

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34- 73453; File No. SR-NYSEARCA-2014-118)

October 28, 2014

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending NYSE Arca Equities Rule 7.16(f)(v) to Provide that Proactive if Locked Modifiers Will Be Ignored for Short Sale Orders During a Short Sale Period

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 October 15, 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, 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 NYSE Arca Equities Rule 7.16(f)(v) to provide that Proactive if Locked Modifiers will be ignored for short sale orders during a Short Sale Period. 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

¹ 15 U.S.C.78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is proposing to amend NYSE Arca Equities Rule 7.16(f)(v) (“Rule 7.16”) to provide that Proactive if Locked Modifiers will be ignored for short sale orders during a Short Sale Period.

Rule 7.16(f) sets forth how the Exchange handles short sale orders when the provisions of paragraph (b)(1) of Rule 201 of Regulation SHO are in effect.⁴ Rule 7.16(f)(b)(ii)(sic) provides that the Exchange will not execute or display a short sale order for a covered security, as defined in Rule 201 of Regulation SHO, at a price that is less than or equal to the current national best bid (“NBB”) if the listing market for such security has determined that the price of the covered security decreased by 10% or more from the prior day’s closing price (“Short Sale Price Test”). Consistent with paragraph (b)(1)(ii) of Rule 201 of Regulation SHO,⁵ Exchange Rule 7.16(f)(iv) defines a Short Sale Period as the period during which sell orders marked short are subject to a Short Sale Price Test. Rule 7.16(f)(v) further specifies how the Exchange handles short sale orders during the Short Sale Period.

The Exchange proposes to add new Rule 7.16(f)(v)(G) to specify how the Exchange will handle short sale orders that include a Proactive if Locked Modifier during a Short Sale Period. As defined in Rule 7.31(hh), a Proactive if Locked Modifier is available for limit

⁴ 17 CFR Part 242.201(b)(1).

⁵ 17 CFR Part 242.201(b)(1)(ii).

orders and if so designated, the Exchange will route the order to another market center pursuant to Rule 7.37(d) for the away market's displayed size in the instance in which the other market center has locked the order and the locking market has not resolved the locked market situation in a timely manner based upon average response times from other market centers. If the order routed from the Exchange to another market center is not executed in its entirety, the Exchange shall post the order or portion thereof on the Exchange's book. Proactive if Locked Modifiers are only available for Exchange-listed securities.

As proposed, the Exchange will ignore Proactive if Locked Modifiers applied to short sale orders for a security that is in a Short Sale Period. The Exchange believes that it is appropriate to ignore the Proactive if Locked Modifier for short sale orders during a Short Sale Period because it would reduce the possibility that the Exchange will route a short sale order priced at or below the NBB to another market center. Instead, the Exchange will handle the short sale order consistent with the existing provisions of Rule 7.16(f)(v), as applicable, which may include re-pricing the order to a Permitted Price⁶ or rejecting the order, if so designated by the ETP Holder.⁷

The Exchange will announce the implementation date of the systems functionality associated with the proposed rule change by Trader Update to be published no later than 30 days following the effective date. The implementation date will be no later than 30 days following the issuance of the Trader Update.

2. Statutory Basis

⁶ A Permitted Price is one minimum price increment above the NBB. Rule 7.16(b)(v)(C).

⁷ See Rule 7.16(b)(v)(A).

The Exchange believes that the proposal is consistent with Section 6(b) of the Act,⁸ in general, and furthers the objectives of Section 6(b)(5),⁹ in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest.

The Exchange believes that ignoring the Proactive if Locked Modifier for short sale orders during a Short Sale Period will remove impediments to and perfect the mechanism of a free and open market because it will reduce the possibility that the Exchange will route a sell short order priced at or below the NBB to another market center. Rule 201(b)(1)(i) of Regulation SHO¹⁰ requires that a trading center prevent the execution or display of a short sale order at a price that is less than or equal to the NBB, but is silent on whether a trading center can route a short sale order during a Short Sale Period that is priced less than or equal to the NBB. The Exchange believes, however, that it is appropriate and promotes just and equitable principles of trade to reduce the possibility that the Exchange would route a sell short order during a Short Sale Period that is priced less than or equal to the NBB, as the receiving away market would otherwise be required to prevent the display or execution of such order consistent with Rule 201 of Regulation SHO. The Exchange therefore believes that by ignoring Proactive if Locked Modifiers for short sale orders during a Short Sale Period, the Exchange would comply with Rule 201 of Regulation SHO by handling the order consistent with other provisions of Rule 7.16(f)(v) and not shift that responsibility to an away

⁸ 15 U.S.C. 78f(b).

⁹ 15 U.S.C. 78f(b)(5).

¹⁰ 17 CFR 242.201(b)(1)(i)

market.

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 believes the proposed rule change removes a burden on competition because it reduces the possibility that the Exchange would route a sell short order during a Short Sale Period that is priced less than or equal to the NBB, which otherwise would have shifted the responsibility for that sell short order to an away market. As proposed, the Exchange would instead be responsible for handling that sell short order, consistent with existing Rule 7.16(f)(v) and Rule 201 of Regulation SHO.

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 Act¹¹ and Rule 19b-4(f)(6) thereunder.¹² 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 and Rule 19b-4(f)(6)(iii) thereunder.

¹¹ 15 U.S.C. 78s(b)(3)(A)(iii).

¹² 17 CFR 240.19b-4(f)(6).

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)¹³ 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-2014-118 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-2014-118. 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

¹³ 15 U.S.C. 78s(b)(2)(B).

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 Section, 100 F Street, NE, Washington, DC 20549-1090. 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-2014-118 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.¹⁴

Kevin M. O'Neill
Deputy Secretary

¹⁴ 17 CFR 200.30-3(a)(12).