

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-74727; File No. SR-NYSEArca-2015-30)

April 14, 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)¹ of the Securities Exchange Act of 1934 (the “Act”)² and Rule 19b-4 thereunder,³ notice is hereby given that on April 9, 2015, NYSE Arca, Inc. (“Exchange” or “NYSE Arca”) filed with the Securities and Exchange Commission (“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”) in a number of different ways as described below. The Exchange proposes to implement the fee change effective April 9, 2015. 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 the 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

¹ 15 U.S.C.78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

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 amend the Fee Schedule in a number of different ways as described below. The Exchange proposes to implement the fee changes effective April 9, 2015.

Transaction Fees

The Exchange is proposing several changes to transaction fees. First, the Exchange proposes to establish certain fees for Professional Customer orders. The Exchange does not currently differentiate between Customer orders and Professional Customer orders, except for orders routing to away exchanges.⁴ Because the Exchange recently adopted a Professional Customer definition⁵, the Exchange proposes to establish how Professional Customers would be charged for transactions on the Exchange. Regarding manual transactions, in the table setting forth “Transaction Fee – Per Contract,” the Exchange proposes to clarify that Professional Customer orders executed in open outcry will continue to be charged the same rates as

⁴ Where Professional Customer executions are not specifically delineated in the Fee Schedule, NYSE Arca will continue to treat such executions as Customer executions for fee purposes and the Exchange proposes to include this information in the Fee Schedule for additional clarity and transparency. See proposed Fee Schedule, NYSE Arca OPTIONS: TRADE-RELATED CHARGES FOR STANDARD OPTIONS (“Unless Professional Customer executions are specifically delineated, such executions will be treated as Customer executions for fee purposes.”).

⁵ The Exchange recently added a Professional Customer definition to its rules. See Securities Exchange Act Release No. 73665 (November 21, 2014), 79 FR 70907 (November 28, 2014) (SR-NYSEArca-2014-133). With the filing, the Exchange did not alter its priority rules applicable to orders of Professional Customers, but the Exchange did reserve the right to “differentiate between Professional Customer orders and other orders for purposes of priority or fees,” in any subsequent rule proposals filed with the Commission. See *id.* at 70908, fn. 9.

Customers orders – i.e., no charge will apply. To add clarity to the Fee Schedule, the Exchange proposes to rename the table “Transaction Fee for Manual Transactions – Per Contract.”

Regarding Electronic executions, in the table setting forth “Transaction Fee – Per Contract,” the Exchange proposes to add “Professional Customer” as a participant type. To add clarity to the Fee Schedule, the Exchange proposes to rename the table “Transaction Fee for Electronic Transactions – Per Contract.” As discussed below, the Exchange proposes to charge Professional Customers the same proposed Take Liquidity rate as Firms and Broker Dealers, but enable Professional Customers to earn the same proposed Posting Credit for Posted Liquidity as Customers.

The Exchange is also proposing to increase the Take Liquidity Fees for Lead Market Makers (“LMM”s), NYSE Arca Market Makers (“MM”s), and Firm and Broker Dealer (“BD”) Electronic Executions. The Take Liquidity fees for LMM, MM, Firm and BD orders executed electronically in Penny Pilot Issues would be \$0.50 per contract, up from \$0.49. The Take Liquidity fees for LMM and MM orders executed electronically in Non Penny Pilot Issues would be \$0.92 per contract, up from \$0.87, while the Take Liquidity fees for Firm and BD orders executed electronically in Non Penny Pilot Issues would be \$0.94 per contract, up from \$0.89. As noted above, the Exchange is proposing to charge Professional Customers Take Liquidity Fees per contract equivalent to those charged to Firm and Broker Dealer orders: \$0.50 in Penny Pilot issues, and \$0.94 in Non Penny Pilot issues. Finally, the Exchange is proposing that Professional Customer orders entered and executed electronically would receive the same per contract credit for Post Liquidity as a Customer: \$0.25 for Post Liquidity in Penny Pilot Issues and \$0.75 for Post Liquidity in Non Penny Pilot Issues.

Customer Monthly Posting Credit Tiers for Penny Pilot Issues

The Exchange is proposing two changes to the Customer Monthly Posting Credit Tiers for Penny Pilot Issues, which currently has five tiers. First, the Exchange proposes to clarify that these credits apply to executions of Professional Customer orders. Second, the Exchange proposes to add a sixth tier. To clarify that these tiers apply to Professional Customer orders, the Exchange proposes to revise the table, including its title and headings, as well as the description of qualifying posted orders for each tier, to include reference to Professional Customers. With this change, the Exchange would clarify that the tiers apply to Professional Customers and Customers alike, and that volume from Professional Customer posted orders, together with Customer orders, would be included in the calculation of the qualifications.

The Exchange also proposes to add a sixth Tier (“Tier 6”). To qualify for proposed Tier 6, Order Flow Providers (“OFPs”) must achieve at least 1.00% of the Total Industry Customer equity and ETF option Average Daily Volume (“ADV”) from Customer and Professional Customer Posted Orders in all Issues, or, achieve at least 0.80% of the Total Industry Customer equity and ETF option Average Daily Volume (“ADV”) from Customer and Professional Customer Posted Orders in all issues and also executes an ADV of Retail Orders of 0.10% ADV of U.S. Equity market share posted and executed on the NYSE Arca Equity Market.⁶ OFPs that

⁶ Endnote 8 sets forth additional detail regarding meeting the volume requirements of proposed Tier 6. See Fee Schedule, Endnote 8 (“The calculations for qualifications for monthly posting credits only include electronic executions, excluding Mini options contracts. Customer equity and ETF option ADV does not include Electronic Complex Order Executions or Mini options contracts executions. QCC orders are neither posted nor taken; thus QCC transactions are not included in the calculation of posted or taken execution volumes. Orders routed to another market for execution are not included in the calculation of taking volume. Total Industry Customer equity and ETF option ADV includes OCC calculated Customer volume of all types, including Complex Order Transactions, QCC transactions, and mini options transactions, in equity and ETF options. An affiliate of an OTP Holder or OTP Firm is as defined in NYSE Arca Rule 1.1(a). For purposes of calculating the executed Average Daily Volume (“ADV”) of

meet either of the qualifications for Tier 6 would receive a credit of \$0.50 per contract applied to posted electronic Customer and Professional Customer executions in Penny Pilot issues. The Exchange believes this proposed change would provide additional incentive to direct Customer (and Professional Customer) order flow to the Exchange, which benefits all market participants through increased liquidity and enhanced price discovery.

Customer Incentive Program

The Exchange is proposing two changes to the Customer Incentive Program, which provides four alternatives to earn credits. First, the Exchange proposes to clarify that this Program includes executions of Professional Customer orders in the calculation of executed Customer Posted orders and that all of the various incentive credits apply to both Customer and Professional Customer Posting Credits. Second, the Exchange is proposing to increase two of the possible incentives from \$0.02 to \$0.03. Specifically, if an OFP meets a level of at least 0.75% of Total Industry Customer equity and ETF option ADV from Customer and Professional Customer Posted Orders in both Penny Pilot and non-Penny Pilot Issues, of which at least 0.28% of Total Industry Customer equity and ETF option ADV is from Customer and Professional Customer Posted Orders in non-Penny Pilot Issues, that OFP would qualify for an additional \$0.03 credit on Customer and Professional Customer Posting Credits. As further proposed, if an OFP achieves and has executed ADV of Retail Orders of 0.10% of U.S. Equity market share posted and executed on the NYSE Arca Equity Market, that OFP would qualify for an additional \$0.03 credit on Customer and Professional Customer Posting Credits. The Exchange believes this proposed change would provide additional incentive to direct Customer (and Professional

Retail Orders of U.S. Equity Market Share on the NYSE Arca Equity Market, a Retail Order must qualify for the Retail Order Tier set forth in the Schedule of Fees and Charges for NYSE Arca Equities, Inc.”

Customer) order flow to the Exchange, which benefits all market participants through increased liquidity and enhanced price discovery.

Customer Posting Credit Tiers in Non Penny Pilot Issues

The Exchange is proposing several changes to these Posting Credit Tiers, which consist of Tier A and Tier B and provide for specified credits if specified volume thresholds have been met. First, consistent with the above changes, the Exchange is proposing to clarify that the Posting Credit Tiers would apply to executions of Professional Customer orders. In addition, the Exchange is proposing to adjust the Posting Credit Tiers to require higher levels of volume to qualify, and to increase the credit applied to posted electronic Customer and Professional Customer executions in non-Penny Pilot issues. Tier A would require an Order Flow Provider to meet a minimum of 0.80%, instead of 0.60%, of total industry Customer equity and ETF options ADV from Customer and Professional Customer Posted Orders in all issues, plus an executed ADV of Retail Orders of 0.1% ADV of U.S. Equity market share posted and executed on the NYSE Arca Equity Market to qualify for the credit. Tier B would require an Order Flow Provider to achieve at least 1.00%, instead of 0.95%, of total industry Customer equity and ETF options ADV from Customer and Professional Customer posted orders in both Penny Pilot and non-Penny Pilot issues. Qualifying under either criterion would result in a credit applied to posted electronic Customer and Professional Customer execution in non-Penny Pilot issues of \$0.83 per contract instead of \$0.80 or \$0.81 per contract. The Exchange believes the proposed increases are offset by the increased credits and believes this proposed change would provide additional incentive to direct Customer (and Professional Customer) order flow to the Exchange, which benefits all market participants through increased liquidity and enhanced price discovery.

Take Liquidity Discount for Certain Market Participants

Finally, the Exchange is proposing a new fee, which would be a discount in Take Liquidity Fees for Professional Customer, Market Maker, Firm, and Broker Dealer Liquidity Removing orders for OTP Holders and OTP Firms (“OTPs”) that meet a volume qualification. As proposed, firms that provide at least 1.00% of total industry customer equity and ETF option ADV from Customer and Professional Customer posted orders in all issues and also at least 2.00% of total industry Customer equity and ETF option ADV from Professional Customer, Market Maker, Firm, and Broker Dealer liquidity removing orders in all issues would qualify for a discount in Take Liquidity Fees of \$0.02 in Penny Pilot Issues, and \$0.06 in non-Penny Pilot Issues. The Exchange believes this change would provide an incentive for OTPs to execute large volumes of orders on the Exchange, which benefits all market participants through increased liquidity and enhanced price discovery.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,⁷ in general, and furthers the objectives of Sections 6(b)(4) and (5) of the Act,⁸ 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 delineation of how Professional Customer orders would be charged and treated for purposes of achieving and earning certain credits available on the Exchange is reasonable, equitable and not unfairly discriminatory because it adds clarity to the Fee Schedule, particularly in light of the Exchange’s recent adoption of the

⁷ 15 U.S.C. 78f(b).

⁸ 15 U.S.C. 78f(b)(4) and (5).

Professional Customer definition in its rules.⁹ Prior to this rule change, orders that qualify as Professional Customer orders were treated the same as Customer orders. Thus, where the Exchange proposes to clarify that Professional Customer volumes are included in the calculation for certain credits available, the clarification does not change the fact that orders now falling under the category of Professional Customer were previously included in these volumes.

The Exchange believes the proposed changes regarding the transactions fees to be charged for Professional Customer orders are reasonable, equitable and not unfairly discriminatory for several reasons. First, because Professional Customers submit more than 390 orders in listed options per day on average, Professional Customers generally engage in trading activity similar to Broker Dealers or Firms. The Exchange believes the Professional Customers' higher level of trading activity would result in greater ongoing operational costs, which costs the Exchange aims to recover by assessing Professional Customers (and Broker Dealers and Firms) higher fees for transactions. The Exchange also notes that other competing options exchanges likewise similarly charge Professional Customers the same transaction fees as Firms and Broker Dealers.¹⁰ The Exchange also believes that continuing certain fees and credits for Professional Customers at the same rate as Customer orders (e.g., for Manual executions) is reasonable because it is consistent with the Exchange's current fees and credits, and is designed to attract Professional Customer order flow to the Exchange, which provides a greater opportunity for trading by all market participants.

⁹ See supra n. 5.

¹⁰ See, e.g., NASDAQ OMX PHLX, available [here](http://www.nasdaqtrader.com/Micro.aspx?id=phlxpricing) <http://www.nasdaqtrader.com/Micro.aspx?id=phlxpricing> (charging the Professional Customers the same rate as Broker Dealers and Firms); NYSE Amex Options, available [here](https://www.nyse.com/publicdocs/nyse/markets/amex-options/NYSE_Amex_Options_Fee_Schedule.pdf), https://www.nyse.com/publicdocs/nyse/markets/amex-options/NYSE_Amex_Options_Fee_Schedule.pdf (same).

Further, the Exchange believes that the proposed Take Liquidity rates for Lead Market Makers, Market Makers, Firms and Broker Dealers, and Professional Customers are reasonable, equitable and not unfairly discriminatory because they are competitive with fees charged by other exchanges and are designed to attract (and compete for) order flow to the Exchange, which provides a greater opportunity for trading by all market participants.¹¹ In addition, the increased take fees are reasonable because the fees would generate revenue that would help to support the credits offered for posting liquidity, which are available to all market participants.

The Exchange also believes that the proposed changes are equitable and not unfairly discriminatory because the changes to Take Liquidity Fees for Market Makers and Lead Market Makers would apply to all Market Makers and Lead Market Makers on an equal and non-discriminatory basis. The Exchange believes the changes to Firm, Broker Dealer, and Professional Customer Take Liquidity Fees are equitable and not unfairly discriminatory because they apply to all non-Customer participants who do not have the burden of Market Making obligations.

The Exchange believes the adjustments to qualifications for enhanced posting liquidity credits and increases in various credits, are reasonable and not unfairly discriminatory as they are designed to attract increased Customer (and Professional Customer) business on the Exchange and are achievable in various ways. An increase in Customer (and Professional Customer) orders executed on the Exchange benefits all participants by offering greater price discovery, increased transparency, and an increased opportunity to trade on the Exchange. The Exchange also believes that the proposed credits are reasonable because they are within a range of similar

¹¹ See e.g., NASDAQ Options Market – Fees and Rebates, [available here, http://www.nasdaqtrader.com/Micro.aspx?id=optionsPricing](http://www.nasdaqtrader.com/Micro.aspx?id=optionsPricing).

credits available on other option exchanges.¹² Additionally, attracting posted Customer and Professional Customer order flow is desirable because it encourages liquidity to be present on the Exchange.

The Exchange believes the introduction of a new Tier in the Customer Monthly Posting Credit Tiers and Qualifications for Executions in Penny Pilot Issues is reasonable because it is designed to attract additional Customer (and Professional Customer) electronic equity and ETF option volume to the Exchange, which would benefit all participants by offering greater price discovery, increased transparency, and an increased opportunity to trade on the Exchange. Additionally, the Exchange believes the proposed credits available on this new tier are reasonable because they would incent OTPs to submit Customer (and Professional Customer) electronic equity and ETF option orders to the Exchange and would result in credits that are reasonably related to the Exchange's market quality that is associated with higher volumes.

The Exchange believes that the proposed changes in the Customer Posting Credit Tiers in Non Penny Pilot Issues and the Customer Incentive Program are equitable and not unfairly discriminatory because they will be available to all OTPs that execute posted electronic Customer (and Professional Customer) orders on the Exchange on an equal and non-discriminatory basis, in particular because they provide alternative means of achieving the same credit. The Exchange believes that providing methods for achieving the credits based on posted electronic Customer (and Professional Customer) Executions in both Penny Pilot and non-Penny Pilot issues is equitable and not unfairly discriminatory because it would continue to result in more OTPs qualifying for the credits and therefore reducing their overall transaction costs on the Exchange.

¹² See, e.g., supra n. 10.

Further, the Exchange believes the proposed change to the Customer Posting Credit Tiers in Non Penny Pilot Issues and Customer Incentive Program is reasonable because it is designed to continue to bring additional posted order flow to NYSE Arca Equities, so as to provide additional opportunities for all ETP Holders to trade on NYSE Arca Equities.

The Exchange believes the creation of a Take Fee discount available to Lead Market Makers, Market Makers, Firms, Broker Dealers and Professional Customers is reasonable, equitable, and not unfairly discriminatory because it is applicable to all participants other than Customers, who pay a much lower Take Liquidity Fee, and because it is available to all firms that provide Customer and Professional Customer orders. The Exchange also believes this change will provide an incentive for OTPs to execute large volumes of orders on the Exchange, which benefits all market participants through increased liquidity and enhanced price discovery. The Exchange also notes that the proposed Take Fee discount is consistent with those offered on competing options exchanges.¹³

For these reasons, the Exchange believes that the proposal is consistent with the Act..

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,¹⁴ 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. Instead, the Exchange believes that the proposed change would continue to encourage competition, including by attracting additional liquidity to the Exchange, which would continue to make the Exchange a more competitive venue for, among other things, order execution and price discovery. The Exchange does not believe that the

¹³ See, e.g., BATS Options Exchange fee schedule (Professional, Firm and Market Maker Penny Pilot Take Volume Tiers) [available here](http://www.batsoptions.com/support/fee_schedule/), http://www.batsoptions.com/support/fee_schedule/.

¹⁴ 15 U.S.C. 78f(b)(8).

proposed change will impair the ability of any Market Participants or competing order execution venues to maintain their competitive standing in the financial markets.

The increases in Take Liquidity fees will impact all affected order types (i.e., Professional Customers, Firm, Broker Dealers) in issues at the same rate. The proposed changes to the Customer Monthly Posting Credit Tiers, and the proposed modification to the Customer Incentives are designed to attract additional volume, in particular posted electronic Customer (and Professional Customer) executions, to the Exchange, which would promote price discovery and transparency in the securities markets thereby benefitting competition in the industry. As stated above, the Exchange believes that the proposed change would impact all similarly situated OTPs that post electronic Customer (and Professional Customer) executions on the Exchange equally, and as such, the proposed change would not impose a disparate burden on competition either among or between classes of market participants.

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)¹⁵ of

¹⁵ 15 U.S.C. 78s(b)(3)(A).

the Act and subparagraph (f)(2) of Rule 19b-4¹⁶ 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)¹⁷ 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-2015-30 on the subject line.

Paper comments:

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-NYSEArca-2015-30. 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.

¹⁶ 17 CFR 240.19b-4(f)(2).

¹⁷ 15 U.S.C. 78s(b)(2)(B).

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 such filing also will be available for inspection and copying at the principal offices 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-2015-30, and should be submitted on or before [insert date 21 days from the date of publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁸

Brent J. Fields
Secretary

¹⁸ 17 CFR 200.30-3(a)(12).