

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-78485; File No. SR-NYSEArca-2016-115)

August 5, 2016

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

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that, on August 1, 2016, NYSE Arca, Inc. (“NYSE Arca” or “Exchange”) filed with the Securities and Exchange Commission (“SEC” or “Commission”) the proposed rule change as described in Items I, II, and III 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 the NYSE Arca Options Fee Schedule. 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 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.

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<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

A. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this filing is to amend the Fee Schedule effective August 1, 2016.

Specifically, the Exchange proposes to modify the qualification for Tier C of Customer and Professional Customer Posting Credit Tiers in Non-Penny Pilot Issues (the “Posting Credit Tiers”), as described below.

The Customer Posting Credit Tiers consists of a Base Tier and Tiers A, B and C, which provide for specified credits if specified volume thresholds have been met.<sup>3</sup> Currently, Tier C of the Posting Credit Tiers provides a \$0.90 per contract credit to OTP Holders and OTP Firms (collectively, “OTPs”) that meet or exceed a qualification basis of at least 1.50% of Total Industry Customer equity and ETF option ADV (“TCADV”) from Customer and Professional Customer Posted Orders in all Issues, of which at least 0.40% of TCADV is from Customer and Professional Customer Posted Orders in non-Penny Pilot Issues.

The Exchange is proposing to modify the qualification for Tier C by maintaining the requirement of at least 1.50% of TCADV from Customer and Professional Customer Posted Orders in all Issues, but reducing the portion of TCADV from Customer and Professional Customer Posted Orders in non-Penny Pilot Issues from 0.40% to 0.30%. The Exchange believes that reducing the required portion of posted orders in non-Penny Pilot issues while maintaining the overall volume threshold to qualify for Tier C would make the Tier (and related credit) more achievable given that the vast majority of options issues traded on the Exchange are in Penny Pilot Issues. The Exchange believes that the modification to make Tier C more achievable

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<sup>3</sup> The Exchange notes that there is a posting credit of \$0.75 associated with a Base Tier for which there is no volume requirement.

would provide additional incentive to OTPs to direct Customer (and Professional Customer) order flow to 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,<sup>4</sup> in general, and furthers the objectives of Sections 6(b)(4) and (5) of the Act,<sup>5</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 modification to Tier C is reasonable, equitable, and not unfairly discriminatory because it would be available to all OTPs that execute posted electronic Customer (and Professional Customer) orders on the Exchange on an equal and non-discriminatory basis. The Exchange believes that modifying Tier C to reduce the portion of posted orders in non-Penny Pilot issues required to qualify for the Tier is equitable and not unfairly discriminatory because the change would enable more OTPs to qualify for the credit, which in turn, could reduce OTPs overall transaction costs on the Exchange. Moreover, the Exchange believes the proposed modifications would provide additional incentives to OTPs to direct Customer (and Professional Customer) order flow to the Exchange, which benefits all market participants through increased liquidity and enhanced price discovery.

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

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

<sup>5</sup> 15 U.S.C. 78f(b)(4) and (5).

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

In accordance with Section 6(b)(8) of the Act,<sup>6</sup> 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, which would make Tier C more achievable, 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 proposed change will impair the ability of any market participants or competing order execution venues to maintain their competitive standing in the financial markets. In addition, the proposed change to Tier C would be available to all similarly situated OTPs and should therefore encourage competition without undue burden.

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>7</sup> of the

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<sup>6</sup> 15 U.S.C. 78f(b)(8).

<sup>7</sup> 15 U.S.C. 78s(b)(3)(A).

Act and subparagraph (f)(2) of Rule 19b-4<sup>8</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>9</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-2016-115 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-2016-115. This file number should be included on the subject line if e-mail is used. To help the Commission process and review

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<sup>8</sup> 17 CFR 240.19b-4(f)(2).

<sup>9</sup> 15 U.S.C. 78s(b)(2)(B).

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-2016-115, 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>10</sup>

Jill M. Peterson  
Assistant Secretary

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<sup>10</sup> 17 CFR 200.30-3(a)(12).