limit order price protection to limit orders entered before Core Trading Hours that are designated for the Core Trading Session or the Market Order Auction.

The Exchange will announce by Trader Update the implementation date of the proposed change.

## 2. Statutory Basis

The statutory basis for the proposed rule change is Section 6(b)(5) of the Securities Exchange Act of 1934 (the “Act”),<sup>6</sup> which requires the rules of an exchange 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 believes that the proposed rule removes impediments to and perfects the mechanism of a free and open market and a national market system because it would assure that all interest that is designated to participate in the Core Trading Session or the Market Order Auction and that is entered during the Opening Session would be eligible to participate and would not be rejected based on an NBB or NBO that is in effect upon arrival. The Exchange further believes that the proposal will protect investors and the public interest because there will be additional liquidity available for either the Core Trading Session or Market Order Auction, thereby expanding the opportunities for executions.

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<sup>6</sup> 15 U.S.C. 78f(b)(5).

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 Exchange does not believe that the proposal raises any competitive issues because it simply assures that interest that is entered before Core Trading Hours and that is designated for the Core Trading Session or the Market Order Auction, and thus are [sic] not eligible to execute in the Opening Session, would not be rejected based on an NBB or NBO at the time of arrival.

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 Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>7</sup> and Rule 19b-4(f)(6) thereunder.<sup>8</sup> 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 prior to 30 days from the date on which it was filed, 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 Section 19(b)(3)(A) of the Act<sup>9</sup> and Rule 19b-4(f)(6) thereunder.<sup>10</sup>

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<sup>7</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>8</sup> 17 CFR 240.19b-4(f)(6).

<sup>9</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>10</sup> 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.

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 Commission shall institute proceedings under Section 19(b)(2)(B) of the Act<sup>11</sup> 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](mailto:rule-comments@sec.gov). Please include File Number SR-NYSEArca-2014-03 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-2014-03. 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

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<sup>11</sup> 15 U.S.C. 78s(b)(2)(B).

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-2014-03 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>12</sup>

Kevin M. O'Neill  
Deputy Secretary

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