

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-74382; File No. SR-NYSEARCA-2015-10)

February 26, 2015

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending the NYSE Arca Options Fee Schedule

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 February 18, 2015, 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 Options Fee Schedule (“Fee Schedule”) by adding to the Fee Schedule information regarding the number of option issues a Market Maker may have in their assignment in relation to the number of OTPs a Market Maker has. 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 proposes to amend the Fee Schedule by adding to the Fee Schedule information from Rule 6.35(d)(1)-(4) regarding the number of options issues a Market Maker may have in its assignment in relation to the number of OTPs a Market Maker has.

The Fee Schedule sets forth the fees and charges that participants on the Exchange can be expected to pay. However, NYSE Arca Market Makers need to refer to Rule 6.35 (d)(1) to (4) to ascertain the number of OTPs they are required to have depending on the number of option issues in their assignment. The Exchange is proposing to include this information in the Fee Schedule so that Market Makers have a single reference point to ascertain fees associated with their activities on the Exchange.<sup>4</sup> In particular, because the Exchange charges a fee for each OTP assigned to an OTP Holder or OTP Firm ("OTPs"), the rule text identifies the fee structure by setting forth the number of trading permits that are required of OTPs acting as Market Makers according to the number of options issues included in their appointment.

Rule 6.35 (d)(1) to (4) sets forth the trading appointments of participants acting as Market Makers on the Exchange as follows:

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<sup>4</sup> See e.g., NYSE Amex Options Fee Schedule, [available here](#) [sic], (Section III.A., Monday [sic] ATP Fees). See also Securities and Exchange Act Release No. 67505 (July 26, 2012), 77 FR 45292 [sic] (July 31, 2012) (SR-NYSEMKT-2012-24) (filing for immediate effectiveness to add information regarding ATP Fees previously found in NYSE Arca Rule 923NY(d)(1)-(4) [sic] to Fee Schedule).

(1) Market Makers with 1 OTP may have up to 100 option issues included in their appointment.

(2) Market Makers with 2 OTPs may have up to 250 option issues included in their appointment.

(3) Market Makers with 3 OTPs may have up to 750 option issues included in their appointment.

(4) Market Makers with 4 OTPs may have all option issues traded on the Exchange included in their appointment.

The Exchange proposes to add the information from Rule 6.35(d)(1)-(4) to the Fee Schedule under “NYSE Arca GENERAL OPTIONS and TRADING PERMIT (OTP) FEES,” subsection “NYSE Arca Market Makers.” Because the current fee schedule sets forth the monthly OTP Fees for NYSE Arca Market Makers, the Exchange proposes to delete this text and add the substance of the OTP fees back in a table format, together with the number of option issues permitted in a Market Maker’s assignment depending on the OTPs held by such Market Maker as set forth in Rule 6.35(d)(1)-(4). The proposed fee schedule would read as follows:

<u>Monthly Fee Per OTP</u>	<u>Number of Issues Permitted<sup>5</sup> in Market Maker’s Quoting Assignment</u>
<u>\$6,000 for 1<sup>st</sup> OTP</u>	<u>Up to 100 option issues</u>
<u>\$5,000 for the 2<sup>nd</sup> OTP</u>	<u>Up to 250 option issues</u>
<u>\$4,000 for the 3<sup>rd</sup> OTP</u>	<u>Up to 750 option issues</u>
<u>\$3,000 for the 4<sup>th</sup> OTP</u>	<u>All option issues traded on the Exchange</u>
<u>\$1,000 for the 5<sup>th</sup> and additional OTPs</u>	<u>All option issues traded on the Exchange</u>

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<sup>5</sup> The Commission notes that the Exhibit 5 submitted with this proposed rule change says “Number of Options Issues Permitted in Market Makers Assignment.”

The Exchange is not proposing any change in the number of OTPs required by Market Makers. The Exchange believes its proposed change would make the Fee Schedule more comprehensive, thereby better informing members.<sup>6</sup>

For consistency, the Exchange also proposes to make a non-substantive formatting change to how it presents and formats the information related to OTP fees for Floor Brokers, Office, and Clearing Firms to align with the proposed changes to Market Maker OTP fees. The Exchange believes this proposed change would add clarify [sic] and consistency to the Fee Schedule.

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Securities Exchange Act of 1934 (the “Act”),<sup>7</sup> in general, and furthers the objectives of Section 6(b)(4) of the Act,<sup>8</sup> 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, equitable and not unfairly discriminatory because including in the Fee Schedule the number of permits required of OTP Holders and OTP Firms acting as Market Makers on the Exchange from Rule 6.35 (d)(1) through

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<sup>6</sup> Following effectiveness of this proposal, the Exchange plans to file an amendment to Rule 6.35 (Market Maker Appointments), which would include replacing the text of Rule 6.35(d)(1)-(4) with a reference to the Fee Schedule. The proposed change to the Fee Schedule is not contingent upon effectiveness of the changes to Rule 6.35. Until any changes are made to Rule 6.35, the information about the number of option issues permitted in a Market Maker’s assignment in relation to the number of OTPs it holds will appear in both the Fee Schedule and Rule 6.35.

<sup>7</sup> 15 U.S.C. 78f(b).

<sup>8</sup> 15 U.S.C. 78f(b)(4).

(4) improves the clarity and transparency of the Fee Schedule, which is to the benefit of all market participants who would be better able to understand the basis for Exchange fees.

The Exchange believes that the proposed non-substantive formatting changes, including to re-organize how it presents information regarding OTP fees (e.g., streamlined information from current rule text, together with information from Rule 6.35(d)(1)-(4)), would likewise add to the clarity, transparency and comprehensibility of the Fee Schedule to the benefit of all market participants.

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. As noted above, the Exchange believes the proposed change will enhance to [sic] comprehensibility of the Fee Schedule to the benefit of all market participants, which is pro-competitive.

The Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues. In such an environment, the Exchange must continually review, and consider adjusting, its fees and credits to remain competitive with other exchanges. For the reasons described above, the Exchange believes that the proposed rule change reflects this competitive environment.

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)<sup>9</sup> of the

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

Act and subparagraph (f)(2) of Rule 19b-4<sup>10</sup> thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

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)<sup>11</sup> 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](mailto:rule-comments@sec.gov). Please include File Number SR-NYSEARCA-2015-10 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-2015-10. This file number should be included on the subject line if e-mail is used.

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<sup>10</sup> 17 CFR 240.19b-4(f)(2).

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

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 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](http://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-2015-10, 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>

Jill M. Peterson  
Assistant Secretary

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