



8011-01p
SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-73529; File No. SR-NYSEARCA-2014-128)

November 5, 2014

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Proposing to Amend NYSE Arca Equities Rule 7.44(j) to Delete Reference to the Exchange's Proprietary Data Feed When Disseminating the Retail Liquidity Identifier

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 28, 2014, NYSE Arca, Inc. ("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 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 revise [sic] to amend NYSE Arca Equities Rule 7.44(j) to delete reference to the Exchange's proprietary data feed. 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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is proposing to amend NYSE Arca Equities Rule 7.44 ("Rule 7.44"), which governs the Exchange's Retail Liquidity Program ("Program") and is currently operating as a pilot, to delete reference to the Exchange's proprietary data feed in Rule 7.44(j).

Rule 7.44(j) currently provides, that "[a]n identifier shall be disseminated through the Consolidated Quotation System, the UTP Quote Data Feed, and the Exchange's proprietary data feed when RPI interest priced at least \$0.001 better than the PBB or PBO for a particular security is available in Exchange systems ('Retail Liquidity Identifier')." When the Exchange implemented the Program, it filed a rule proposal that specified that in connection with the implementation of the Program, the Exchange would begin disseminating the Retail Liquidity Identifier referenced in Rule 7.44(j) through the Consolidated Quotation System and the UTP Quote Data Feed (the "public data feeds"). However, because of the differing technology associating with disseminating data via the Exchange's proprietary data feed, the Exchange was not be able to disseminate the Retail Liquidity Identifier via the Exchange's proprietary data feed on the initial implementation date of the Program. Accordingly, the Exchange proposed a separate implementation date for disseminating the Retail Liquidity Identifier via the Exchange's proprietary data feed and would have announced that date via Trader Update.⁴

⁴ See Securities Exchange Act Release No. 71960 (April 17, 2014), 79 FR 22746 (April 23, 2014) (SR-NYSEArca-2014-38).

Because the Exchange does not have technology currently available to disseminate the Retail Liquidity Identifier over the Exchange's proprietary data feed, the Exchange proposes to amend Rule 7.44(j) to delete the reference to the Exchange's proprietary data feed. If the Exchange at a later date has the technology to disseminate the Retail Liquidity Indicator over its proprietary data feed, the Exchange will file a separate rule proposal pursuant to Rule 19(b)(1) of the Act⁵ to amend Rule 7.44(j) to add back the reference to the proprietary data feeds. The Exchange believes that deleting the reference to the proprietary data feed in Rule 7.44 provides transparency in Exchange rules regarding over what data feeds the Retail Liquidity Indicator is available.⁶

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act,⁷ in general, and furthers the objectives of Section 6(b)(5),⁸ in particular, in that it is designed to promote just and equitable principles of trade, 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 Exchange believes that deleting reference to the proprietary data feed in Rule 7.44(j) is consistent with the Act because the Retail Liquidity Identifier has been and will continue to be

⁵ See 15 U.S.C. § 78s(b)(1).

⁶ The Exchange proposes a non-substantive change to Rule 7.44(j) to clarify that the Exchange would disseminate a Retail Liquidity Indicator through the Consolidated Quotation System or UTP Quote Data Feed, as applicable, i.e., that Retail Liquidity Indicators for Tape B symbols would be disseminated over the Consolidated Quotation System and Retail Liquidity Indicators for Tape C symbols would be disseminated over UTP Quote Data Feed, consistent with the Regulation NMS plans governing the respective public data feeds.

⁷ 15 U.S.C. § 78f(b).

⁸ 15 U.S.C. § 78f(b)(5).

available via the public data feeds. The Exchange further believes that the proposed rule change would protect investors and the public interest because information about Retail Liquidity Identifiers has been and continues to be available via the public data feeds. Pending the availability of technology to support the dissemination of the Retail Liquidity Indicator over the proprietary data feed, the Exchange believes that it removes impediments to and perfects the mechanism of a free and open market to delete reference to the proprietary data feed in Rule 7.44(j) because it would provide transparency in Exchange rules regarding how the Retail Liquidity Indicator is disseminated.

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 notes that the Retail Liquidity Identifier has been and will continue to be available via the public data feeds and therefore market participants will have access to information regarding the Retail Liquidity Identifiers.

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 has become effective pursuant to Section 19(b)(3)(A) of the Act⁹ and Rule 19b-4(f)(6)¹⁰ thereunder because the proposal does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) by its terms, become operative for 30 days from the date on which it was filed, or such

⁹ 15 U.S.C. 78s(b)(3)(A).

¹⁰ 17 CFR 240.19b-4(f)(6).

shorter time as the Commission may designate if consistent with the protection of investors and the public interest.¹¹

A proposed rule change filed under Rule 19b-4(f)(6) normally may not become operative prior to 30 days after the date of filing. However, Rule 19b-4(f)(6)(iii)¹² 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 requested that the Commission waive the 30-day operative delay period. The Commission believes that waiver of the 30-day operative delay period is consistent with the protection of investors and the public interest. Specifically, the Commission believes that the proposal would provide clarity to the Exchange's rules and would not affect the dissemination of the Retail Liquidity Identifier. For these reasons, the Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest, and designates the proposed rule change to be operative upon filing with the Commission.¹³

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.¹⁴

¹¹ 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.

¹² 17 CFR 240.19b-4(f)(6)(iii).

¹³ For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

¹⁴ 15 U.S.C. 78s(b)(3)(C).

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-2014-128 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-2014-128. 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 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-2014-128 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.¹⁵

Kevin M. O'Neill
Deputy Secretary

[FR Doc. 2014-26689 Filed 11/10/2014 at 8:45 am; Publication Date: 11/12/2014]

¹⁵ 17 CFR 200.30–3(a)(12).