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SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-67498; File No. SR-NYSEArca-2012-76)

July 25, 2012

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Amending NYSE Arca Options Rule 6.40 to Specify that the Potential Range for the Settings Applicable to the Market Maker Risk Limitation Mechanism will be Between One and 100 Executions Per Second, to Eliminate the Current Reference to the Default Setting and, In the Future, to Specify the Applicable Minimum, Maximum and Default Settings via Regulatory Bulletin

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b-4 thereunder,[2] notice is hereby given that, on July 12, 2012, NYSE Arca, Inc. (the "Exchange" or "NYSE Arca") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. 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 Options Rule 6.40 to specify that the potential range for the settings applicable to the Market Maker Risk Limitation Mechanism ("Mechanism") will be between one and 100 executions per second, to eliminate the current reference to the default setting and, in the future, to specify the applicable minimum, maximum and default settings via Regulatory Bulletin. The text of 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.

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1 15 U.S.C. 78s(b)(1).

2 17 CFR 240.19b-4.

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.

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

1. Purpose

The Exchange proposes to amend NYSE Arca Options Rule 6.40 to specify that the potential range for the settings applicable to the Mechanism will be between one and 100 executions per second, to eliminate the current reference to the default setting and, in the future, to specify the applicable minimum, maximum and default settings via Regulatory Bulletin.

The Mechanism protects Market Makers from the risk associated with an excessive number of nearly simultaneous executions in a single option class.[3] Specifically, if "n" executions occur within one second against the Market Maker's quotes in an appointed class, the NYSE Arca System automatically cancels all quotes posted by the Market Maker in that class.

The Mechanism currently defaults the "n" number of executions to 50 executions per second.[4] However, a Market Maker may instead set the "n" number of executions between five and 100 executions per second.[5] The Exchange proposes to decrease the low end of this range

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3 See Securities Exchange Act Release No. 54238 (July 28, 2006), 71 FR 44758 (August 7, 2006) (SR-NYSEArca-2006-13).

4 See NYSE Arca Options Rule 6.40(b)(1).

5 See NYSE Arca Options Rule 6.40(b)(2).

from five to one.[6] The Exchange also proposes to eliminate the reference to the default setting that is applicable to the Mechanism. In addition, the Exchange proposes that, in the future, it will specify the applicable minimum, maximum and default settings for the Mechanism via Regulatory Bulletin, all of which would be within the proposed range of one to 100 executions per second.[7]

The Exchange believes that this proposed change would provide the Exchange with greater flexibility with respect to changing these settings in the future. In particular, the Exchange may need to change the settings from time to time to accommodate systems capacity concerns. The Exchange believes that specifying these settings via Regulatory Bulletin, instead of within NYSE Arca Options Rule 6.40, is consistent with the manner in which the Commission currently permits other option exchanges to communicate settings or parameters for various exchange mechanisms to their members other than through the rule filing process, i.e., via notices, bulletins or circulars.[8]

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6 The high end of the range would remain unchanged at 100 executions per second.

7 See proposed NYSE Arca Options Rule 6.40(b)(1). The Exchange proposes to designate NYSE Arca Options Rule 6.40(b)(2) as "reserved."

8 See, e.g., Chapter VI, Section 16 of the Boston Options Exchange ("BOX") Rules, which provides that, related to BOX's Quote Removal Mechanism Upon Technical Disconnect, BOX Market Makers will be notified of the value that "n" seconds represents via Regulatory Circular. See also Securities Exchange Act Release No. 58140 (July 10, 2008), 73 FR 41384 (July 18, 2008) (SR-BSE-2008-40), in which the Commission noted that "n" seconds would be configurable by BOX and any subsequent re-configurations will be announced to Market Makers via Regulatory Circular. See also Interpretation and Policy .05 to Chicago Board Options Exchange ("CBOE") Rule 6.74A, which provides that any determinations made by CBOE regarding CBOE's Automated Improvement Mechanism, such as eligible classes, order size parameters and the minimum price increment for certain responses, shall be communicated in a Regulatory Circular. See also CBOE Rule 6.13(b)(i)(C)(2)(a), which provides that CBOE may establish certain maximum order size eligibility requirements with respect to automatic executions and announce such determinations via Regulatory Circular. See also CBOE Rules 6.45A and 6.45B, which provide that CBOE will issue a Regulatory Circular to specify certain priority-related information, including specifying which priority rules will govern which

The Exchange anticipates announcing via Regulatory Bulletin that the applicable minimum, maximum and default settings for the Mechanism will be decreased to 2, 50 and 5 executions per second, respectively. The Exchange believes that decreasing these settings would provide Market Makers with greater flexibility with respect to managing their risk on the Exchange, consistent with the flexibility available on other option markets. In this regard, the Exchange understands that the Commission has previously permitted similar risk mechanisms to be implemented on other option exchanges without requiring any applicable minimum, maximum and/or default settings in the exchanges' corresponding rules.[9]

When announcing changes to the Mechanism via Regulatory Bulletin the Exchange will issue such bulletin to all Market Makers at least one trading day in advance of the effective date of the change. All such Regulatory Bulletins will contain information regarding changes to the risk settings in the Mechanism, the effective date of such changes and contact information of Exchange staff who can provide additional information. The Exchange distributes Regulatory Bulletins simultaneously to all Market Makers via e-mail and in addition Regulatory Bulletins are posted to the Exchange's website.

Upon receiving notification of a change to the minimum/maximum settings in the

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classes of options any time the Exchange changes the priority. See also CBOE Rule 6.25(a)(4)(i), which provides that, for purposes of nullifying a trade due to an erroneous print in an underlying or related instrument, CBOE may announce such underlying or related instrument via Regulatory Circular. See also C2 Options Exchange ("C2") Rule 6.13, which provides that C2 may make certain determinations regarding the price check parameter feature and announce such determinations via Regulatory Circular. See also Securities Exchange Act Release No. 65311 (September 9, 2011), 76 FR 57094 (September 15, 2011) (SR-C2-2011-018).

9 See, e.g., Chapter VI, Section 15 of the BOX Rules, which provides for Automatic Quote Cancellation. See also Securities Exchange Act Release No. 65001 (August 1, 2011), 76 FR 47635 (August 5, 2011) (SR-BX-2011-050). See also Supplementary Material .01 to International Securities Exchange ("ISE") Rule 804, which provides for Automated Quotation Adjustments for Market Makers.

Mechanism by the Exchange, Market Makers will able to make adjustments they deem necessary to their own risk settings within the Mechanism using the same electronic interface that they use to send quotes to the Exchange. In addition, Market Makers may elect to adjust risk settings in their own proprietary systems in reaction to any changes initiated by the Exchange. For example, if the Exchange was to raise the minimum number of executions per second in the Mechanism to a level greater than a given Market Maker was using at the time, the Market Maker would take that new setting into consideration and could make appropriate changes to their own risk settings within the Mechanism, and if warranted, could make additional adjustments to their own proprietary quoting systems to achieve risk parameters consistent with their individual business model. When adjusting risk parameters in the Mechanism and/or a proprietary system, in reaction to a change in the minimum/maximum settings by Exchange, Market Makers are able to utilize functionality that is both readily available and user controlled. Accordingly, the Exchange believes that providing Market Makers with at least one day's advance notice prior to making adjustments to the Mechanism will afford Market Makers sufficient time to review their risk settings and make operational and/or technological changes, to either the user controlled risk settings in the Mechanism or to their own proprietary systems, necessary to accommodate any such adjustments made to the Mechanism by the Exchange.

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

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Securities Exchange Act of 1934 (the "Act"),[10] in general, and furthers the objectives of

[10] 15 U.S.C. 78f(b).

Section 6(b)(5) of the Act,[11] 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 regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest and because it is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the proposed rule change would prevent fraudulent and manipulative acts and practices and promote just and equitable principles of trade because it would continue to provide Market Makers with greater control and flexibility with respect to managing risk and the manner in which they enter quotes. The Exchange believes that this increased control and flexibility also fosters cooperation and coordination with persons engaged in regulating, clearing, settling, and processing information with respect to, and facilitating transactions in, securities. The Exchange further believes that the proposed rule change would remove impediments to and perfect the mechanisms of a free and open market and a national market system because it would permit the Exchange to adjust the minimum, maximum and default settings for the Mechanism via Regulatory Bulletin, which would be consistent with the manner in which other option exchanges are permitted to communicate settings or parameters for various exchange mechanisms to their members other than through the rule filing process, i.e., via notices, bulletins or circulars.[12] The Exchange further believes that the proposed rule change is consistent with, and furthers the objectives of, the Act because it would permit the Exchange to increase or decrease the minimum, maximum and default settings from their current levels,

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11 15 U.S.C. 78f(b)(5).

12 See supra note 8.

should the Exchange choose to do so, for example, to accommodate systems capacity concerns.[13] The Exchange also believes that specifying the applicable minimum, maximum and default settings for the Mechanism via Regulatory Bulletin would further remove impediments to and perfect the mechanisms of a free and open market by reducing the resources that would otherwise be expended, by both the Exchange and the Commission, if the Exchange is required to propose a rule change with the Commission each time it wishes to change the settings.

The Exchange believes that the proposed decrease of the low end of the range of the Mechanism's settings to one execution per second would continue to reasonably ensure that, consistent with their obligations, Market Makers maintain a quote on the Exchange. In this regard, the Exchange notes that the proposed rule change would not relieve Market Makers on the Exchange of their quoting obligations under the Exchange's Rules.[14] As is the case today, a Market Maker quote that is cancelled would no longer count toward satisfying the Market Maker's percentage quoting obligation under NYSE Arca Options Rule 6.37B. The Exchange further notes that the proposed rule change would not relieve a Market Maker of its "firm quote" obligation under Rule 602 of Regulation NMS[15] or NYSE Arca Options Rule 6.86, thereby promoting the protection of investors and the public interest.

The Exchange further believes that the proposed rule change is not unfairly discriminatory because the same minimum, maximum and default settings would be applicable

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13 As noted above, the Exchange anticipates that the current minimum, maximum and default settings will be decreased to 2, 50 and 5 executions per second, respectively. The Exchange understands that the Commission has previously permitted similar risk mechanisms to be implemented on other option exchanges without any applicable minimum, maximum and/or default settings in the exchanges' corresponding rules. See supra note 9.

14 See, e.g., NYSE Arca Options Rule 6.37B.

15 17 CFR 242.602.

to all Market Makers and because the settings would be announced via Regulatory Bulletin to all Market Makers at the same time.

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.

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 foregoing proposed rule change does not significantly affect the protection of investors or the public interest, does not impose any significant burden on competition, and, by its terms, does not 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[16] and Rule 19b-4(f)(6) thereunder.[17]

The Exchange has requested that the Commission waive the 30-day operative delay, stating that this proposed rule change is substantially similar in all respects to a proposed rule change recently noticed and approved by the Commission and that no new questions or comments would be raised by this proposed rule change.[18] For these reasons, the Commission

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16 15 U.S.C. 78s(b)(3)(A).

17 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change, along with a brief description and 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. The Exchange has satisfied this requirement.

18 See Securities Exchange Act Release No. 67314 (June 29, 2012), 77 FR 40139 (July 6, 2012) (SR-NYSEAmex-2012-23). The Commission notes that it received no comments on this identical proposal.

believes that waiver of the operative delay is consistent with the protection of investors and the public interest. Therefore, the Commission designates the proposal operative upon filing.[19]

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.

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-2012-76 on the subject line.

Paper comments:

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

All submissions should refer to File Number SR-NYSEArca-2012-76. 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

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19 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).

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-2012-76 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.[20]

Kevin M. O'Neill
Deputy Secretary

[FR Doc. 2012-18598 Filed 07/30/2012 at 8:45 am; Publication Date: 07/31/2012]

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20 17 CFR 200.30-3(a)(12).