

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-81985; File No. SR-NYSEArca-2017-127)

October 31, 2017

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Regarding Exchange Calculation of the Intraday Indicative Value for Specified Exchange-Traded Products

Pursuant to Section 19(b)(1)¹ of the Securities Exchange Act of 1934 (“Act”)² and Rule 19b-4 thereunder,³ notice is hereby given that, on October 20, 2017, NYSE Arca, Inc. (“Exchange” or “NYSE Arca”) filed with the Securities and Exchange 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 modify representations made in proposed rule changes previously filed with the Securities and Exchange Commission (“Commission”) regarding Exchange calculation of the “Intraday Indicative Value” (or comparable intra-day value) for specified exchange-traded products. 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

¹ 15 U.S.C.78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

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.

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

1. Purpose

Exchange rules relating to listing of certain exchange-traded products (“ETPs”) require that an “Intraday Indicative Value” (“IIV”) or comparable intra-day value be disseminated at least every 15 seconds during the Exchange’s Core Trading Session as defined in Rule 7.34-E (a) (normally 9:30 a.m. to 4:00 p.m. Eastern Time).⁴ The Commission has approved a number of NYSE Arca proposed rule changes relating to NYSE Arca’s listing and trading of shares of ETPs in which the Exchange stated that the Exchange will calculate the IIV for those ETPs. These proposed rule changes are listed in Exhibit 3 to this filing (“Exhibit 3 Filings”).

The Exchange proposes to revise the representations made in the Exhibit 3 Filings that state that the Exchange will calculate the IIV for a particular ETP to state that the IIV will be

⁴ The following Exchange rules require dissemination of an intraday indicative value for specified ETPs: Rule 5.2-E(j)(3) (Investment Company Units); Rule 5.2-E (j)(6)(Index-Linked Securities); Rule 8.100-E (Portfolio Depositary Receipts); Rule 8.200-E (Trust Issued Receipts); Rule 8.201-E (Commodity-Based Trust Shares); Rule 8.202-E (Currency Trust Shares); Rule 8.203-E (Commodity Index Trust Shares); Rule 8.204-E (Commodity Futures Trust Shares); Rule 8.300-E (Partnership Units); Rule; 8.600-E (Managed Fund Shares); and Rule 8.700-E (Managed Trust Securities). These rules use different terms to denote the intraday indicative value: Intraday Indicative Value (Rules 5.2-E (j)(3), 8.100-E and 8.700-E); Indicative Value (Rule 8.200-E); Indicative Trust Value (Rules 8.201-E; 8.202-E and 8.203-E); Indicative Partnership Value (Rule 8.300-E); and Portfolio Indicative Value (Rule 8.600-E). As used herein, the term “IIV” encompasses the terms Intraday Indicative Value, Indicative Value, Indicative Trust Value, Indicative Partnership Value, and Portfolio Indicative Value, as referenced in Exchange rules. In addition, such term encompasses the term “Indicative Optimized Portfolio Value” (or “IOPV”) as used in certain “Exhibit 3 Filings” (as defined below).

calculated and widely disseminated by one or more major market data vendors. This proposed change is consistent with representations the Exchange has made in other filing [sic] relating to ETP listings.⁵ The Exchange proposes this change so that ETP issuers, who may select and change the IIV calculation agent for a particular ETP, may choose to use a calculation agent other than the Exchange, provided that such IIV is calculated and widely disseminated by one or more major market data vendors.⁶ All other representations in the Exhibit 3 Filings regarding the IIV remain the same and are not changing as a result of this proposed rule change.

2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(5)⁷ that an exchange have rules that are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest.

The proposed rule change is designed to perfect the mechanism of a free and open market and, in general, to protect investors and the public interest. The Exchange's proposal to revise the representations made in the Exhibit 3 Filings that state that the Exchange will calculate the

⁵ The Exchange's proposed rule changes relating to ETP listings generally have stated that the IIV would be calculated and widely disseminated by, or widely disseminated by, an independent third party, one or more major market data vendors, a third party market data provider, or similar entities other than the Exchange. See, e.g., Securities Exchange Act Release No. 68667 (January 16, 2013), 78 FR 4955 (January 23, 2013) (SR-NYSEArca-2012-109) (Order Granting Approval of Proposed Rule Change Relating to the Listing and Trading of Shares of the U.S. Equity High Volatility Put Write Index Fund under NYSE Arca Equities Rule 5.2(j)(3)). In addition, the Exchange rules referenced supra at note 4 do not specify that the Exchange will calculate the IIV for any ETP.

⁶ Currently, it is the Exchange's understanding that several major market data vendors display and/or make widely available IIVs taken from the Consolidated Tape Association or other data feeds.

⁷ 15 U.S.C. 78f(b)(5).

IIV for a particular ETP to state that the IIV will be calculated and widely disseminated by one or more major market data vendors is consistent with representations the Exchange has made in other filings relating to ETP listings.⁸ The Exchange proposes this change so that ETP issuers, who may select and change the IIV calculation agent for a particular ETP, may choose to use a calculation agent other than the Exchange, provided that such IIV is calculated and widely disseminated by one or more major market data vendors. While the Exchange rules referenced in note 4 above require that an IIV be disseminated at least every 15 seconds during the Exchange's Core Trading Session, such rules do not specify that the Exchange will calculate the IIV for any ETP.⁹

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 purpose [sic] of the Act. The Exchange believes the proposed rule change will enhance competition among ETP issuers by providing each issuer with additional flexibility to change its IIV calculation agent promptly based on business needs.

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

⁸ See note 5, supra.

⁹ See note 4, supra.

Commission may designate, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act¹⁰ and Rule 19b-4(f)(6) thereunder.¹¹

The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest because it will allow ETP issuers for the Exhibit 3 Filings to choose to use a calculation agent other than the Exchange, provided that such IIV is calculated and widely disseminated by one or more major market data vendors, without undue delay. Therefore, the Commission designates the proposed rule change to be operative upon filing.¹²

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.

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:

¹⁰ 15 U.S.C. 78s(b)(3)(A).

¹¹ 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.

¹² For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

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-2017-127 on the subject line.

Paper comments:

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-NYSEArca-2017-127. 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. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All

submissions should refer to File Number SR-NYSEArca-2017-127 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

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Assistant Secretary

¹³ 17 CFR 200.30-3(a)(12).