

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-72159; File No. SR-NYSEARCA-2014-54)

May 13, 2014

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Deleting NYSE Arca Equities Rule 9.1(b) to Harmonize NYSE Arca's Rules with the Rules of Other Self-Regulatory Organizations Concerning Office Space Sharing

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 1, 2014, NYSE Arca, Inc. (the "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 delete NYSE Arca Equities Rule 9.1(b) to harmonize NYSE Arca's rules with the rules of other self-regulatory organizations ("SROs") concerning office space sharing. 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 self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments

¹ 15 U.S.C.78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

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 proposes to delete NYSE Arca Equities Rule 9.1(b) to harmonize NYSE Arca's rules with the rules of other SROs concerning office space sharing.

Background

On July 30, 2007, the Financial Industry Regulatory Authority Inc.'s ("FINRA") predecessors, the National Association of Securities Dealers, Inc. ("NASD"), and NYSE Regulation, Inc. ("NYSER"), consolidated their member firm regulation operations into a combined organization, FINRA. Pursuant to Rule 17d-2 under the Act, New York Stock Exchange, LLC ("NYSE"), NYSER and FINRA entered into an agreement (the "Agreement") to reduce regulatory duplication for their members by allocating to FINRA certain regulatory responsibilities for NYSE rules and rule interpretations ("FINRA Incorporated NYSE Rules"). NYSE MKT LLC ("NYSE MKT") became a party to the Agreement effective December 15, 2008.

As part of its effort to reduce regulatory duplication and relieve firms that are members of FINRA, NYSE and NYSE MKT of conflicting or unnecessary regulatory burdens, FINRA is now engaged in the process of reviewing and amending the NASD and FINRA Incorporated NYSE Rules in order to create a consolidated FINRA rulebook.⁴ FINRA recently harmonized

⁴ FINRA's rulebook currently has three sets of rules: (1) NASD Rules, (2) FINRA

NASD and FINRA Incorporated NYSE Rules and interpretations concerning supervision.⁵

FINRA's supervisory rule changes will become effective on December 1, 2014.⁶

As part of this filing, FINRA deleted Incorporated NYSE Rule 343 and its interpretation.

These provisions set forth certain pre-approval requirements for space sharing.⁷ As part of the harmonization process, FINRA determined that a pre-approval process was no longer necessary and instead NASD's notice filing model would be utilized.

FINRA also recently amended the Uniform Branch Office Registration Form ("Form BR"), which is used by firms to register their branch offices with participating SROs and states via the Central Registration Depository.⁸ Among other things, the amendments to Form BR eliminated Section 6, which incorporated space sharing arrangement questions relating to NYSE

Incorporated NYSE Rules, and (3) consolidated FINRA Rules. The FINRA Incorporated NYSE Rules apply only to those members of FINRA that are also members of the NYSE ("Dual Members"), while the consolidated FINRA Rules apply to all FINRA members. For more information about the FINRA rulebook consolidation process, see FINRA Information Notice, March 12, 2008.

⁵ See Securities Exchange Act Release No. 71179 (December 23, 2013), 78 FR 79542 (December 30, 2013) (SR-FINRA-2013-025).

⁶ See FINRA Regulatory Notice 14-10.

⁷ NYSE Rule 343(a) provides that, unless otherwise permitted by the NYSE, an office or foreign incorporated branch of a member or member organization may not be occupied jointly with any other broker or dealer, investment advisor, or other person who conducts a securities or commodities business with the public. Certain types of office space arrangements that were deemed permissible are described in the rule. NYSE Rule 343(b) provides that members and member organizations may share office space with any person who is not a broker or dealer, an investment advisor, or who does not conduct a securities or commodities business with the public. NYSE Rule 343(c) also provides that, unless otherwise permitted by the NYSE, the main office of every member organization must remain open for business on every full business day during the trading hours on the NYSE. Supplementary Material 343.10 provides additional guidance relating to office space arrangements. The related NYSE Rule 343 Interpretation provides additional guidance relating to space sharing.

⁸ See Securities Exchange Act Release No. 71626 (February 27, 2014), 79 FR 12547 (March 5, 2014) (SR-FINRA-2013-051).

Rule 343. As such, FINRA accelerated the effective date for the deletion of Incorporated NYSE Rule 343 and the related interpretations to April 7, 2014, to correspond to the effective date of the revised Form BR.⁹ Thus, there are no longer any pre-approval requirements for FINRA members that are also members of NYSE.

Proposed Rule Change

As a result of the changes to Form BR, there is no longer a mechanism to collect the information used for the space sharing pre-approval process under NYSE Rule 343. As such, NYSE has eliminated NYSE Rule 343 and its interpretations, and NYSE MKT also has eliminated NYSE MKT Rule 343 – Equities, which is substantially the same as NYSE Rule 343.¹⁰ To harmonize its office space sharing requirements with other SROs, NYSE Arca similarly proposes to delete NYSE Arca Equities Rule 9.1(b), which requires prior and continuing approval of the Exchange for certain space sharing arrangements.¹¹ The Exchange notes that any office-sharing arrangements of ETP Holders that engage in a public business would be required to be disclosed on Form BR.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,¹² in general, and furthers the objectives of Section 6(b)(5) of the Act,¹³ in particular,

⁹ See FINRA Regulatory Notice 14-11.

¹⁰ See Securities Exchange Act Release Nos. 71989 (April 22, 2014) (SR-NYSE-2014-21) and 71988 (April 22, 2014) (SR-NYSEMKT-2014-34).

¹¹ NYSE Arca Equities Rule 9.1(b) provides that ETP Holders may not occupy joint quarters with anyone other than another ETP Holder without the prior and continuing approval of the Exchange.

¹² 15 U.S.C. 78f(b).

¹³ 15 U.S.C. 78f(b)(5).

because it is designed to promote just and equitable principles of trade and to remove impediments to and perfect the mechanism of a free and open market and a national market system. Specifically, the Exchange believes that the proposed rule change supports the objectives of the Act by providing greater harmonization between NYSE Arca rules and NYSE, NYSE MKT, and FINRA rules of similar purpose, resulting in less burdensome and more efficient regulatory compliance. In particular, deleting NYSE Arca Rule 9.1(b) would promote just and equitable principles of trade by harmonizing the Exchange's rules with the rules of the NYSE, NYSE MKT, and FINRA and with Form BR, which is used by the Securities and Exchange Commission ("Commission"), SROs, and states.

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 rule change is not intended to address competitive issues but rather to achieve greater consistency between NYSE Arca's rules concerning office space sharing with other SROs.

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 Act¹⁴ and Rule 19b-4(f)(6) thereunder.¹⁵ Because the proposed rule change does not: (i)

¹⁴ 15 U.S.C. 78s(b)(3)(A)(iii). 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.

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 and Rule 19b-4(f)(6)(iii) thereunder.

A proposed rule change filed under Rule 19b-4(f)(6)¹⁶ normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b4(f)(6)(iii),¹⁷ the Commission may 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 upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest, as it will harmonize the Exchange’s rules with the rules of the NYSE, NYSE MKT, and FINRA and with Form BR, thus helping to eliminate confusion regarding broker reporting obligations.¹⁸ Therefore, the Commission designates the proposed rule change to be operative upon filing.

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

¹⁵ 17 CFR 240.19b-4(f)(6).

¹⁶ 17 CFR 240.19b-4(f)(6).

¹⁷ 17 CFR 240.19b-4(f)(6)(iii).

¹⁸ 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).

Commission shall institute proceedings under Section 19(b)(2)(B)¹⁹ 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-2014-54 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-2014-54. 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 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

¹⁹ 15 U.S.C. 78s(b)(2)(B).

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 will also be available for inspection and copying at the NYSE's principal office and on its Internet website at www.nyse.com. 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-2014-54 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

Kevin M. O'Neill
Deputy Secretary

²⁰ 17 CFR 200.30–3(a)(12).