

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-79387; File No. SR-NYSEArca-2016-150)

November 23, 2016

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

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 November 15, 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 NYSE Arca Equities Rule 7.16 (Short Sales) to eliminate the option for a short sale order to include an instruction that it be rejected or cancelled if it is required to be re-priced. 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

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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.

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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend NYSE Arca Equities Rule 7.16 (Short Sales) (“Rule 7.16”) to eliminate the option for a short sale order to include an instruction that it be rejected or cancelled if it is required to be re-priced.

Rule 7.16(f)(5)(B) currently provides that an ETP Holder may mark individual short sale orders to be rejected on arrival, or cancelled if resting, if required to be adjusted to a Permitted Price while a symbol is subject to the Short Sale Price Test.<sup>4</sup> The Exchange adopted the current functionality in its rules in 2015 and implemented it when the Exchange migrated to the Pillar technology trading platform in 2016.<sup>5</sup> Prior to operating on the Pillar platform, this option was available only to arriving orders.<sup>6</sup>

The Exchange proposes to simplify how short sale orders are processed by eliminating the current optional functionality described in Rule 7.16(f)(5)(B). The Exchange does not believe that removing this optional functionality will significantly affect investors or the public because it is a little-used feature.<sup>7</sup> In addition, to reflect the deletion of the text currently set

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<sup>4</sup> The term “Permitted Price” is defined in Rule 7.16(f)(5)(A) and the term “Short Sale Price Test” is defined in Rule 7.16(f)(2).

<sup>5</sup> See Securities Exchange Act Release Nos. 76198 (October 20, 2015), 80 FR 65274 (October 26, 2015) (Approval Order) and 75467 (July 16, 2015), 80 FR 43515 (July 22, 2015) (Notice) (SR-NYSEArca-2016-58).

<sup>6</sup> See Notice supra note 5 at 43521.

<sup>7</sup> For the three-month period of August 1, 2016 through October 31, 2016, only 0.16% of all sell short orders included the optional instruction.

forth in Rule 7.16(f)(5)(B), the Exchange proposes a non-substantive change to renumber current Rules 7.16(f)(5)(C) – (J) as proposed Rules 7.16(f)(5)(B) – (I).

Because of the technology changes associated with this proposed rule change, the Exchange will announce by Trader Update the implementation date.

## 2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Securities Exchange Act of 1934 (the “Act”),<sup>8</sup> in general, and furthers the objectives of Section 6(b)(5),<sup>9</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 remove impediments to and perfect the mechanism of a free and open market and a national market system by simplifying the operation of short sale orders on the Exchange. The Exchange proposes to eliminate an optional feature that provides that if so instructed, during a Short Sale Price Test, an individual short sale order would reject (on arrival) or cancel (if resting) if such order were required to be adjusted to a Permitted Price. Because this is infrequently-used optional functionality, the Exchange believes that the proposed rule change would remove impediments to and perfect the mechanism of a free and open market and a national market system by simplifying the Exchange’s operations and reducing complexity. The Exchange further believes that renumbering the remaining paragraphs of Rule 7.16(f)(5) would remove

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

<sup>9</sup> 15 U.S.C. 78f(b)(5).

impediments to and perfect the mechanism of a free and open market and a national market system because it would promote transparency in Exchange rules by conforming the rule numbering of the remaining rule text of Rule 7.16(f)(5).

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 Exchange believes that the proposed rule change would not impose any burden on competition because it is not designed to address any competitive issues. Rather, the proposed rule change is designed to simplify the Exchange's offerings and reduce complexity by eliminating an infrequently-used optional feature.

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>10</sup> and Rule 19b-4(f)(6) thereunder.<sup>11</sup>

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<sup>10</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>11</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.

A proposed rule change filed pursuant to Rule 19b-4(f)(6) under the Act<sup>12</sup> normally does not become operative for 30 days after the date of its filing. However, Rule 19b-4(f)(6)(iii)<sup>13</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, the proposal would eliminate an infrequently-used optional functionality and would have little impact on ETP Holders. In addition, the Exchange anticipates that the technology supporting the change will be available in less than 30 days after filing. The Commission believes the waiver of the operative delay is consistent with the protection of investors and the public interest. Therefore, the Commission hereby waives the operative delay and designates the proposal operative upon filing.<sup>14</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.

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<sup>12</sup> 17 CFR 240.19b-4(f)(6).

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

<sup>14</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).

#### 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-2016-150 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-2016-150. 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-2016-150 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>15</sup>

Robert W. Errett  
Deputy Secretary

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<sup>15</sup> 17 CFR 200.30-3(a)(12).