

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-77588; File No. SR-NYSEArca-2016-54)

April 12, 2016

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending the NYSE Arca Equities Schedule of Fees and Charges for Exchange Services

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 March 31, 2016, 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 the Substance of the Proposed Rule Change

The Exchange proposes to amend the NYSE Arca Equities Schedule of Fees and Charges for Exchange Services (“Fee Schedule”). The Exchange proposes to implement the fee changes effective April 1, 2016. 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 Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Fee Schedule as follows:

Routing Fees

The Exchange proposes to modify the fees that it charges for routing orders to other market centers. Currently, for the Exchange's Tier 1 and Tier 2 customers, the Exchange charges the following routing fees:

- \$0.0027 per share in Tape A Securities for orders routed outside the Book to the NYSE;
- \$0.0027 per share in Tape A Securities for Primary Only Plus ("PO+") Orders⁴ routed to the NYSE that remove liquidity;
- \$0.0030 per share in Tape B Securities for orders routed outside the Book to any away market center;
- \$0.0028 per share in Tape B Securities for Primary Only ("PO") Orders⁵ and PO+ Orders routed to NYSE MKT that remove liquidity from the NYSE MKT Book;

⁴ A PO+ Order is a Primary Only Order (i.e., a market or limit order that is to be routed to the primary market) that is entered for participation in the primary market, other than for participation in the primary market opening or primary market reopening. See NYSE Arca Equities Rule 7.31(f)(1)(C).

⁵ A PO Order is a market or limit [sic] that is routed to the primary, listing market, without sweeping the NYSE Arca book. See NYSE Arca Equities Rule 7.31(f)(1). See also NYSE Arca Equities Rule 7.31P(f)(1).

- \$0.0030 per share in Tape B Securities for PO+ Orders routed outside the Book to NASDAQ;
- \$0.0030 per share in Tape A and Tape C Securities for orders routed outside the Book to any away market center other than NYSE; and
- \$0.0030 per share in Tape A and Tape C Securities for PO+ Orders routed outside the Book to NASDAQ.

For Tier 3 customers, the Exchange charges the following routing fees:

- \$0.0027 per share in Tape A Securities for orders routed outside the Book to the NYSE;
- \$0.0030 per share in Tape B Securities for orders routed outside the Book to any away market center; and
- \$0.0030 per share in Tape A and Tape C Securities for orders routed outside the Book to any away market center.

The Exchange proposes to modify the above routing fees by adopting a uniform fee of \$0.0030 per share for Tier 1, Tier 2 and Tier 3 customers in Tape A, Tape B and Tape C Securities for orders that remove liquidity, including PO and PO+ Orders, that are routed outside the Book to any away market center.

Currently, for non-tier customers (i.e., Basic Rates), the Exchange charges the following routing fees:

- \$0.0030 per share in Tape A Securities for orders routed outside the Book to any away market center other than NYSE
- \$0.0029 per share in Tape A Securities for orders routed outside the Book to the NYSE;

- \$0.0027 per share in Tape A Securities for PO+ Orders routed to the NYSE that remove liquidity;
- \$0.0035 per share in Tape B Securities for orders routed outside the Book to any away market center;
- \$0.0028 per share in Tape B Securities for PO and PO+ Orders routed to NYSE MKT that remove liquidity from the NYSE MKT Book; and
- \$0.0035 per share in Tape C Securities for orders routed outside the Book to any away market center.

The Exchange proposes to modify the above routing fees by adopting a uniform fee of \$0.0035 per share for Basic Rates customers in Tape A, Tape B and Tape C Securities for orders that remove liquidity, including PO and PO+ Orders, that are routed outside the Book to any away market center.

MPL Orders

Currently, the Exchange provides credits under Tier 1, Tier 2 and Basic Rates for Mid-Point Passive Liquidity (“MPL”) Orders that provide liquidity.⁶ The Exchange provides different levels of credits based on the Average Daily Volume (“ADV”) of provided liquidity in MPL Orders for Tape A, Tape B and Tape C Securities combined (“MPL Adding ADV”). For ETP Holders and Market Makers that have MPL Adding ADV during the billing month of at

⁶ An MPL Order is a limit order priced at the midpoint of the Protected Best Bid and Offer (“PBBO”) and not displayed. See Rule 7.31(d)(4). An MPL Order on Pillar is a limit order that is not displayed and does not route, with a working price at the midpoint of the PBBO. See Rule 7.31P(d)(3).

least 3 million shares, the Exchange provides a credit of \$0.0015 per share for Tape A Securities, \$0.0020 per share for Tape B Securities and \$0.0025 per share for Tape C Securities.⁷

The Exchange proposes to modify the per share credit payable under Tier 1, Tier 2 and Basic Rates from \$0.0025 per share to \$0.0020 per share for MPL Orders that provide liquidity in Tape C Securities for ETP Holders and Market Makers that have MPL Adding ADV during the billing month of at least 3 million shares. The Exchange does not propose to make any other change to credits for MPL Orders.

Non-substantive changes to the Fee Schedule

The Exchange recently amended the Fee Schedule to reflect the migration of securities to Pillar, the Exchange's new trading technology platform.⁸ The Exchange proposes to make two non-substantive changes to the Fee Schedule that that [sic] the Exchange intended to make in the Pillar Fee Filing but inadvertently failed to do so. First, in the section for Tier 2 fees, under Tape B Securities, the Exchange proposes to add a second asterisk (“**”) so that the footnote for Market Order Auction appears as “**Market Order Auction in [sic] named Core Open Auction in Pillar.” Second, in the Pillar Fee Filing, the Exchange noted that Mid-Point Passive Liquidity Order is named Mid-Point Liquidity Order on Pillar. In connection with that name change, the Exchange further noted that orders designated as retail orders for securities traded on Pillar would need to meet the requirements of Rule 7.44P(a)(3). The Exchange proposes to add the reference to Rule 7.44P(a)(3) in the section for Basic Rates, under Tape C Securities.

⁷ ETP Holders and Market Makers with MPL Adding ADV during the billing month of at least 1.5 million shares but less than 3 million shares are provided a credit of \$0.0015 per share for Tape A, Tape B and Tape C Securities. ETP Holders and Market Makers with MPL Adding ADV during the billing month of less than 1.5 million shares are provided a credit of \$0.0010 per share for Tape A, Tape B and Tape C Securities. See Fee Schedule.

⁸ See Securities Exchange Act Release No. 74124 [sic] (February 12, 2016), 81 FR 8548 (February 19, 2016) (SR-NYSEArca-2016-18) (“Pillar Fee Filing”).

The proposed changes are not otherwise intended to address any other issues, and the Exchange is not aware of any significant problems that market participants would have in complying with the proposed changes.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,⁹ in general, and furthers the objectives of Sections 6(b)(4) and (5) of the Act,¹⁰ 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 to adopt uniform routing fees for Tier 1, Tier 2, Tier 3 and Basic Rate customers in Tape A, Tape B and Tape C Securities for orders that remove liquidity, including PO and PO+ Orders, that are routed outside the Book to any away market center is equitable and not unfairly discriminatory because it will standardize the routing fee, meaning that the fee would apply uniformly within pricing tiers and all similarly situated ETP Holders and Market Makers would be subject to the same fee. This aspect of the proposed change would therefore result in a more streamlined Fee Schedule.

In addition, the Exchange believes the decrease in the per share credit payable under Tier 1, Tier 2 and Basic Rates for MPL Orders that provide liquidity in Tape C Securities for ETP Holders and Market Makers that have MPL Adding ADV during the billing month of at least 3 million shares is reasonable as it is comparable to the tiered credit available on the NASDAQ Stock Market (“NASDAQ”) for midpoint liquidity, which is currently \$0.0017 per share for

⁹ 15 U.S.C. 78f(b).

¹⁰ 15 U.S.C. 78f(b)(4) and (5).

Tape C Securities when a firm adds greater than 3 million shares of midpoint liquidity.¹¹ The Exchange also believes that the proposed change is equitable and not unfairly discriminatory because the proposed credit would be applicable to all market participants that use MPL Orders and meet the requirements for the credit on the Exchange and each such participant would be subject to the same credit.

The Exchange believes that the proposed non-substantive changes to the Fee Schedule are reasonable, equitable and not unfairly discriminatory because the changes are designed to make the Fee Schedule more logical and comprehensive, and therefore easier for market participants to navigate and digest, which is in the public interest.

Finally, the Exchange believes that it is subject to significant competitive forces, as described below in the Exchange's statement regarding the burden on competition. For these reasons, the Exchange believes that the proposal is consistent with the Act.

For the foregoing 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,¹² the Exchange believes that the proposed rule change would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. In particular, the routing fees would not place a burden on competition because the Exchange is standardizing the fee so that each participant would pay a uniform fee. Further, the proposed change to credits applicable to MPL Orders would also not

¹¹ See NASDAQ Pricing at <http://nasdaqtrader.com/Trader.aspx?id=PriceListTrading2>

¹² 15 U.S.C. 78f(b)(8).

place a burden on competition as the modified credit is comparable to the level of credit for Tape C Securities provided by at least one other exchange.¹³

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 this proposal promotes a 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)¹⁴ of the Act and subparagraph (f)(2) of Rule 19b-4¹⁵ 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)¹⁶ of the Act to determine whether the proposed rule change should be approved or disapproved.

¹³ See supra, note 11.

¹⁴ 15 U.S.C. 78s(b)(3)(A).

¹⁵ 17 CFR 240.19b-4(f)(2).

¹⁶ 15 U.S.C. 78s(b)(2)(B).

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-2016-54 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-2016-54. 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 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 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-2016-54, 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.¹⁷

Robert W. Errett
Deputy Secretary

¹⁷ 17 CFR 200.30-3(a)(12).