

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-79714; File No. SR-NYSEArca-2016-136)

December 30, 2016

Self-Regulatory Organizations; NYSE Arca, Inc.; Order Approving a Proposed Rule Change, as Modified by Amendment No. 1, Amending NYSE Arca Equities Rule 7.35 to Provide for Widened Auction Collars for the Core Open Auction on Volatile Trading Days

I. Introduction

On September 28, 2016, NYSE Arca, Inc. (“Exchange” or “NYSE Arca”) filed with the Securities and Exchange Commission (“Commission”), 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> a proposed rule change to widen Auction Collars for the Core Open Auction on volatile trading days. The proposed rule change was published for comment in the Federal Register on October 14, 2016.<sup>3</sup> On November 23, 2016, the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change.<sup>4</sup> On December 12, 2016, the Exchange filed Amendment No. 1 to its proposed rule change.<sup>5</sup> The Commission received no comment letters on the

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

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

<sup>3</sup> See Securities Exchange Act Release No. 79068 (October 7, 2016), 81 FR 71127 (“Notice”).

<sup>4</sup> See Securities Exchange Act Release No. 79388, 81 FR 86368 (November 30, 2016). The Commission designated January 12, 2017, as the date by which it shall approve, disapprove, or institute proceedings to determine whether to disapprove the proposed rule change.

<sup>5</sup> In Amendment No. 1, the Exchange replaced all references in the filing to Rule 7.35P with Rule 7.35, as the Exchange recently amended its rules to eliminate the “P” modifier. See Securities Exchange Act Release No. 79078 (October 11, 2016), 81 FR 71559 (October 17, 2016) (SR-NYSEArca-2016-135). The Exchange also corrected a typographical error in the proposed text in Rule 7.35(a)(10)(A). Finally, the Exchange provided additional details regarding its authority under the proposal to widen Auction Collars when it determines that it is necessary or appropriate for the maintenance of a fair

proposed rule change. This order approves the proposed rule change, as modified by Amendment No. 1.

## II. Description of the Proposed Rule Change

The Exchange proposes to amend NYSE Arca Equities Rule 7.35 to widen Auction Collars<sup>6</sup> for the Core Open Auction on volatile trading days. Currently, Rule 7.35(a)(10)(A) provides that the price collar threshold for the Core Open Auction is 10% for securities with an Auction Reference Price<sup>7</sup> of \$25.00 or less, 5% for securities with an Auction Reference Price greater than \$25.00 but less than or equal to \$50.00, and 3% for securities with an Auction Reference Price greater than \$50.00.

Under the proposal, if as of 9:00 a.m. Eastern Time, the E-mini S&P 500 Futures are +/- 2% from the prior day's closing price of the E-mini S&P 500 Futures, or if the Exchange determines that it is necessary or appropriate for the maintenance of a fair and orderly market, the Auction Collar for the Core Open Auction would be 10%, regardless of the Auction Reference Price. If the Exchange determines to widen Auction Collars under the "fair and

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and orderly market, and represented that if it were to widen Auction Collars under this authority, it would announce by Trader Update such widened collars before the Core Open Auction. Because Amendment No. 1 does not materially alter the substance of the proposed rule change or raise unique or novel regulatory issues, Amendment No. 1 is not subject to notice and comment (Amendment No. 1 is available at: <https://www.sec.gov/comments/sr-nysearca-2016-136/nysearca2016136-1.pdf>).

<sup>6</sup> See NYSE Arca Equities Rule 7.35(a)(10) (defining "Auction Collar" to mean the price collar thresholds for the Indicative Match Price for the Core Open Auction, Trading Halt Auction, or Closing Auction).

<sup>7</sup> See NYSE Arca Equities Rule 7.35(a)(8)(A) (defining "Auction Reference Price" for the Core Open Auction to mean the midpoint of the Auction NBBO or, if the Auction NBBO is locked, the locked price, and if there is no Auction NBBO, the prior trading day's Official Closing Price).

orderly” provision, the Exchange would announce by Trader Update the widened collars before the Core Open Auction.<sup>8</sup>

### III. Discussion and Commission Findings

The Commission finds that the proposed rule change, as modified by Amendment No. 1, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.<sup>9</sup> In particular, the Commission finds that the proposed rule change, as modified by Amendment No. 1, is consistent with Section 6(b)(5) of the Act,<sup>10</sup> which requires, among other things, that the rules of a national securities exchange be 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.

The Commission notes that, according to the Exchange, the proposed Auction Collars would allow for additional price movement during periods of market-wide volatility, and at the same time continue to prevent auctions from occurring at prices significantly away from the Auction Reference Price.<sup>11</sup> The Exchange also states its belief that widening the Auction Collars could reduce the possibility of securities triggering multiple trading pauses under the Regulation NMS Plan to Address Extraordinary Market Volatility.<sup>12</sup>

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<sup>8</sup> See Amendment No. 1, supra note 5.

<sup>9</sup> In approving this proposed rule change, the Commission has considered the proposed rule’s impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

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

<sup>11</sup> See Notice, supra note 3, at 71127.

<sup>12</sup> See id. at 71128.

Moreover, according to the Exchange, the proposal would permit it to widen Auction Collars under the “fair and orderly” provision when the E-Mini S&P 500 Futures are not +/-2% from the prior day’s closing price as of 9:00 a.m. Eastern Time, but widening the Auction Collars would otherwise be warranted.<sup>13</sup> The Exchange also states that the “fair and orderly” provision would be invoked for unusual circumstances.<sup>14</sup> According to the Exchange, using 2016 as an example, if the proposed rule had been in place, the Exchange would have widened Auction Collars on only two days (i.e., June 24, 2016, the day after the “Brexit” vote, and November 9, 2016, the day after the U.S. Presidential election).<sup>15</sup> Of these two days, the Exchange would have invoked the “fair and orderly” provision only for November 9 because, by 9:00 a.m., the futures markets had returned to within 2% of the prior day’s closing price.<sup>16</sup> However, because of the overall volume of trading and uncertainty in the market that day, the Exchange believed it was appropriate to widen the Auction Collars.<sup>17</sup>

Based on the Exchange’s representations, the Commission believes that the proposed rule change, as modified by Amendment No. 1, would help to promote orderly and efficient Core Open Auctions on volatile days and would provide transparency on such days regarding the Core Open Auction parameters. Based on the foregoing, the Commission finds that the proposed rule

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<sup>13</sup> See Amendment No. 1, supra note 5.

<sup>14</sup> See id.

<sup>15</sup> See id. The Exchange filed proposed rule changes to temporarily widen Auction Collars for the Core Open Auction on these two days. See Securities Exchange Act Release Nos. 78152 (June 24, 2016), 81 FR 42781 (June 30, 2016) (SR-NYSEArca-2016-90) and 79275 (November 9, 2016), 81 FR 80703 (November 16, 2016) (SR-NYSEArca-2016-146).

<sup>16</sup> See Amendment No. 1, supra note 5.

<sup>17</sup> See id.

change, as modified by Amendment No. 1, is consistent with Section 6(b)(5) of the Act<sup>18</sup> and the rules and regulations thereunder applicable to a national securities exchange.

IV. Conclusion

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,<sup>19</sup> that the proposed rule change (SR-NYSEArca-2016-136), as modified by Amendment No. 1, be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>20</sup>

Eduardo A. Aleman  
Assistant Secretary

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<sup>18</sup> 15 U.S.C. 78f(b)(5).

<sup>19</sup> 15 U.S.C. 78s(b)(2).

<sup>20</sup> 17 CFR 200.30-3(a)(12).