

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-77236; File No. SR-NYSEArca-2016-30)

February 25, 2016

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Rule 7.44P Retail Liquidity Program

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),¹ and Rule 19b-4 thereunder,² notice is hereby given that on February 11, 2016, NYSE Arca, Inc. (“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 Exchange. 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 Rule 7.44P (Retail Liquidity Program). 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 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.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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 Rule 7.44P, which governs the Exchange's Retail Liquidity Program ("Program"), to update the expiration date of the pilot period for the Program and to clarify that Retail Orders may not be designated with a minimum trade size ("MTS").

The pilot period for the Program, which is currently governed by Rule 7.44, is scheduled to expire on March 31, 2016.³ When the Exchange filed for the extension of the Program in September 2015, Rule 7.44P, which will govern the Program when the Exchange implements its Pillar trading platform, was not yet approved.⁴ The Exchange proposes a non-substantive, technical amendment to Rule 7.44P(m) to update the date when the pilot period for the Program expires from September 30, 2015, which was the prior pilot expiration date, to March 31, 2016, which is the current pilot expiration date.

The Exchange also proposes to amend Rule 7.44P(k) to clarify that Retail Orders may not be designated with an MTS. Both current Rule 7.44(k) and Rule 7.44P(k), which will be operative once symbols begin migrating to the Pillar trading platform, provide for Retail Orders that may be designated with a time-in-force condition of immediate or cancel ("IOC").⁵ The Exchange does not currently provide for an optional MTS for Limit Orders designated IOC. Accordingly, currently, under Rule 7.44, Retail Orders designated IOC are also not eligible for

³ See NYSE Arca Equities Rule 7.44(m); see also Securities Exchange Act Release No. 75994 (Sept. 28, 2015), 80 FR 59834 (Oct. 2, 2015) (SR-NYSEArca-2015-84) (Notice of Filing).

⁴ See Securities Exchange Act Release No. 76267 (Oct. 26, 2015), 80 FR 66951 (Oct. 30, 2015) (SR-NYSEArca-2015-56) ("Pillar Approval Order").

⁵ See NYSE Arca Equities Rules 7.44(k)(1), 7.44(k)(2)(A), 7.44P(k)(1) and 7.44P(k)(2)(A).

an MTS.

In Pillar, the Exchange will be implementing a substantive difference under Rule 7.31P (Orders and Modifiers) to allow for an optional MTS for Limit Orders designated IOC.⁶ However, the Exchange does not propose a substantive difference to the Program in Pillar to allow Retail Orders that are designated IOC to be designated with an MTS. Accordingly, the Exchange proposes to clarify Rule 7.44P(k) to specify that Retail Orders may not be designated with an MTS. This proposed clarification does not represent a substantive change to the Program because Retail Orders are not currently permitted to be designated with an MTS. The Exchange proposes this rule change to provide greater specificity that the new MTS functionality available for Limit IOC Orders as described in Rule 7.31P(b)(2)(A) would not be available for Retail Orders in the Program, which is current functionality.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Securities Exchange Act of 1934 (the “Act”),⁷ in general, and furthers the objectives of Section 6(b)(5),⁸ in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, 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.

⁶ See Pillar Approval Order, supra note 4 at 66952. See also NYSE Arca Equities Rule 7.31P(b)(2)(A) (defining “Limit IOC Order” as being eligible for an optional MTS).

⁷ 15 U.S.C. 78f(b).

⁸ 15 U.S.C. 78f(b)(5).

Specifically, the Exchange believes that the proposed amendment to Rule 7.44P(m) to update the expiration date of the pilot period of the Program would remove impediments to and perfect the mechanism of a free and open market and national market system by ensuring that Rule 7.44P(m) reflects the current expiration date of the pilot period of the Program, thus reducing potential investor confusion regarding the actual expiration date for the Program. In addition, the Exchange believes that the proposed amendment to Rule 7.44P(k) to specify that Retail Orders may not be designated with an MTS would remove impediments to and perfect the mechanism of a free and open market and national market system by providing clarification in Exchange rules that one of the new functionalities available for Limit IOC Orders in Pillar would not be available for Retail Orders that are designated IOC. The Exchange believes that the proposed clarification would promote transparency in Exchange rules that current functionality of the Program is not changing and that the new MTS designation that will be available for Limit IOC Orders in Pillar will not be available for Retail Orders.

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 change is not designed to address any competitive issue but rather to make non-substantive amendments to Rule 7.44P to update the expiration date of the pilot period for the Program and to clarify that Retail Orders are not eligible to be designated with an MTS, which is current functionality.

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 Act⁹ and Rule 19b-4(f)(6) thereunder.¹⁰ 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 for 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 Act¹¹ and Rule 19b-4(f)(6) thereunder.¹²

A proposed rule change filed under Rule 19b-4(f)(6)¹³ normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),¹⁴ 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 proposed rule change may become operative immediately on filing. In the filing, the Exchange states that it anticipated beginning the migration of symbols to Pillar on February 22, 2016 and, therefore, the Exchange points out that there would be symbols trading on the Exchange that will no longer governed by Rule 7.44 in less than 30 days from the date of filing of this proposed rule change. The Exchange argues that

⁹ 15 U.S.C. 78s(b)(3)(A)(iii).

¹⁰ 17 CFR 240.19b-4(f)(6).

¹¹ 15 U.S.C. 78s(b)(3)(A).

¹² 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change, along with a brief description and 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. The Exchange has satisfied this requirement.

¹³ 17 CFR 240.19b-4(f)(6).

¹⁴ 17 CFR 240.19b-4(f)(6)(iii).

waiving the operative delay would allow these proposed clarifications to Rule 7.44P to have been operative before February 22, 2016, which the Exchange therefore asserts would reduce the potential for any confusion that may result from having an incorrect expiration date for the pilot period in the rule text or potential uncertainty of whether the new MTS functionality would be available for Retail Orders in the Program. The Commission believes that waiving the operative delay so that the proposed rule change would be operative as of the date of filing – February 11, 2016 – would help mitigate any confusion as to which rule text for Rule 7.44P applied at the beginning of the migration of symbols to Pillar and throughout the migration. Accordingly, the Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest and hereby waives the 30-day operative delay and designates the proposal operative upon filing.¹⁵

At any time within 60 days of the filing of the 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 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:

¹⁵ For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

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-2016-30 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-2016-30. 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. 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 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-2016-30, 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.¹⁶

Robert W. Errett
Deputy Secretary

¹⁶ 17 CFR 200.30-3(a)(12), (59).