

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-79063; File No. SR-NYSEArca-2016-132)

October 6, 2016

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 September 23, 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 Options Fee Schedule (“Fee Schedule”). The Exchange proposes to implement the fee change effective October 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 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 Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to cap the Lead Market Maker (“LMM”) Rights Fees (“Rights Fee”) charged for lower-volume issues to encourage OTP Firms acting as LMMs to add more such issues to their allocation. The Exchange proposes to implement the fee change effective October 1, 2016.

The LMM Rights Fee is charged “on a per issue basis to the OTP Firm acting as LMM in the issue.”⁴ Currently, the Exchange charges a Rights Fee on each issue in a LMM’s allocation, with rates based on the Average National Daily Customer Contracts (“CADV”). The monthly Rights Fee ranges from \$25 per month to \$3,000 per month. Under the current Fee Schedule, the more active an issue is, the higher the Rights Fee, as set forth below:

Average National Daily Customer Contracts	Monthly Issue Fee
0 to 100	\$25
101 to 1,000	\$35
1,001 to 2,000	\$75
2,001 to 5,000	\$200
5,001 to 15,000	\$750
15,001 to 100,000	\$1,500
Over 100,000	\$3,000

Earlier this year, the Exchange introduced an LMM Rights Fee Discount applicable to each issue in an LMM’s appointment with a CADV above 5,000 based on the amount of

⁴ See Fee Schedule, Endnote 2, available [here](https://www.nyse.com/publicdocs/nyse/markets/arca-options/NYSE_Arca_Options_Fee_Schedule.pdf), https://www.nyse.com/publicdocs/nyse/markets/arca-options/NYSE_Arca_Options_Fee_Schedule.pdf.

monthly (i) total electronic volume and/or (ii) total posted volume executed by an LMM in the Market Maker range relative to other Market Makers appointed in that issue (the “Discount”).⁵ This Discount was designed to incent LMMs that already transact a significant amount of business on the Exchange and trade competitively in their issues to increase their trading and achieve one of the Discounts as well as to incent LMMs to apply for new issue allocation. The Exchange now proposes a modification to its Fee schedule that is designed to encourage LMMs to add lower-volume issues to their appointments.

Specifically, the Exchange proposes to cap at 50 issues the Rights Fee it charges OTP Firms for issues with a CADV of 0 to 100 contracts (“First Tier”). The Exchange would not charge for any First Tier issues in the LMM’s allocation that exceed 50 issues. The Exchange also proposes to cap at 100 issues the Rights Fee it charges for issues with a CADV of 101 to 1000 (“Second Tier”). The Exchange would not charge for any Second Tier issues in the LMM’s allocation that exceed 100 issues. The practical impact of this cap is that the maximum LMM Rights Fee charged to an OTP Firm for issues trading in the First Tier would be \$1,250 (i.e., \$25 x 50) and the maximum Rights Fee charged to an OTP Firm for issues trading in the Second Tier would be \$3,500 (i.e., \$35 x 100). For example, an OTP Firm acting as an LMM with 55 issues that trade in the First Tier, and another 130 that trade in the Second Tier, would be charged an LMM Rights fee of \$4,750 (\$1,250 (the max charged for First Tier issues) plus \$3,500 (the max charged for Second Tier issues).

The Exchange is setting the caps at different amounts for the First and Second Tiers because of the difference in the universe of available issues in each of these Tiers. The Exchange proposes a higher issue cap for options trading in the Second Tiers because there are more issues

⁵ See Securities and Exchange Act Release No. 77885 (May 23, 2016), 81 FR 33716 (May 23 [sic], 2016) (SR-NYSEArca-2016-75).

available in this Tier than in the First Tier and these issues are also more desirable because they trade more.⁶

The Exchange believes that the proposed caps to the LMM Rights Fee would increase interest of OTP Firms acting as LMMs in adding to their allocation issues in the First and Second Tiers.

The Exchange notes that the proposed caps to the Rights Fees would not hinder an LMM's ability to achieve any of the existing discounts applicable to the Rights Fees; rather, to the extent that the caps encourage an OTP Firm acting as an LMM to increase the number of issues in its allocation, the proposal may increase an LMM's chances of achieving existing discounts (i.e., to achieve the 50% discount on the Rights Fee an LMM needs to trade 10,000 electronic contracts ADV in its appointment).

The Exchange is not proposing any other changes to the Rights Fee at this time.

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 caps on the LMM Rights Fees for the First and Second Tier issues are reasonable, equitable and not unfairly discriminatory for a number of

⁶ As of August 10, 2016, the Exchange had 647 issues listed in the First Tier and 985 issues in the Second Tier.

⁷ 15 U.S.C. 78f(b).

⁸ 15 U.S.C. 78f(b)(4) and (5).

reasons. First, all LMMs trading First Tier issues with similar CADV levels would benefit from the proposed Rights Fee cap and have the same incentive to add the affected issues to their allocation. Second, the proposed Rights Fees caps are designed to encourage OTP Firms acting as LMMs to add lower-volume issues to their appointments, which would provide greater opportunities for OTP Firms to achieve volume incentives on the Exchange without adding to their Rights Fees. In turn, the proposed caps may reduce the overhead costs of OTP Firms that are most actively trading in the affected issues, which reduced costs would enhance the ability of LMMs to provide liquidity to the benefit of all market participants. Further, the Exchange believes that having a broader range of products available on the Exchange would benefit all market participants by increasing liquidity on the Exchange and offering more opportunities to trade.

Finally, the Exchange also believes that proposed caps to the Rights Fees on the First and Second Tiers are not unfairly discriminatory because they apply solely to LMMs (non-LMMs are not subject to this Fee) and would not disadvantage Market Makers.

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,⁹ the Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that the proposed caps on Rights Fees for the lowest-volume issues would not impose an unfair burden on competition because the cap are designed to encourage more OTP Firms acting as LMMs to add

⁹ 15 U.S.C. 78f(b)(8).

such issues to their allocation, which would increase liquidity and offer more trading opportunities to 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)¹⁰ of the Act and subparagraph (f)(2) of Rule 19b-4¹¹ 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)¹² of the Act to determine whether the proposed rule change should be approved or disapproved.

¹⁰ 15 U.S.C. 78s(b)(3)(A).

¹¹ 17 CFR 240.19b-4(f)(2).

¹² 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-2016-132 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-2016-132. 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-2016-132, 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.¹³

Brent J. Fields
Secretary

¹³ 17 CFR 200.30-3(a)(12).