

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-79034; File No. SR-NYSEArca-2016-134)

October 4, 2016

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Rule 7.16P

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 September 26, 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 and II 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 Rule 7.16P. 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> 15 U.S.C. 78a.

<sup>3</sup> 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 7.16P (Short Sales). Specifically, the Exchange proposes to amend Rule 7.16P(f)(5)(G) regarding the treatment of an Intermarket Sweep Order (“ISO”)<sup>4</sup> designated Immediate-or-Cancel (“IOC”) during a Short Sale Period.<sup>5</sup> Rule 7.16P(f)(5)(F) currently provides that during a Short Sale Period, IOC orders will be traded to the extent possible at a Permitted Price<sup>6</sup> and higher and then cancelled, and the working price will not be adjusted.<sup>7</sup> An IOC ISO with a limit price at or below the NBB, on the other hand, is treated unlike an IOC order during a Short Sale Period and similar to a Day ISO. Rule 7.16P(f)(5)(G) currently provides that a Day ISO will be rejected if the limit price is at or below the NBB. The Exchange proposes to amend Rule 7.16P(f)(5)(G) to specify that an IOC ISO and a Day ISO are both handled in a similar manner by the Exchange. The Exchange proposes to make this change by deleting the word ‘Day’ from Rule 7.16P(f)(5)(G).<sup>8</sup> Given that during a Short Sale Period, an IOC ISO and a Day ISO are both treated in a similar manner, the Exchange

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<sup>4</sup> An ISO is a Limit Order that does not route and meets the requirements of Rule 600(b)(30) of Regulation NMS. See Rule 7.31P(e)(3).

<sup>5</sup> Short Sale Period is the period of time that the Short Sale Price Test remains in effect if the Short Sale Price Test is triggered by the listing market with respect to a covered security. See Rule 7.16P(f)(4).

<sup>6</sup> Permitted Price is the working price and/or display price adjusted one minimum price increment above the current NBB for short sale orders during a Short Sale Period that have a working price and/or display price equal to or lower than the NBB. See Rule 7.16P(f)(5)(A).

<sup>7</sup> See Rule 7.16P(f)(5)(F).

<sup>8</sup> The Exchange proposes a non-substantive amendment to delete the term “Order” in Rule 7.16P(f)(5)(G) as such term is redundant of the term ISO, which includes the term “Order.”

believes the proposed change will provide specificity to the Exchange's rules that during a Short Sale Period, all ISOs will be rejected if the limit price is at or below the NBB.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act,<sup>9</sup> in general, and furthers the objectives of Section 6(b)(5),<sup>10</sup> 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.

Specifically, the Exchange believes that the proposed rule change would promote just and equitable principles of trade, and remove impediments to and perfect the mechanism of a free and open market and a national market system by ensuring consistency in the treatment of ISOs during a Short Sale Period. The Exchange believes the proposal to amend Rule 7.16P will also promote transparency and provide specificity to the rule, which serves 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.

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 amendments to the manner in which ISOs are handled during a Short Sale Period.

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<sup>9</sup> 15 U.S.C. 78f(b).

<sup>10</sup> 15 U.S.C. 78f(b)(5).

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

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, it has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>11</sup> and Rule 19b-4(f)(6) thereunder.<sup>12</sup>

A proposed rule change filed pursuant to Rule 19b-4(f)(6) under the Act<sup>13</sup> normally does not become operative for 30 days after the date of its filing. However, Rule 19b-4(f)(6)(iii)<sup>14</sup> permits the Commission to 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 proposal may become operative immediately upon filing. According to the Exchange, during a Short Sale Period, IOC ISOs and Day ISOs are treated in a similar manner, and the proposed rule change would specify that during a Short Sale Period, all ISOs will be rejected if the limit price is at or below the NBB. The Commission believes the waiver of the operative delay is consistent with the protection of investors and the public interest.

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<sup>11</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>12</sup> 17 CFR 240.19b-4(f)(6). As required under Rule 19b-4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the 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.

<sup>13</sup> 17 CFR 240.19b-4(f)(6).

<sup>14</sup> 17 CFR 240.19b-4(f)(6)(iii).

Therefore, the Commission hereby waives the operative delay and designates the proposal operative upon filing.<sup>15</sup>

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:

##### 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-2016-134 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-2016-134. 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>15</sup> For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

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-2016-134 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>16</sup>

Robert W. Errett  
Deputy Secretary

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<sup>16</sup> 17 CFR 200.30-3(a)(12).