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SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-71946; File No. SR-NYSEArca-2014-35)

April 15, 2014

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending the NYSE Arca Options Fee Schedule Regarding Transaction Fees and Credits

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 April 1, 2014, 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”) regarding transaction fees and credits. The Exchange proposes to implement the fee changes effective April 1, 2014. 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.

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

¹ 15 U.S.C.78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

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 the Fee Schedule regarding transaction fees and credits. The Exchange proposes to implement the fee changes effective April 1, 2014. The purpose of this filing is to modify the Exchange's transaction fees to provide an incentive for more business to be executed on the Exchange.

NYSE Arca is proposing to modify certain volume-based incentives to attract more business to the Exchange as well as a fee change to offset these incentives. The Exchange will offset the incentives by raising the Take Liquidity fee for Customer Electronic Executions in Penny Pilot issues⁴ to \$0.47 per contract.

First, NYSE Arca is proposing various modifications to its Customer Monthly Posting Credit Tiers and Qualifications For Executions in Penny Pilot Issues ("Penny Pilot Customer Tiers") to make some tiers less strenuous to achieve; make other tiers more difficult to reach, and to adjust the associated credits for various tiers. Specifically, the Exchange is proposing that the qualifying market share of Total Industry Customer equity and ETF option Average Daily Volume ("ADV") from executed Customer posted orders in all tiers of the Penny Pilot Customer

⁴ As provided under NYSE Arca Options Rule 6.72, options on certain issues have been approved to trade with a minimum price variation of \$0.01 as part of a pilot program that is currently scheduled to expire on June 30, 2014. See Securities Exchange Act Release No. 71159 (December 20, 2013), 78 FR 79042 (December 27, 2013) (SR-NYSEArca-2013-145).

Tiers be comprised of executed Customer posted orders in both Penny Pilot and non-Penny Pilot Issues (“Total Customer Posted Order Executions”).⁵

This proposal includes adjusting the qualifying activity level and the corresponding credit of all but the top tier (i.e., Tier 5) of the Penny Pilot Customer Tiers. To qualify for Tier 1 will only require .10% of Total Industry Customer equity and ETF ADV (“Total Customer ADV”); in return, the credit to be applied to Posted Electronic Customer Executions in Penny Pilot issues (“Penny Pilot Credit”) will be reduced from \$0.38 to \$0.27. Penny Pilot Customer Tier 2 will be calculated based on Total Customer ADV, and the Penny Pilot Credit will be increased to \$0.43. The qualification for Penny Pilot Customer Tier 3 will be reduced to 0.40% of Total Customer ADV, and the Penny Pilot Credit will be increased to \$0.45. Penny Pilot Customer Tier 4 will be adjusted to increase the Total Customer Posted Executions to 0.60% of Total Customer ADV, while reducing the added qualification to executed ADV of Retail Orders to 0.1% ADV of U.S. Equity Market Share Posted and Executed on NYSE Arca Equity Market. The Penny Pilot Credit for Tier 4 will be increased to \$0.46.

The Exchange is also proposing to modify the Qualification Basis in one of the Customer Posting Credit Tiers in Non Penny Pilot Issues. Tier A will be modified to require 0.60% of Total Customer ADV Posted Order Executions, while reducing the added qualification of Retail Orders to 0.1% ADV of U.S. Equity Market Share Posted and Executed on NYSE Arca Equity Market.

Lastly, the Exchange proposes a modification to one of the alternatives to achieve an additional posting credit under the Customer Incentive Program. As proposed, the fourth

⁵ The Exchange notes that the alternative method of achieving Tiers 2 and 5 will remain at 0.70% and 0.85%, respectively, of Total Customer ADV from Posted Order executions only in Penny Pilot issues, although from all account types, including volume from the OTP Holder’s or OTP Firm’s affiliates.

alternative, arising from participation on the NYSE Arca Equity Market, will require a lower threshold of Executed ADV of Retail Orders of 0.10% (reduced from 0.3%) ADV of U.S. Equity Market Share Posted and Executed on NYSE Arca Equity Market.

The Exchange notes that the calculations for the qualification thresholds for tiered Customer posting credits only include electronic executions. Qualified Contingent Cross (“QCC”) orders are neither posted nor taken; thus QCC transactions are not included in the calculation of posted or taken execution volumes. The calculations do not include volume from mini-option transactions, nor do they include volume from Complex Order transactions. Orders routed to another market for execution are not included in the calculation of taking volume.

The Exchange notes that the proposed changes are not otherwise intended to address any other issues, and the Exchange is not aware of any problems that OTP Holders and OTP Firms, including Market Makers, would have in complying with the proposed change.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,⁶ in general, and furthers the objectives of Sections 6(b)(4) and (5) of the Act,⁷ 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 increase in the Take Liquidity fee for Customer orders in Penny Pilot issues is reasonable because it will result in the Exchange’s fees remaining comparable to the Take Liquidity fees charged for other market participants. The proposed increase is also reasonable because it is similar to the fee charged by another market for

⁶ 15 U.S.C. 78f(b).

⁷ 15 U.S.C. 78f(b)(4) and (5).

Customers who remove liquidity in Penny Pilot issues.⁸ In addition, the proposed fee change is reasonable because it will generate revenue that will help to support the credits offered for posting liquidity, which are available to all market participants. Customers are assessed a slightly lower fee because Customer order flow benefits the market by increasing liquidity, which benefits all market participants.

It is also not unfairly discriminatory to charge a lower fee for Customer transactions, as Customers do not have direct access to the market as do Market Makers, Firms, and Broker Dealers.

The Exchange believes the modifications to the Customer Monthly Posting Credit Tiers are reasonable because they are designed to attract additional Customer electronic equity and ETF option volume to the Exchange, which would benefit all participants by offering greater price discovery, increased transparency, and an increased opportunity to trade on the Exchange. The changes are also reasonable in that they make it less difficult for an OTP Holder or OTP Firm to achieve the qualifications. Additionally, the Exchange believes the proposed credits are reasonable because they would incent OTP Holders and OTP Firms to submit Customer electronic equity and ETF option orders to the Exchange and would result in credits that are reasonably related to the Exchange's market quality that is associated with higher volumes.

The Exchange believes that the proposed changes in the credits are equitable and not unfairly discriminatory because they will be available to all OTP Holders and OTP Firms that execute posted electronic Customer orders on the Exchange on an equal and non-discriminatory basis, in particular because they provide alternative means of achieving the same credit. The Exchange believes that providing methods for achieving the credits based on posted electronic

⁸ See NASDAQ Options Market ("NOM") – Fees and Rebates, available at <http://www.nasdaqtrader.com/Micro.aspx?id=PHLXPricing> [sic].

Customer Executions in both Penny Pilot and non- Penny Pilot issues is equitable and not unfairly discriminatory because it would continue to result in more OTP Holders and OTP Firms qualifying for the credits and therefore reducing their overall transaction costs on the Exchange.

The Exchange believes the proposed change to the Customer Incentive Program is reasonable because it is designed is designed [sic] to continue to bring additional posted order flow to NYSE Arca Equities, so as to provide additional opportunities for all ETP Holders to trade on NYSE Arca Equities.

The Exchange also believes that the proposed modification to the Customer Incentive Program is equitable and not unfairly discriminatory because the Exchange is continuing to provide more than one method of qualifying for an incentive.⁹

Finally, the Exchange believes that it is subject to significant competitive forces, as described below in the Exchange's statement regarding the burden on competition.

For the foregoing 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,¹⁰ 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 fee change reduces the burden on competition because it takes into account the value that various market participants add to the marketplace, as discussed above.

⁹ Offering multiple ways to achieve a rebate has been deemed acceptable based on past and existing practice in the industry. See, e.g., NOM – Options Rules Chapter XV, Options Pricing, Section 2, which offers multiple methods of achieving the same rebate, available at <http://www.nasdaqtrader.com/Micro.aspx?id=PHLXPricing> [sic].

¹⁰ 15 U.S.C. 78f(b)(8).

The increases in Take Liquidity fees will impact all Customer transactions in Penny Pilot issues at the same rate. The proposed changes to the Customer Monthly Posting Credit Tiers, and the proposed modification to the Customer Incentives are designed to attract additional volume, in particular posted electronic Customer executions, to the Exchange, which would promote price discovery and transparency in the securities markets thereby benefitting competition in the industry. As stated above, the Exchange believes that the proposed change would impact all similarly situated OTP Holders and OTP Firms that post electronic Customer executions on the Exchange equally, and as such, the proposed change would not impose a disparate burden on competition either among or between classes of market participants. In addition, providing and modifying an alternative qualification basis for certain tiers by including volume from affiliates allows a firm with a diverse business structure, but not a concentration on Customer orders only, to earn a higher credit for their Customers by posting order flow that improves the overall market quality, and encourages posting competitive prices, which result in better available markets for Customer orders.

Finally, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive. 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)¹¹ of the Act and subparagraph (f)(2) of Rule 19b-4¹² 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)¹³ of the Act to determine whether the proposed rule change should be approved or disapproved.

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-2014-35 on the subject line.

¹¹ 15 U.S.C. 78s(b)(3)(A).

¹² 17 CFR 240.19b-4(f)(2).

¹³ 15 U.S.C. 78s(b)(2)(B).

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-2014-35. 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 20549-1090, 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-2014-35, 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.¹⁴

Kevin M. O'Neill
Deputy Secretary

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¹⁴ 17 CFR 200.30-3(a)(12).