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SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-79993; File No. SR-NYSEMKT-2017-01)

February 9, 2017

Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing of Proposed Rule Change to Adopt New Equities Trading Rules to Transition Trading on the Exchange From a Floor Based Market with a Parity Allocation Model to Fully Automated Price-Time Priority Model on the Exchange's New Trading Technology Platform, Pillar

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 January 25, 2017, NYSE MKT LLC (the "Exchange" or "NYSE MKT") 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 Substance of the Proposed Rule Change

The Exchange proposes new rules to transition trading on the Exchange to Pillar, the Exchange's new trading technology platform, and to operate as a fully-automated cash equities market. 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

On January 29, 2015, the Exchange announced the implementation of Pillar, which is an integrated trading technology platform designed to use a single specification for connecting to the equities and options markets operated by the Exchange and its affiliates, NYSE Arca, Inc. (“NYSE Arca”) and New York Stock Exchange LLC (“NYSE”).⁴ NYSE Arca Equities, Inc. (“NYSE Arca Equities”),⁵ which operates the cash equities trading platform for NYSE Arca, was the first trading system to migrate to Pillar.⁶

⁴ See Trader Update dated January 29, 2015, available here: www.nyse.com/pillar.

⁵ NYSE Arca Equities is a wholly-owned corporation of NYSE Arca and operates as a facility of NYSE Arca.

⁶ In connection with the NYSE Arca implementation of Pillar, NYSE Arca filed four rule proposals relating to Pillar. See Securities Exchange Act Release Nos. 74951 (May 13, 2015), 80 FR 28721 (May 19, 2015) (Notice) and 75494 (July 20, 2015), 80 FR 44170 (July 24, 2015) (SR-NYSEArca-2015-38) (Approval Order of NYSE Arca Pillar I Filing, adopting rules for Trading Sessions, Order Ranking and Display, and Order Execution); Securities Exchange Act Release Nos. 75497 (July 21, 2015), 80 FR 45022 (July 28, 2015) (Notice) and 76267 (October 26, 2015), 80 FR 66951 (October 30, 2015) (SR-NYSEArca-2015-56) (Approval Order of NYSE Arca Pillar II Filing, adopting rules for Orders and Modifiers and the Retail Liquidity Program); Securities Exchange Act Release Nos. 75467 (July 16, 2015), 80 FR 43515 (July 22, 2015) (Notice) and 76198 (October 20, 2015), 80 FR 65274 (October 26, 2015) (SR-NYSEArca-2015-58) (Approval Order of NYSE Arca Pillar III Filing, adopting rules for Trading Halts, Short Sales, Limit Up-Limit Down, and Odd Lots and Mixed Lots); and Securities Exchange Act Release Nos. 76085 (October 6, 2015), 80 FR 61513 (October 13, 2015) (Notice) and 76869 (January 11, 2016), 81 FR 2276 (January 15, 2016) (Approval Order of NYSE Arca Pillar IV Filing, adopting rules for Auctions).

Overview

With Pillar, the Exchange proposes to transition its cash equities trading platform from a Floor-based market with a parity allocation model to a fully automated price-time priority allocation model. As such, when the Exchange transitions to Pillar, the Exchange would no longer have a Floor-based point-of-sale trading model. As a consequence, the Exchange is proposing to replace its Floor-based Designated Market Makers (“DMM”) with electronic DMMs, and would no longer have Floor brokers or support Supplemental Liquidity Providers as a separate class of participant on the Exchange.⁷

The Exchange also proposes to expand the securities it trades to all NMS securities, including securities listed on NYSE, NYSE Arca, the Nasdaq Stock Market LLC (“Nasdaq”), and the Bats BZX Exchange, Inc. (“Bats”). Trading of securities on an unlisted trading privileges basis would be subject to the same trading rules as trading of securities listed on the Exchange, except for specified rules directed to the Exchange’s responsibility as a primary listing market, e.g., proposed Rules 7.11E and 7.16E, described in further detail below.

The Exchange will be filing several proposed rule changes to support the NYSE MKT cash equities implementation of Pillar. The Exchange has already adopted the rule numbering framework of the NYSE Arca Equities rules for Exchange cash equities trading on the Pillar trading platform.⁸ As described in the Framework Filing, the Exchange is denoting the rules applicable to cash equities trading on Pillar with the letter “E” to distinguish such rules from

⁷ See, e.g., Rule 107B – Equities.

⁸ See Securities Exchange Act Release No. 79242 (November 4, 2016), 81 FR 79081 (November 10, 2016) (SR-NYSEMKT-2016-97) (Notice and Filing of Immediate Effectiveness of Proposed Rule Change) (the “Framework Filing”).

current Exchange rules with the same numbering.⁹ In addition, the Exchange has filed a proposed rule change to support Exchange trading of securities listed on NYSE, NYSE Arca, and other exchanges on an unlisted trading privileges basis, including Exchange Traded Products (“ETP”) listed on other exchanges.¹⁰

In this filing, the Exchange proposes trading rules that would govern Exchange cash equities trading on Pillar. All trading would be automated, including opening, re-opening, and closing auctions. As proposed, the Exchange’s Pillar cash equities trading platform would be based on the rules and trading model of NYSE Arca Equities, which is a fully-automated price-time priority allocation model with registered market makers.

As discussed in the Framework Filing, Rules 1E – 13E govern cash equities trading on the Pillar platform.¹¹ In particular, Rule 7E Equities Trading would establish the trading rules. Rule 7E Equities Trading would be based on NYSE Arca Equities Rule 7 Equities Trading.

In addition, to support the proposed fully-automated market, the Exchange is proposing rules based on NYSE Arca Equities Rules 1 Definitions, 2 Equity Trading Permits, 3

⁹ To distinguish Rule 1E – 13E from Exchange rules that govern options trading, the Exchange proposes a non-substantive change to amend the description of “Pillar Platform Rules” after Rule 0 – Equities to specify that these are “cash equities” rules.

¹⁰ See Securities Exchange Act Release No. 79400 (November 25, 2016), 81 FR 86750 (December 1, 2016) (SR-NYSEMKT-2016-103) (Notice) (the “ETP Listing Rules Filing”). When trading on Pillar, the Exchange would not be relying on Rule 500 – Equities – Rule 525 – Equities for authority to trade securities on an unlisted trading privileges basis. Accordingly, the Exchange proposes to amend Rule 500 – Equities to provide that the Rules of that series (Rules 500 – Equities – Rule 525 – Equities) would not be applicable to trading on the Pillar trading platform. To use terms applicable to trading on Pillar, the Exchange also proposes to amend Rule 2A(b)(2) – Equities to replace the term “Nasdaq Security” with the term “UTP Security” and replace the rule reference from Rule 501 – Equities to Rule 1.1E(ii).

¹¹ Rules 1E – 13E are including in the “Equities Rules” portion of the Exchange’s rule book. Pursuant to Rule 0 – Equities, the Equities Rules govern all transactions conducted on the Equities Trading Systems.

Organization and Administration, 6 Business Conduct, Rule 12 Arbitration, and Rule 13 Liability of Directors and Exchange.

The Exchange proposes the following differences to how it will function on Pillar as compared to NYSE Arca Equities:

- To be addressed in a separate filing, for securities listed on NYSE MKT, the Exchange would maintain DMMs. These electronic-access DMMs would be subject to rules-based heightened quoting obligations vis-à-vis their assigned securities. For all securities that would trade on the Exchange, including UTP securities, the Exchange would have electronic registered market makers with obligations similar to the obligations of market makers on NYSE Arca Equities.
- The Exchange would not offer a Retail Liquidity Program and related order types (Retail Orders and Retail Price Improvement Orders).
- The Exchange would offer three trading sessions, but the Early Trading Session would begin at 7:00 a.m. Eastern Time instead of 4:00 a.m. Eastern Time.
- ETP Holders would communicate with the Pillar trading platform using Pillar phase II protocols only.

Subject to rule approvals, the Exchange will announce the transition of its cash equities trading to the Pillar trading system by Trader Update, which the Exchange anticipates will be in the second quarter of 2017.

Because the Exchange would not be trading on both its current Floor-based trading platform and the Pillar trading platform at the same time, once trading on the Pillar trading

platform begins, specified current Exchange equities trading rules would no longer be applicable. Accordingly, as described in more detail below, for each current equities rule that would no longer be applicable when trading on the Pillar trading platform begins, the Exchange proposes to state in a preamble to such rule that “this rule is not applicable to trading on the Pillar trading platform.”¹² Once the Exchange has transitioned to the Pillar trading platform, the Exchange will file a separate proposed rule change to delete those current rules that have been identified in this filing as not being applicable to trading on Pillar. Current Exchange rules governing equities trading that do not have this preamble will continue to govern Exchange operations on its cash equities trading platform.

Proposed Rule Changes

As noted above, the Exchange proposes rules that would be applicable to cash equities trading on Pillar that are based on NYSE Arca Equities Rules. As a global matter, the Exchange proposes non-substantive differences as compared to the NYSE Arca Equities rules to use the term “Exchange” instead of the terms “NYSE Arca Marketplace,” “NYSE Arca,” or “Corporation,” and to use the terms “mean” or “have the meaning” instead of the terms “shall mean” or “shall have the meaning.”¹³

Rule 1E

As described in the Framework Filing, Rule 1E specifies definitions that are applicable to

¹² The Exchange proposes to amend the description of Cash Equities Pillar Platform Rules, which precedes Rule 1E, to delete the last sentence, which currently provides that “[t]he following rules will not be applicable to trading on the Pillar trading platform: Rules 7 - Equities, 55 - Equities, 56 - Equities, 62 – Equities, and 80B - Equities.” As proposed, the inapplicability of these rules on the Pillar platform would be addressed in the preamble that the Exchange proposes to add to each of these rules. The Exchange further proposes to retain Rule 56 – Equities when the Exchange migrates to Pillar, as it addresses the unit of trading for rights, which are listed on the Exchange.

¹³ Because these non-substantive differences would be applied throughout the proposed rules, the Exchange will not note these differences separately for each proposed rule.

trading on the Pillar trading platform. The Exchange proposes the following additional definitions:

- Proposed Rule 1.1E(a) would define the term “Exchange Book” as the Exchange’s electronic file of orders. This proposed rule is based on NYSE Arca Equities Rule 1.1(a), which defines the term “NYSE Arca Book,” with a non-substantive difference to not include the following phrase in the Exchange’s proposed rule: “which contains all orders entered on the NYSE Arca Marketplace.” The Exchange believes that this clause is redundant of the description of the Exchange Book.
- Proposed Rule 1.1E(g) would define the term “Authorized Trader” or “AT” to mean a person who may submit orders to the Exchange’s cash equities Trading Facilities on behalf of his or her ETP Holder. This proposed rule is based on NYSE Arca Equities Rule 1.1(g) with non-substantive differences to reflect that the Exchange will not have sponsored participants.
- Proposed Rule 1.1E(j) would define the term “Core Trading Hours” to mean the hours of 9:30 a.m. Eastern Time through 4:00 p.m. Eastern Time or such other hours as may be determined by the Exchange from time to time. This proposed rule is based on NYSE Arca Equities rule 1.1(j).
- Proposed Rule 1.1E(k) would define the term “Exchange” to mean NYSE MKT. Because the term “Exchange” would be defined in proposed Rule 1.1E(k), the Exchange proposes that Rule 1 – Equities would not be applicable to trading on the Pillar trading platform.

- Proposed Rule 1.1E(m) would define the term “ETP” to mean an Equity Trading Permit issued by the Exchange for effecting approved securities transactions on the Exchange’s cash equity Pillar trading platform pursuant to Rules 1E – 13E. The proposed rule would further provide that an ETP may be issued to a sole proprietor, partnership, corporation, limited liability company or other organization that is a registered broker or dealer pursuant to Section 15 of the Securities Exchange Act of 1934, as amended, and which has been approved by the Exchange as a member organization. This proposed rule text is based on NYSE Arca Equities Rule 1.1(m) with non-substantive differences to specify that an ETP is the permit for effecting approved securities transaction on the Exchange’s cash equity Pillar trading platform pursuant to Rules 1E – 13E. As described in greater detail below, the Exchange proposes to use ETPs to permission its member organizations to trade on its Pillar cash equities trading platform.
- Proposed Rule 1.1E(n) would define the term “ETP Holder” to mean a member organization that has been issued an ETP. The proposed rule would further provide that an ETP Holder would agree to be bound by the Rules of the Exchange, and by all applicable rules and regulations of the Securities and Exchange Commission. This proposed rule is based on NYSE Arca Equities Rule 1.1(n), with a proposed difference to reference the term “member organization,” which is defined in Rule 2(b) – Equities.
- Proposed Rule 1.1E(p) would define the term “General Authorized

Trader” or “GAT” to mean an AT who performs only non-market making activities on behalf of an ETP Holder. This proposed rule is based on NYSE Arca Equities Rule 1.1(p) without any substantive differences.

- Proposed Rule 1.1E(u) would define the term “Marketable” to mean, for a Limit Order, an order than can be immediately executed or routed. The proposed rule would further provide that Market Orders are always considered Marketable. This proposed rule text is based on NYSE Arca Equities Rule 1.1(u).
- Proposed Rule 1.1E(gg) would define the term “Official Closing Price” as the reference price to determine the closing price in a security for purposes of Rule 7E Equities Trading. Proposed Rules 1.1E(gg)(1) – (5) would specify how the Exchange would determine an Official Closing Price in all circumstances, including when the Exchange is unable to conduct a Closing Auction in one or more Exchange-listed securities due to a systems or technical issue, and is based on NYSE Arca Equities Rule 1.1(gg) without any substantive differences. Proposed Rule 1.1E(gg), together with proposed Rule 7.35E described in greater detail below, would obviate current Rule 123C – Equities (The Closing Procedures).¹⁴ Accordingly, the Exchange proposes to specify that Rule 123C – Equities would not be applicable to trading on the Pillar trading platform.
- Proposed Rule 1.1E(rr) would define the term “security” and “securities” to mean any security as defined in in Rule 3(a)(10) under the Securities

¹⁴ Rule 123C(1)(e) - Equities sets forth how the Exchange currently determines the Official Closing Price of a security listed on the Exchange.

Exchange Act of 1934; provided, however, that for purposes of Rule 7E such terms mean any NMS stock. This proposed rule is based on NYSE Arca Equities Rule 1.1(ss) [sic] without any substantive differences. Because the term “security” would be defined in proposed Rule 1.1E(rr), the Exchange proposes to specify that Rules 3 – Equities and 4 – Equities, which define the terms “Security” and “Stock” would not be applicable to trading on the Pillar trading platform. In addition, because the Exchange would not be trading bonds on its Pillar cash equities trading platform, the Exchange proposes to specify that Rule 5 – Equities would not be applicable to trading on the Pillar trading platform.

- Proposed Rule 1.1E(ss) would define the term “Self-Regulatory Organization (‘SRO’)” as having the same meaning as set forth in the provisions of the Securities Exchange Act of 1934 relating to national securities exchanges. This proposed rule text is based on NYSE Arca Equities Rule 1.1(ss) without any substantive differences.
- Proposed Rule 1.1E(xx) would define the term “Trading Facilities” or “Facilities” to mean any and all electronic or automated trading systems provided by the Exchange to ETP Holders. This proposed rule text is based on NYSE Arca Equities Rule 1.1(xx) without any substantive differences.
- The Exchange proposes to amend Rule 1.1E(hhh) to add the letter “E” to the reference to Rule 7 in this rule.

Rule 2E

The Exchange proposes to amend Rule 2E to delete the term “Reserved” and re-name this rule as “Equity Trading Permits.” The Exchange proposes rules to support Equity Trading Permits (“ETP”) on the Exchange for trading on the Pillar trading platform that are based on NYSE Arca Equities Rule 2.

Currently, Rule 300 – Equities governs trading licenses on the Exchange. Under that rule, a trading license issued by the Exchange is required to effect transactions on the floor of the Exchange or through any facility thereof and an organization may acquire and hold a trading license only if and for so long as such organization is qualified and approved to be a member organization of the Exchange. The Exchange’s current trading license rule is identical to NYSE Rule 300 and a single trading license provides an Exchange member organization with the ability to trade on both the Exchange and NYSE.

To trade on Pillar, the Exchange proposes that a member organization would need an ETP.¹⁵ Accordingly, a trading license issued under Rule 300 - Equities would not permit a member organization to trade on the Exchange’s Pillar cash equities trading platform. Instead, as proposed, a member organization would be eligible to obtain an ETP to trade on the Exchange’s cash equities Pillar trading platform. As noted above, member organizations that have been issued an ETP would be referred to in Exchange rules as “ETP Holders.”¹⁶

In addition, because the Exchange would operate as a fully-automated market, the

¹⁵ The Exchange will file a separate proposed rule change to specify fees for cash equities trading on NYSE MKT when it transitions to Pillar.

¹⁶ At this time, the Exchange is not proposing rules, comparable to those in NYSE Arca Equities Rule 2, that specify the requirements to be approved as a member of the Exchange. Accordingly, the Exchange proposes that the rule numbers under Rule 2E that would support membership requirements would be designated as “Reserved.” Instead, the Exchange’s current rules governing the definition of a member organization and the requirements to be approved as a member organization would continue to apply.

Exchange proposes rules that mirror those of NYSE Arca Equities with respect to requirements relating to employees of ETP Holders. Accordingly, ETP Holders accessing the Exchange on its Pillar cash equities trading platform would have the same employee registration requirements as NYSE Arca Equities.

- Proposed Rule 2.2E (Qualification of Applicants) would provide that an ETP may be held by an entity that is approved as a member organization. This proposed rule is based in part on the first sentence of NYSE Arca Equities Rule 2.2, which provides that an ETP on NYSE Arca Equities may be held by an entity that is a registered broker or dealer pursuant to Section 15 of the Act, as amended, including sole proprietors, partnerships, limited liability partnerships, corporations, and limited liability companies. The Exchange would not include in its Rule 2.2E the text in NYSE Arca Equities Rule 2.2 relating to registered broker dealers because it is duplicative of Rule 2(b)(i), which defines the term member organization on the Exchange.
- Proposed Rule 2.4E (Denial or Conditions to ETPs) would govern the denial or conditions to ETPs and is based on NYSE Arca Equities Rule 2.4 without any substantive differences. Paragraphs (a) and (b) of proposed Rule 2.4E would specify the circumstances when the Exchange could deny or condition trading privileges on the Exchange, and these circumstances are identical to those specified in NYSE Arca Equities Rule 2.4(a) and (b).

The proposed rule would separately specify the Series 7 Examination

requirement for traders of ETP Holders for which the Exchange is the Designated Examining Authority. These proposed requirements are identical to the Series 7 Examination requirements for ETP Holders on NYSE Arca Equities. The Exchange proposes a non-substantive difference to paragraphs (c) and (f) of proposed Rule 2.4E to cross-reference Rule 9522 instead of NYSE Arca Equities Rule 10.

- Proposed Rule 2.6E (Revocable Privilege) would specify that the issuance of an ETP would constitute only a revocable privilege and confers on its holder no right or interest of any nature to continue as an ETP Holder. This proposed rule is based on NYSE Arca Equities Rule 2.6 without any differences. The Exchange also proposes to add a sub-header to Exchange rules immediately preceding Rule 2.6E that would provide “Requirements of Holding an ETP.” This proposed text is based on the sub-header before NYSE Arca Equities Rule 2.6 that provides “Requirements of Holding an ETP Requirements Applicable Generally.” The Exchange proposes an abbreviated form of the sub-header to eliminate unnecessary text. Because proposed Rule 2.6E, together with proposed Rule 2.4E, would establish the requirements for a member organization to obtain an ETP, the Exchange proposes that Rule 300 – Equities would not be applicable to trading on the Pillar trading platform.
- Proposed Rule 2.17E (Activity Assessment Fees) would specify the Activity Assessment Fees applicable for securities transactions effected on the Exchange as required by Section 31 of the Act. This proposed rule is

based on current Rule 440H – Equities without any substantive differences. Specifically, the rule text is based on Supplementary Material .10, .20, and the last sentence of .30 to Rule 440H – Equities with non-substantive differences to use Pillar terminology. Proposed Rule 2.17E is therefore designed to retain the existing requirements relating to Activity Assessment Fees, but use new rule numbering for trading on the Pillar trading platform that is consistent with the Framework Filing. The Exchange does not propose to move rule text based on the first three sentences of Supplementary Material .30 to Rule 440H - Equities because that rule text is obsolete as it relates to a temporary program that automatically sunsetted in 2009.

Because proposed Rule 2.17E would set forth Activity Assessment Fees, the Exchange proposes that Rule 440H – Equities would not apply to trading on the Pillar trading platform.

- Proposed Rule 2.21E (Employees of ETP Holders Registration) would specify the registration requirements for employees of ETP Holders. This proposed rule is based on NYSE Arca Equities Rule 2.21 without any substantive differences. Accordingly, this rule would specify employee registration requirements for trading on the Exchange, including examination requirements, continuing education requirements, and procedures to register employees.

Because proposed Rule 2.21E, together with proposed Rule 2.4E, would specify employee registration requirements applicable to trading on the

Exchange on its cash equities Pillar trading platform, the Exchange proposes to specify that the following rules, which govern current trading employee registration requirements, would not be applicable to trading on the Pillar trading platform: Rule 345 – Equities (Employees – Registration, Approval, Records) and Rule 345A – Equities (Continuing Education for Registered Persons). The Exchange also proposes that the requirement for a member organization that a member organization that conducts a DMM business has a Series 14A requirement, as set forth in Rule 342 – Equities, would not be applicable to trading on the Pillar trading platform. However, the Exchange would retain the non-Floor-based Compliance Supervisor requirements of Rule 342 – Equities. Accordingly, a member organization engaged in a public business in addition to a DMM business must have a qualified compliance supervisor that has passed the Series 14 Examination, but would no longer need the Series 14A Examination.

- Proposed Rule 2.22E would specify the Exchange Back-Up Systems and Mandatory Testing Requirements of the Exchange and is based on Rule 49(b) – Equities without any substantive changes. The Exchange proposes to move this rule text to Rule 2.22E so that it has the same rule number as the rules of NYSE Arca Equities. Because member organizations trading on the Exchange’s cash equities Pillar trading platform would be designated as “ETP Holders” in Exchange rules, the Exchange proposes to use the term “ETP Holder” instead of “member organization” in proposed

Rule 2.22E.

The Exchange proposes to designate the entirety of Rule 49 – Equities (Exchange Business Continuity and Disaster Recovery Plans and Mandatory Testing) as not applicable to trading on the Pillar trading platform. Because the Exchange would trade in its secondary data center under the same rules as would be applicable to trading on its primary data center, the procedures specified in Rule 49(a) – Equities would no longer be applicable.

- Proposed Rule 2.24E (ETP Books and Records) would establish an ETP Holder’s books and records requirements and is based on NYSE Arca Equities Rule 2.24 without any substantive differences. Because proposed Rule 2.24E would establish the same requirements as set forth in current Rule 440 – Equities (Books and Records), the Exchange proposes that Rule 440 – Equities would not be applicable to trading on the Pillar trading platform.

Rule 3E

The Exchange proposes to amend Rule 3E to delete the term “Reserved” and re-name it “Organization and Administration.” Proposed Part I of Rule 3E would be designated as “Reserved.” Proposed Part II of Rule 3E would be designated “Regulation” and proposed Part III of Rule 3E would be designated “Dues, Fees, and Fines.” Except as described below, the rules under Rule 3E would be designated as “Reserved” because the subject matter of the NYSE Arca Equities Rules with corresponding numbers are the subject of existing Exchange rules that

would continue to apply.¹⁷

- Proposed Rule 3.6E (Surveillance Agreements) would specify that the Exchange may enter into agreements with domestic and foreign self-regulatory organizations providing for the exchange of information and other forms of mutual assistance for market surveillance, investigative, enforcement and other regulatory purposes. This proposed rule is based on NYSE Arca Equities 3.6 with no substantive differences. Because this rule covers the same subject matter as Rule 27 – Equities, the Exchange proposes that that Rule 27 - Equities would not be applicable to trading on the Pillar trading platform.
- Proposed Rule 3.11E (Fingerprint-Based Background Checks of Exchange Employees and Others) would establish the Exchange’s requirements for fingerprint-based background checks of Exchange employees and others. The proposed rule is based on NYSE Arca Equities Rule 3.11 and Rule 28 – Equities, which are identical rules. The Exchange proposes to move the rule text from Rule 28 - Equities to Rule 3.11E so that it has the same rule number as the same subject matter in the rules of NYSE Arca Equities.

The Exchange further proposes that Rule 28 – Equities would not be

¹⁷ NYSE Arca Equities Rule 3 Part I relates to board committees, which are described in the Exchange’s Operating Agreement, which is available here:

https://www.theice.com/publicdocs/nyse/regulation/nyse-mkt/Tenth_Amended_and_Restated_Operating_Agreement_of_NYSE_MKT_LLC.pdf.

NYSE Arca Equities Rules 3.4 and 3.5 relate to the self-regulatory responsibilities of NYSE Arca for the administration and enforcement of rules governing the operation of NYSE Arca Equities, its wholly owned subsidiary, and the delegation of authority from NYSE Arca to NYSE Arca Equities. Because the Exchange is itself a self-regulatory organization, these rules are inapplicable. The subject matter of NYSE Arca Equities Rule 3 Part III is addressed in the Exchange’s Disciplinary Rules and Rule 2B – Equities.

applicable to trading on the Pillar trading platform.

Rule 6E

The Exchange proposes to amend Rule 6E to delete the term “Reserved” and re-name it “Business Conduct.” The Exchange proposes rules governing specified business conduct. Except as described below, the rules under Rule 6E would be designated as “Reserved.”

- Proposed Rule 6.3E (Prevention of the Misuse of Material, Nonpublic Information) would establish the Exchange’s requirement that every ETP Holder establish, maintain, and enforce written policies and procedures reasonably designed to prevent the misuse of material, non-public information by such ETP Holder or persons associated with such ETP Holder. This proposed rule is based on NYSE Arca Equities Rule 6.3 without any substantive differences. The Exchange proposes a non-substantive difference to refer to the Exchange’s “regulatory staff” instead of “Surveillance Department.”
- Proposed Rule 6.10E (ETP Holders Holding Options) would specify an ETP Holder’s obligations with respect to trading on the Exchange when holding any options that are not issued by the Options Clearing Corporation. This proposed rule is based on NYSE Arca Equities Rule 6.10 without any substantive differences. Current Rule 96 - Equities (Limitations on Members’ Trading Because of Options) sets forth a requirement similar to proposed Rule 6.10E, but that rule is only

applicable to a member's trading while on the Floor for his own account or for any account in which he, his member organization, or any member, principal executive, or approved person of such organization is directly or indirectly interest. As proposed, Rule 6.10E would set forth these requirements and they would be applicable to all ETP Holders. In addition, the Exchange proposes that Rule 96 – Equities (Limitation on Members' Trading Because of Options) would not be applicable to trading on the Pillar trading platform.

- Proposed Rule 6.12E (Joint Accounts) would describe requirements relating to joint accounts. The proposed rule is based on NYSE Arca Equities Rule 6.12 without any substantive differences. The Exchange proposes a non-substantive difference in that the proposed rule would not include the phrase “Application of the System” because such terms are not defined on the Exchange. The Exchange proposes that Rules 93 – Equities (Trading for Joint Account) and 94 – Equities (Designated Market Marker's or Odd-Lot Dealers Interest in Joint Accounts) would not be applicable to trading on the Pillar trading platform.
- Proposed Rule 6.15E (Prearranged Trades) would prohibit prearranged trades and is based on NYSE Arca Equities Rule 6.15(b) without any substantive differences. The Exchange proposes that Rule 78 – Equities, which similarly prohibits prearranged trades, would not be applicable to trading on the Pillar trading platform. The Exchange would not be adding rule text based on NYSE Arca Equities Rule 6.15(a), relating to

prohibitions on engaging in manipulative practices or operations, because Rule 6140 – Equities already establishes these requirements.

Rule 7E Equities Trading

The Exchange proposes additional rules under Rule 7E Equities Trading.

As previously established in the Framework Filing, Section 1 of Rule 7E specifies the General Provisions relating to cash equities trading on the Pillar trading platform. The Exchange proposes the following additional rules:

- Proposed Rule 7.1E (Hours of Business) would specify that the Exchange would be open for the transaction of business on every business day. The proposed rule also sets forth when the CEO may take specified actions, such as halting or suspending trading in some or all securities on the Exchange. The proposed rule is based on NYSE Arca Equities Rule 7.1 and Rule 51 – Equities. The Exchange proposes that Rule 51 – Equities would not be applicable to trading on the Pillar trading platform. In addition, because the definition of the term “business day” in Rule 12 – Equities would be redundant of proposed Rule 7.1E, the Exchange proposes that Rule 12 – Equities would not be applicable to trading on the Pillar trading platform.
- Proposed Rule 7.2E (Holidays) would establish the holidays when the Exchange would not be open for business. The proposed rule is based on NYSE Arca Equities Rule 7.2 and Supplementary Material .10 to Rule 51 – Equities, including text that provides that when any holiday observed by

the Exchange falls on a Sunday, the Exchange would not be open for business on the succeeding Monday, which is in Rule 51 – Equities.

- Proposed Rule 7.3E (Commissions) would establish that ETP Holders may not charge fixed commissions and must indicate whether acting as a broker or as principal. The proposed rule is based on NYSE Arca Equities Rule 7.3 without any substantive differences. Because Rule 388 – Equities (Prohibition Against Fixed Rates of Commission) also prohibits fixed commissions, the Exchange proposes that Rule 388 - Equities would not be applicable to trading on the Pillar trading platform.
- Proposed Rule 7.4E (Ex-Dividend or Ex-Right Dates) would establish the ex-dividend and ex-rights dates for stocks traded regular way. The proposed rule is based on NYSE Arca Equities Rule 7.4 without any substantive differences. The Exchange proposes that Rule 235 – Equities would not be applicable to trading on the Pillar trading platform.
- Proposed Rule 7.7E (Transmission of Bids or Offers) would establish that all bids and offers on the Exchange would be anonymous unless otherwise specified by the ETP Holder. The proposed rule is based on NYSE Arca Equities Rule 7.7 without any substantive differences.
- Proposed Rule 7.8E (Bid or Offer Deemed Regular Way) would establish that all bids and offers would be considered to be “regular way.” This proposed rule text is based on NYSE Arca Equities Rule 7.8E. As proposed, the Exchange would not accept orders that, if executed, would not settle regular way. Accordingly, the Exchange proposes that Rules 12

– Equities, 14 – Equities, 73 – Equities, which each specify rules for orders that are not entered “regular way,” would not be applicable to trading on the Pillar trading platform. Currently, the Exchange accepts bids and offers that are not made regular way only from Floor brokers.

- Proposed Rule 7.9E (Execution Price Binding) would establish that, notwithstanding Exchange rules governing clearly erroneous executions, the price at which an order is executed is binding notwithstanding that an erroneous report is rendered. This proposed rule text is based on NYSE Arca Equities Rule 7.9 without any substantive differences. The Exchange proposes that Rules 71 – Equities (Precedence of Highest Bid and Lowest Offer) and 411 - Equities (Erroneous Reports) would not be applicable to trading on the Pillar trading platform.
- Proposed Rule 7.10E (Clearly Erroneous Executions) would set forth the Exchange’s rules governing clearly erroneous executions. The proposed rule is based on NYSE Arca Equities Rule 7.10 without any substantive differences. The Exchange proposes rule text based on NYSE Arca Equities rather than current Rule 128 – Equities (Clearly Erroneous Executions) because the NYSE Arca Equities version of the rule uses the same terminology that the Exchange is proposing for the Pillar trading platform, e.g., references to Early, Core, and Late Trading Sessions. Accordingly, the Exchange proposes that Rule 128 – Equities (Clearly Erroneous Executions) would not be applicable to trading on the Pillar trading platform.

- Proposed Rule 7.11E (Limit Up – Limit Down Plan and Trading Pauses in Individual Securities Due to Extraordinary Market Volatility) would specify how the Exchange would comply with the Regulation NMS Plan to Address Extraordinary Market Volatility (“LULD Plan”).¹⁸ Because ETP Holders would communicate with the Exchange’s proposed Pillar trading platform using Pillar phase II protocols only, the proposed rule is based on NYSE Arca Equities Rule 7.11(a) rule text governing Pillar phase II protocols without any substantive differences.¹⁹ In addition, the Exchange proposes that it would include rule text based on current NYSE Arca Equities Rule 7.11(b)(2) and (b)(5) only as the remaining provisions of NYSE Arca Equities Rule 7.11(b) are obsolete now that the LULD Plan has been fully implemented. The Exchange proposes that Rule 80C – Equities would not be applicable to trading on the Pillar trading platform.
- The Exchange proposes to amend paragraph (c)(i) of Rule 7.12E to change the rule cross reference from Rule 123D – Equities to Rule 7.35E(e). As described in greater detail below, the Exchange proposes Rule 7.35E to govern its auctions, including auctions following a trading halt. Accordingly, the procedures for reopening a security specified in Rule 123D – Equities would not be applicable on the Pillar trading platform.

¹⁸ See Securities Exchange Act Release No. 77679 (April 21, 2016), 81 FR 24908 (April 27, 2016) (File No. 4-631) (Order approving 10th Amendment to the LULD Plan).

¹⁹ See Securities Exchange Act Release No. 79688 (December 23, 2016), 81 FR 96534 (December 30, 2016) (SR-NYSEArca-2016-170) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change).

- Proposed Rule 7.13E (Trading Suspensions) would establish authority for the Chair or the CEO of the Exchange to suspend trading in any and all securities that trade on the Exchange if such suspension would be in the public interest. This proposed rule is based on NYSE Arca Equities Rule 7.13 with non-substantive differences to use the term “CEO” instead of “President” and to omit a cross reference to a rule that is not applicable on the Exchange.
- Proposed Rule 7.14E (Clearance and Settlement) would establish the requirements regarding an ETP Holder’s arrangements for clearing. Because all post-trade functions on the Exchange’s Pillar trading platform would follow the NYSE Arca Equities procedures for post-trade processing, the Exchange proposes rules that are based on NYSE Arca Equities rules governing clearing. Accordingly, the proposed rule is based on NYSE Arca Equities Rule 7.14 without any substantive differences. The Exchange proposes that its current rules governing clearing, Rules 130 – Equities and 132 – Equities, would not be applicable to trading on the Pillar trading platform.²⁰
- Proposed Rule 7.15E (Stock Option Transactions) would establish requirements for Market Makers relating to pool dealing and having an interest in an option that is not issued by the Options Clearing Corporation. The proposed rule is based on NYSE Arca Equities Rule 7.15 without any substantive differences. Because the proposed rule

²⁰ See also *infra* proposed Rules 7.33E (Capacity Codes) and 7.41E (Clearance and Settlement).

covers the same subject matter as Rule 105 – Equities, the Exchange proposes that this rule would not be applicable to trading on the Pillar trading platform.

- Proposed Rule 7.16E (Short Sales) would establish requirements relating to short sales. The proposed rule is based on NYSE Arca Equities Rule 7.16 without any substantive differences. Because the proposed rule covers the same subject matter as Rule 440B – Equities (Short Sales), the Exchange proposes that Rule 440B – Equities would not be applicable to trading on the Pillar trading platform.
- Proposed Rule 7.17E (Firm Orders and Quotes) would establish requirements that all orders and quotes must be firm. This proposed rule is based on NYSE Arca Equities Rule 7.17 without any substantive differences. Because on the Pillar trading platform, the Exchange would only publish automated quotations consistent with proposed Rule 7.17E, the Exchange proposes that Rule 60 – Equities (Dissemination of Quotations) would not be applicable to trading on the Pillar trading platform.²¹

As noted above, the Exchange will file a separate proposed rule change to establish rules relating to Market Makers, which will be in Section 2 of Rule 7E. The Exchange has proposed Rule 7.18E in the ETP Listing Rules Filing.²²

²¹ See also infra proposed Rule 7.36E regarding the display of orders on the Pillar trading platform.

²² See supra note 10. The Exchange will file an amendment to the ETP Listing Rules Filing to add rule text for proposed paragraphs (b) and (c) of Rule 7.18E that would be based on NYSE Arca Equities Rule 7.18(b) and (c).

Section 3 of Rule 7E sets forth Exchange trading rules for the Pillar trading platform. As noted above, the Exchange proposes certain substantive differences to how the Exchange would operate on the Pillar trading platform compared to how NYSE Arca Equities operates. These substantive differences would be reflected in the proposed rules governing Orders and Modifiers and Trading Sessions.

Proposed Rule 7.31E (Orders and Modifiers) would specify the orders and modifiers that would be available on the Exchange on the Pillar trading platform. The Exchange proposes to offer the same types of orders and modifiers that are available on NYSE Arca Equities, with specified substantive differences.

Proposed Rule 7.31E is based on NYSE Arca Equities Rule 7.31 with the following differences. With respect to Self-Trade Prevention (“STP”) Modifiers, because the Exchange would be operating on Pillar phase II protocols only, STPs would be based on the MPID of an ETP Holder and not on an ETP ID. Accordingly, proposed Rule 7.31E(i)(2) would not include references from NYSE Arca Equities Rule 7.31(i)(2) relating to ETPIDs. In addition, Arca Only Orders, which are described in NYSE Arca Equities Rule 7.31(e)(1), would be named “MKT Only Orders” on the Exchange, as described in proposed Rule 7.31E(e)(1). The Exchange does not propose any substantive differences to how MKT Only Orders would function as compared to Arca Only Orders on NYSE Arca Equities. Next, the Exchange proposes that for Primary Only Day/IOC Orders, an ETP Holder may specify that an order in NYSE Arca-listed securities may include an instruction to be routed to NYSE Arca as a routable order, as set forth in proposed Rule 7.31E(f)(1)(B). Finally, because when operating on the Pillar phase II protocols, the Exchange would not accept order types with conflicting order instructions, the Exchange

proposes not to include in proposed Rule 7.31E text based on Commentary .02 to NYSE Arca Equities Rule 7.31.

Because proposed Rule 7.31E would govern orders and modifiers, the Exchange proposes that Rule 13 – Equities (Orders and Modifiers) would not be applicable to trading on the Pillar trading platform. In addition, references to Trading Collars in Rule 1000(c) – Equities would not be applicable to trading on the Pillar Trading platform.²³

Proposed Rule 7.34E would specify trading session on the Exchange. Similar to NYSE Arca Equities, the Exchange proposes that on the Pillar trading platform, it would have Early, Core, and Late Trading Sessions. Accordingly, proposed Rule 7.34E is based on NYSE Arca Equities Rule 7.34, with non-substantive differences. The Exchange proposes one substantive difference from NYSE Arca Equities Rule 7.34 in that the Early Trading Session would begin at 7:00 a.m. Eastern Time rather than 4:00 a.m. Eastern Time. Similar to NYSE Arca Equities, the Exchange would begin accepting orders 30 minutes before the Early Trading Session begins, which means order entry acceptance would begin at 6:30 a.m. Eastern Time instead of at 3:30 a.m. Eastern Time. These differences would be reflected in proposed Rule 7.34E(a)(1).

In addition, because the Exchange would use Pillar phase II protocols, proposed Rule 7.34E(b)(1) would specify that an order entered without a trading session designation would be rejected. In addition, the Exchange proposes that it would not include rule text based on NYSE Arca Equities Rule 7.34(b)(2) or (3).

The following proposed rules in Section 3 of Rule 7E would be based on existing NYSE Arca Equities rules without any substantive differences:

- Proposed Rule 7.29E (Access) would provide that the Exchange would be

²³ As described in greater detail below, the Exchange proposes that the entirety of Rule 1000 – Equities would not be applicable to trading on the Pillar trading platform.

available for entry and cancellation of orders by ETP Holders with authorized access. To obtain authorized access to the Exchange, each ETP Holder would be required to enter into a User Agreement. Proposed Rule 7.29E is based on NYSE Arca Equities Rule 7.29(a), without any substantive differences. The Exchange does not propose to include rule text based on NYSE Arca Equities Rule 7.29(b) because the Exchange would not offer sponsored access.

- Proposed Rule 7.30E (Authorized Traders) would establish requirements for ETP Holders relating to ATs. The proposed rule is based on NYSE Arca Equities Rule 7.30, without any substantive differences.
- Proposed Rule 7.32E (Order Entry) would establish requirements for order entry size. The proposed rule is based on NYSE Arca Equities Rule 7.32 without any substantive differences. The Exchange proposes that the current maximum order size references before subparagraph (a) in Rule 1000 - Equities would not be applicable to trading on the Pillar trading platform.
- Proposed Rule 7.33E (Capacity Codes) would establish requirements for capacity code information that ETP Holders must include with every order. The proposed rule is based on NYSE Arca Equities Rule 7.33 without any substantive differences. The Exchange proposes to use the title “Capacity Codes” instead of “ETP Holder User,” for proposed Rule 7.33E, which the Exchange believes provides more clarity regarding the content of the proposed rule. The Exchange proposes that the capacity

code requirements in Supplementary Material .30(9) to Rule 132 – Equities would not be applicable to trading on the Pillar trading platform.

- Proposed Rule 7.35E (Auctions) would establish requirements for auctions on the Exchange. Because the Exchange proposes to automate all auctions and not have a DMM facilitate such auctions, the proposed rule is based on NYSE Arca Equities Rule 7.35 without any substantive differences. The Exchange proposes that paragraph (a)(10)(A), regarding Auction Collars for Trading Halt Auctions, which is based on a pilot rule of NYSE Arca Equities, would be in effect until SR-NYSEArca-2016-130 has been approved and a proposed rule change based on SR-NYSEArca-2016-130 for the Exchange is effective and operative.²⁴ Because proposed Rule 7.35E would govern all auctions, including the Early Open Auction, Core Open Auction, Trading Halt Auction, IPO Auction, and Closing Auction, the Exchange proposes that the following rules, which govern auctions on the Exchange, would not be applicable to trading on the Pillar trading platform: Rule 15 – Equities (governing pre-opening indications and Opening Order Imbalance Information), Rule 115A – Equities (governing the opening process), Supplementary Material .40 to Rule 116 – Equities (governing pair off of MOC and LOC orders at the close),²⁵ Rule 123C – Equities (governing the closing process), and Rule 123D – Equities

²⁴ See Securities Exchange Act Release No. 79705 (December 29, 2016), 82 FR 1419 (January 5, 2017) (SR-NYSEArca-2016-169) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change).

²⁵ As described below, because the Exchange would not have Floor-based DMMs or trading, the remainder of Rule 116 – Equities would not be applicable to trading on the Pillar trading platform.

(governing the opening and trading halts).

- Proposed Rule 7.36E (Order Ranking and Display) would establish requirements for how orders would be ranked and displayed at the Exchange. The proposed rule is based on NYSE Arca Equities Rule 7.36 without any substantive differences.
- Proposed Rule 7.37E (Order Execution and Routing) would establish requirements for how orders would execute and route at the Exchange, the data feeds that the Exchange would use, and Exchange requirements under the Order Protection Rule and the prohibition on locking and crossing quotations in NMS Stocks. This proposed rule is based on NYSE Arca Equities Rule 7.37 with one substantive difference. Because the Exchange would not be taking in data feeds from broker dealers or routing to Away Markets that are not displaying protected quotations, the Exchange proposes that proposed Rule 7.37E would not include rule text from paragraph (b)(3) of NYSE Arca Equities Rule 7.37, which specifies that an ETP Holder can opt out of routing to Away Markets that are not displaying a protected quotation, i.e., broker dealers, or paragraph (d)(1) of NYSE Arca Equities Rule 7.37, which specifies that NYSE Arca Equities receives data feeds directly from broker dealers.

The subject matter of proposed Rules 7.36E and 7.37E would address a cross-section of current rules. Accordingly, the Exchange proposes that the following rules would not be applicable to trading on the Pillar trading platform: Rule 15A – Equities (Order Protection Rule), Rule 19 –

Equities (Locking or Crossing Protected Quotations in NMS Stocks), Rule 60 – Equities (Dissemination of Quotations), Rule 61 – Equities (Recognized Quotations), Rule 72 – Equities (Priority of Bids and Offers and Allocation of Executions), Supplementary Material .15 to Rule 79A – Equities,²⁶ Rule 1000(a) and (b) – Equities (Automatic Executions), Rule 1001 – Equities (Execution of Automatically Executing Orders), Rule 1002 – Equities (Availability of Automatic Execution Feature), and Rule 1004 - Equities (Election of Buy Minus and Sell Plus).

- Proposed Rule 7.38E (Odd and Mixed Lot) would establish requirements relating to odd lot and mixed lot trading on the Exchange. The proposed rule is based on NYSE Arca Equities Rule 7.38 without any substantive differences.
- Proposed Rule 7.40E (Trade Execution and Reporting) would establish the Exchange’s obligation to report trades to an appropriate consolidated transaction reporting system. The proposed rule is based on NYSE Arca Equities Rule 7.40 without any substantive differences. Because all reporting of transactions would be automated, the Exchange proposes that Rule 128A – Equities would not be applicable to trading on the Pillar trading platform.
- Proposed Rule 7.41E (Clearance and Settlement) would establish requirements that all trades be processed for clearance and settlement on a locked-in and anonymous basis. Specifically, proposed Rules 7.41E(a),

²⁶ As described below, the Exchange proposes that Rule 79A in its entirety would not be applicable on the Pillar trading platform.

(b), (d), and (e) are based on NYSE Arca Equities Rule 7.41(a), (b), (d), and (e) with non-substantive differences not to include references to sponsored access, because the Exchange will not offer sponsored access. Proposed Rule 7.41E(c) is based on NYSE Rule 130(b), which reflects the circumstances when the Exchange may reveal the contra-party identity.²⁷ In addition, proposed Commentary .10 to Rule 7.41E is based on Supplementary Material .10 to Rule 132, defining the term “Qualified Clearing Agency.” The Exchange proposes to define this term for use in proposed Rule 7.41E(c). Because all trades would be reported by the Exchange on a locked-in basis, the Exchange proposes to specify that the following rules relating to clearance and settlement would not be applicable to trading on the Pillar trading system: Rule 130 – Equities (Overnight Comparison of Exchange Transactions), Rule 132 – Equities (Comparison and Settlement of Transactions Through a Fully-Interfaced or Qualified Clearing Agency), Rule 133 – Equities (Comparison – Non-cleared Transactions), Rule 134 (Differences and Omissions – Cleared Transactions QTs), Rule 135 – Equities (Differences and Omissions – Non-cleared Transactions (‘DKs’)), and Rule 136 – Equities (Comparison – Transactions Excluded from a Clearance).

As noted above, the Exchange would not offer a Retail Liquidity Program when it trades on the Pillar trading platform. Accordingly, the Exchange would not propose rules based on

²⁷ See Securities Exchange Act Release No. 77930 (May 26, 2016), 81 FR 35410 (June 2, 2016) (SR-NYSE-2016-38) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change).

NYSE Arca Equities Rule 7.44 and proposed Rules 7.36E, 7.37E, and 7.38E would not include cross references to Rule 7.44. The Exchange proposes that Rule 107C - Equities would not be applicable to trading on the Pillar trading platform.

Section 4 of Rule 7E would establish the Operation of a Routing Broker. Specifically, proposed Rule 7.45E (Operation of a Routing Broker) would establish the outbound and inbound function of the Exchange's routing broker and the cancellation of orders and the Exchange's error account. The proposed rule is based on NYSE Arca Equities Rule 7.45 without any substantive differences. The Exchange proposes that Rule 17 – Equities (Use of Exchange Facilities and Vendor Services) would not be applicable to trading on the Pillar trading platform.²⁸

Section 5 of Rule 7E would establish requirements relating to the Plan to Implement a Tick Size Pilot Program. Proposed Rule 7.46E (Tick Size Pilot Plan) would specify such requirements. The proposed rule is based on NYSE Arca Equities Rule 7.46 with a proposed substantive difference not to include cross references to a Retail Liquidity Program in proposed Rules 7.46E(c), (d)(1), and (e)(1). The Exchange also proposes to designate proposed Rules 7.46E(f)(4) and (f)(5)(B) as “Reserved” because the Exchange would not support Retail Price Improvement Orders or routing to Away Markets that are not displaying protected quotations on Pillar. The remaining differences are all non-substantive, including using the term MKT Only Order rather than Arca Only Order. The Exchange proposes that Rule 67 – Equities (Tick Size Pilot Plan) would not be applicable to trading on the Pillar trading platform.

²⁸ The subject matter of Rule 17(a) – Equities would be addressed in proposed Rule 13.2E. On Pillar, the Exchange would not operate with vendors and therefore would not need a vendor liability rule, as described in Rule 17(b) – Equities. Current Rule 17(c) – Equities would not be applicable because it addresses the same subject matter as proposed Rule 7.45E.

Rule 12E

The Exchange proposes to amend Rule 12E to delete the term “Reserved,” re-name it “Arbitration,” and establish the Exchange’s arbitration procedures. The proposed rule text is based on current Rule 600 – Equities, with a non-substantive change to use the term “ETP Holder” instead of “member organization.” The Exchange proposes to move this rule text to Rule 12E so that it has the same rule number as the arbitration rules of NYSE Arca Equities. The Exchange further proposes that Rule 600 – Equities would not be applicable to trading on the Pillar trading platform.

Rule 13E

The Exchange proposes to amend Rule 13E to delete the term “Reserved” and re-name it “Liability of Directors and Exchange.”

- Proposed Rule 13.2E (Liability of the Exchange) would establish requirements governing liability of the Exchange, including the limits on liability for specified circumstances. This proposed rule is based on Rule 905NY, which governs liability of the Exchange for its options market, and NYSE Arca Equities Rule 13.2 without any substantive differences. Because this rule would govern liability of the Exchange, the Exchange proposes that Rule 18 – Equities would not be applicable to trading on the Pillar trading platform.
- Proposed Rule 13.3E (Legal Proceedings Against Directors, Officers, Employees, or Agents) would establish requirements relating to legal proceedings against directors, officers, employees, agents, or other officials of the Exchange. The proposed rule is based on NYSE Arca

Equities Rule 13.3 without any substantive differences.

- Proposed Rule 13.4E (Exchange’s Costs of Defending Legal Proceedings) would establish the circumstances regarding who is responsible for the Exchange’s costs in defending a legal proceeding brought against the Exchange. The proposed rule is based on NYSE Arca Equities Rule 13.4 without any substantive differences and Rule 61, which governs the Exchange’s costs of defending legal proceedings for its options market. The Exchange proposes that Rule 25 – Equities (Exchange Liability for Legal Costs) would not be applicable to trading on the Pillar trading platform.

Proposed Amendments to the Exchange’s Off-Hours Trading Facility

After the Exchange transitions to the Pillar trading platform, the Exchange proposes to maintain certain functionality in its Off-Hours Trading Facility, which is currently described in Rules 900 – Equities through 907 – Equities (the “Rule 900 Series”). Specifically, once trading begins on its Pillar trading platform, the Exchange proposes that the only function that would be available on its Off-Hours Trading Facility would be for ETP Holders to enter aggregate-price coupled orders.

The Exchange proposes that new Rule 7.39E would describe this Off-Hours Trading Facility functionality,²⁹ and that the entirety of the Rule 900 Series would not be applicable to trading on the Pillar trading platform.

- Proposed Rule 7.39E(a) would provide that Rule 7.39E would apply to all

²⁹ NYSE Arca Equities Rule 7.39 addresses the adjustment of open orders, e.g., orders with a good until canceled time-in-force instruction, due to corporate actions. Because the Exchange does not propose to have any open orders when trading on the Pillar trading platform, the Exchange will not adopt rule text based on NYSE Arca Equities Rule 7.39.

Exchange contracts made on the Exchange through its “Off-Hours Trading Facility.” This proposed rule text is based on the first sentence of Rule 900(a) – Equities. The Exchange would not include rule text specified in the second sentence of Rule 900(a) – Equities and text from Rule 900(b) – Equities through Rule 900(d) – Equities because it would not apply to the Off-Hours Trading Facility once trading begins on the Pillar trading platform.

- Proposed Rule 7.39E(b) would establish the definitions for the Off-Hours Trading Facility. Proposed Rule 7.39E(b)(i) would define the term “Aggregate-Price Coupled Order” to mean an order to buy or sell a group of securities, which group includes no fewer than 15 Exchange-listed or traded securities having a total market value of \$1 million or more. This proposed definition is based on the definition of “aggregate-price order” in Rule 900(e)(i) – Equities with a non-substantive difference to use the term “Aggregate-Price Coupled Order” rather than “aggregate-price order.” Proposed Rule 7.39E(e)(b)(ii) would define the term “Off-Hours Trading Facility,” to mean the Exchange facility that permits ETP Holders to effect securities transactions on the Exchange under proposed Rule 7.39E and is based on Rule 900(e)(v) – Equities with a non-substantive difference to use the term “ETP Holder” instead of “member or member organization.” Proposed Rule 7.39E(b)(ii) would also define the term “Off-Hours Trading” to mean trading through the Off-Hours Trading Facility. This text is based on the second sentence of Rule 900(e)(v) – Equities. Because

the Exchange would only be trading Aggregate-Price Coupled Orders in the Off-Hours Trading Facility, the Exchange proposes that Rule 7.39E(b) would not include definitions for “closing price,” “closing-price order,” or “guaranteed price coupled order,” which are defined in Rule 900(e)(ii) – (iv) – Equities.

- Proposed Rule 7.39E(c) would establish that only such NMS Stocks, as the Exchange may specify, including Exchange-listed securities and UTP Securities, would be eligible to trade in the Off-Hours Trading Facility. This proposed rule text is based on Rule 901 – Equities with non-substantive differences to use Pillar terminology to describe which securities would be eligible to trade in the Off-Hours Trading Facility. The Exchange would not include rule text from Supplementary Material .10 of Rule 902, which provides that only the orders described in Rule 902 are eligible for Off-Hours Trading because it is redundant of proposed Rule 7.39E(c).
- Proposed Rule 7.39E(d) would establish the procedures for entering Aggregate-Price Coupled Orders into the Off-Hours Trading Facility. As proposed, an ETP Holder may only enter into the Off-Hours Trading Facility an Aggregate-Price Coupled Order to buy (sell) that is matched with an Aggregate-Price Coupled Order to sell (buy) the same quantities of the same securities, including in odd lot and mixed lot quantities. This proposed rule text is based on Rule 902(a)(iii) – Equities and Rule 902(g) – Equities with non-substantive differences to combine the two sections

into a single section of rule text. The Exchange would not include rule text from Rule 902(a)(ii) because this specifies a Floor-based method to enter a coupled-order after the close and therefore would not be necessary on the Exchange's proposed Pillar trading system.

- Proposed Rule 7.39E(d)(i) would provide that transactions effected through the Off-Hours Trading Facility pursuant to Aggregate-Price Coupled Orders may be for delivery at such time as the parties entering the orders may agree. This proposed rule text is based on the first sentence of Rule 902(c) – Equities. The Exchange would not include the second sentence of Rule 902(c) – Equities in proposed Rule 7.39E(d)(i) because all orders in the Off-Hours Trading Facility would be Aggregate-Price Coupled Orders and thus subject to proposed Rule 7.39E(d)(i).
- Proposed Rule 7.39E(d)(ii) would provide that ETP Holders would mark all sell orders as “long” as appropriate. This proposed rule text is based on Rule 902(f) – Equities with a non-substantive difference to use the term “ETP Holder” instead of “members and member organizations.”
- Proposed Rule 7.39E(d)(iii) would provide that each side of an Aggregate-Price Coupled Order entered on a matched basis would be traded on entry against the other side without regard to the priority of other orders entered into the Off-Hours Trading Facility. This proposed rule text is based on Rule 903(b) – Equities and 903(d)(i) with non-substantive differences to combine those rules into a single sub-section, use Pillar terminology, and use the term “matched” instead of “coupled.”

- Proposed Rule 7.39E(d)(iv) would provide that a transaction described in this Rule would be an Exchange contract that is binding in all respects and without limit on the ETP Holder that enters any of the transaction's component orders and that the ETP Holder would be fully responsible for the Exchange contract. This proposed rule text is based on Rule 903(c) – Equities with non-substantive differences to use the term “ETP Holder” instead of “member or member organization.”
- Proposed Rule 7.39E(e) would provide that each ETP Holder would report to the Exchange such information, in such manner, and at such times, as the Exchange may from time to time prescribe in respect of Off-Hours Trading, including, but not limited to, reports relating to Off-Hours Trading orders, proprietary or agency activity and activity in related instruments. This proposed rule text is based on Rule 905(a) – Equities with a non-substantive difference to use the term “ETP Holder” instead of “member or member organization.”
- Proposed Rule 7.39E(f) would provide that each ETP Holder would maintain and preserve such records, in such manner, and for such period of time, as the Exchange may from time to time prescribe in respect of Off-Hours Trading, including, records relating to orders, cancellations, executions and trading volume, proprietary trading activity, activity in related instruments and securities and other records necessary to allow the ETP Holder to comply with the reporting provisions of proposed paragraph (e) of Rule 7.39E. This proposed rule text is based on rule

905(b) – Equities with non-substantive differences to use the term “ETP Holder” instead of “member or member organization,” and to eliminate the “but not limited to” text.

- Proposed Rule 7.39E(g) would provide that notwithstanding a trading halt in any security (other than a trading halt pursuant to Rule 7.12E (Trading Halts Due to Extraordinary Market Volatility)) or a corporate development, ETP Holders may enter Aggregate-Price Coupled Orders into the Off-Hours Trading Facility under this Rule. This proposed rule text is based on Supplementary Material .10 to Rule 906 – Equities with non-substantive differences to cross-reference Rule 7.12E instead of Rule 80B and to use the term “ETP Holders” instead of “members and member organizations.”

In addition to the provisions of the Rule 900 Series noted above, the Exchange would not include rule text from Rule 903(d)(ii) – Equities and Rule 906(b) – Equities in proposed Rule 7.39E because these provisions relate to Floor-based use of the Off-Hours Trading Facility, which would not be available on the proposed Pillar trading platform. In addition, the Exchange proposes that Rule 7.39E would not include any provisions from Rule 907, which describes now-obsolete crossing session functionality.

Current Rules that would not be Applicable to Pillar

As described in more detail above, in connection with the proposed rules to support cash equities trading on the Pillar trading platform, the Exchange has identified current Exchange rules that would not be applicable because they would be superseded by a proposed rule. The Exchange has identified additional current rules that would not be applicable to trading on Pillar.

These rules do not have a counterpart in the proposed Pillar rules, described above, but would be obsolete on the new, fully-automated trading platform.

The main category of rules that would not be applicable to trading on the Pillar trading platform are those that are specific to Floor-based trading, including requirements relating to DMMs and Floor brokers. For this reason, the Exchange proposes that the following Floor-specific rules would not be applicable to trading on the Pillar trading platform:

- Paragraphs (a), (i), and (j) of Rule 2 – Equities (“Member,” “Membership,” and “Member Firm,” etc.) (defining terms relating to Floor-based trading, i.e., member, DMM, and DMM unit).
- Rule 6 – Equities (Floor).
- Rule 6A – Equities (Trading Floor).
- Rule 35 – Equities (Floor Employees to be Registered).
- Rule 36 – Equities (Communications Between Exchange and Members’ Offices).
- Rule 37 – Equities (Visitors).
- Rule 46 – Equities (Floor Officials – Appointments).
- Rule 46A – Equities (Executive Floor Governors).
- Rule 47 – Equities (Floor Officials – Unusual Situations).
- Rule 52 – Equities (Dealings on the Exchange – Hours).
- Rule 53 – Equities (Dealings on Floor – Securities).
- Rule 54 – Equities (Dealings on Floor – Persons).
- Rule 70 – Equities (Execution of Floor broker interest).
- Rule 74 – Equities (Publicity of Bids and Offers).

- Rule 75 – Equities (Disputes as to Bids and Offers).
- Rule 76 – Equities (‘Crossing’ Orders).
- Rule 77 – Equities (Prohibited Dealings and Activities).
- Rule 79A – Equities (Miscellaneous Requirements on Stock Market Procedures).
- Rule 90 – Equities (Dealings by Members on the Exchange).
- Rule 91 – Equities (Taking or Supplying Securities Named in Order).
- Rule 95 – Equities (Discretionary Transactions).
- Rule 103A – Equities (Member Education).
- Rule 106A – Equities (Taking Book or Order of Another Member).
- Rule 108 – Equities (Limitation on Members’ Bids and Offers).
- Rule 112 – Equities (Orders Initiated ‘Off the Floor’).
- Rule 116 – Equities (‘Stop’ Constitutes Guarantee).
- Rule 117 – Equities (Orders of Members To Be in Writing).
- Rule 121 – Equities (Records of DMM Units).
- Rule 122 – Equities (Orders with More than One Broker).
- Rule 123 – Equities (Record of Orders).
- Rule 123A – Equities (Miscellaneous Requirements).
- Rule 123B – Equities (Exchange Automated Order Routing System).
- Rule 126 – Equities (Odd-Lot Dealers General).
- Rule 127 – Equities (Block Crossed Outside the Prevailing Exchange Quotation).
- Rule 128B – Equities (Publication of Changes, Corrections, Cancellations

or Omissions and Verifications of Transactions).

- Rule 131 – Equities (Comparison – Requirements for Reporting Trades and Providing Facilities).
- Rule 301 – Equities (Qualifications for Membership).
- Rule 303 – Equities (Limitation on Access to Floor).
- Rule 304A – Equities (Member Examination Requirements).
- Rule 440I – Equities (Records of Compensation Arrangements – Floor Brokerage).
- Rule 1000(d) – (g) – Equities (Capital Commitment Schedule).

In addition, the Exchange proposes that the following rules would not be applicable to trading on the Pillar platform.

- Rule 11 – Equities (Effect of Definitions) because Rule 1.1E supersedes any description of definitions.
- Rule 23 – Equities (New York local time) because all references to times in the proposed Pillar trading platform rules refer to “Eastern Time.”
- Rule 24 – Equities (Change in Procedure to Conform to Changes Hours of Trading) because proposed Rule 7.1E would specify the hours of the Exchange.
- Rule 86 – Equities (NYSE MKT Bonds) because the Exchange would not trade bonds on the Pillar trading platform.
- Rule 107B – Equities (Supplemental Liquidity Providers) because the Exchange would not support the Supplemental Liquidity Provider program on its proposed Pillar trading platform.

- Rule 119 – Equities (Change in Basis from “And Interest” to “Flat”) because the Exchange would not trade bonds on its proposed Pillar trading platform.
- Rule 131A – Equities (A Member Organization Shall Use Its Own Mnemonic When Entering Orders) because the Exchange would use MPIDs rather than mnemonics on its proposed Pillar trading platform.

Proposed Deletion of Rules Designated “Reserved”

To simplify the Exchange’s rules, the Exchange proposes to delete Equities rules that are currently designated “Reserved.”³⁰ The Exchange believes it would reduce confusion and promote transparency to delete references to rules that do not have any substantive content. The Exchange further believes that because it is transitioning to a new rule numbering framework, maintaining these rules on a reserved basis is no longer necessary.

Section 11(a) of the Act

Section 11(a)(1) of the Act³¹ (“Section 11(a)(1)”) prohibits a member of a national securities exchange from effecting transactions on that exchange for its own account, the account

³⁰ See Rules 16 – Equities; 20 – Equities; 21 – Equities (Disqualification of Directors on Listing of Securities); Rule 26 – Equities (Disqualification of Directors on Listing of Securities); Rule 29 – Equities – Rule 34 – Equities; Rule 38 – Equities – Rule 44 – Equities; Rule 45 – Equities (Equities); Rule 50 – Equities; Rule 57 – Equities – Rule 59 – Equities; Rule 60A – Equities; Rule 65 – Equities; Rule 69 – Equities; Rule 92 – Equities; Rule 106 – Equities; Rule 107 – Equities; Rule 109 – Equities – Rule 111 – Equities; Rule 115 – Equities; Rule 118 – Equities; Rule 123G – Equities; Rule 124 – Equities; Rule 132A – Equities; Rule 132B – Equities; Rule 132C – Equities; Rule 305 – Equities – 307 – Equities; Rule 309 – Equities; Rules 314 – Equities – 318 – Equities; Rule 319 – Equities; Rule 322 – Equities; Rules 323 – Equities – 324 – Equities; Rule 325 – Equities; Rule 326(a) – Equities; Rule 326(b) – Equities; Rule 326(c) – Equities; Rule 326(d) – Equities; Rule 327 – Equities; Rule 328 – Equities; Rule 329 – Equities; Rule 343 – Equities; Rule 440A – Equities; and Rule 1003 - Equities.

³¹ 15 U.S.C. 78k(a)(1).

of an associated person, or an account over which it or its associated person exercises investment discretion (collectively, "covered accounts") unless an exception to the prohibition applies. Rule 11a2-2(T) under the Act ("Rule 11a2-2(T)",³² known as the "effect versus execute" rule, provides exchange members with an exemption from the Section 11(a)(1) prohibition. Rule 11a2-2(T) permits an exchange member, subject to certain conditions, to effect transactions for covered accounts by arranging for an unaffiliated member to execute the transactions on the exchange. To comply with Rule 11a2-2(T)'s conditions, a member: (i) must transmit the order from off the exchange floor; (ii) may not participate in the execution of the transaction once it has been transmitted to the member performing the execution (although the member may participate in clearing and settling the transaction); (iii) may not be affiliated with the executing member; and (iv) with respect to an account over which the member or its associated person has investment discretion, neither the member nor its associated person may retain any compensation in connection with effecting the transaction except as provided in the Rule.

With the proposed transition of the Exchange to a fully automated electronic trading model that does not have a trading floor, the Exchange believes that the policy concerns Congress sought to address in Section 11(a)(1), i.e., the time and place advantage that members on exchange trading floors have over non-members off the floor and the general public – would not be present. Specifically, on the Pillar trading system, buy and sell interest will be matching in a continuous, automated fashion. Liquidity will be derived from quotes as well as orders to buy and orders to sell submitted to the Exchange electronically by ETP Holders from remote locations. The Exchange further believes that ETP Holders entering orders into the Exchange's Pillar trading system will satisfy the requirements of Rule 11a2-2(T) under the Act, which

³² 17 CFR 240.11a2-2(T).

provides an exception to Section 11(a)'s general prohibition on proprietary trading.

The four conditions imposed by the "effect versus execute" rule are designed to put members and non-members of an exchange on the same footing, to the extent practicable, in light of the purpose of Section 11(a). For the reasons set forth below, the Exchange believes the structure and characteristics of its proposed Pillar trading system do not result in disparate treatment of members and non-members and places them on the "same footing" as intended by Rule 11a2-2(T).

1. **Off-Floor Transmission.** Rule 11a2-2(T) requires orders for a covered account transaction to be transmitted from off the exchange floor. The Commission has considered this and other requirements of the rule in the context of automated trading and electronic order handling facilities operated by various national securities exchanges in a 1979 Release³³ as well as more applications of Rule 11a2-2(T) in connection with the approval of the registrations of national securities exchanges.³⁴ In the context of these automated trading systems, the Commission has found that the off-floor transmission requirement is met if an order for a covered account is transmitted from a remote location directly to an exchange's

³³ See Securities Exchange Act Release No. 15533 (January 29, 1979) (regarding the Amex Post Execution Reporting System, the Amex Switching System, the Intermarket Trading System, the Multiple Dealer Trading Facility of the Cincinnati Stock Exchange, the PCX's Communications and Execution System ("COM EX"), and the Phlx's Automated Communications and Execution System ("PACE")) ("1979 Release").

³⁴ Securities Exchange Act Release Nos. 53128 (January 13, 2006) 71 FR 3550 (January 23, 2006) (File No. 10-13 1) (order approving Nasdaq Exchange registration); 58375 (August 18, 2008) 73 FR 49498 (August 21, 2008) (order approving BATS Exchange registration); 61152 (December 10, 2009) 74 FR 66699 (December 16, 2009) (order approving C2 exchange registration); and 78101 (June 17, 2016), 81 FR 41142, 41164 (June 23, 2016) (order approving Investors Exchange LLC registration).

floor by electronic means.³⁵ Because the Exchange would not have a physical trading floor once it transitions to the Pillar trading platform, and like other all electronic exchanges, the Exchange's Pillar trading system would receive orders from ETP Holders electronically through remote terminals or computer-to-computer interfaces, the Exchange therefore believes that its trading system satisfies the off-floor transmission requirement.

2. **Non-Participation in Order Execution.** The "effect versus execute" rule further provides that neither the exchange member nor an associated person of such member participate in the execution of its order. This requirement was originally intended to prevent members from using their own brokers on an exchange floor to influence or guide the execution of their orders.³⁶ The rule, however, does not preclude members from cancelling or modifying orders, or from modifying instructions for executing orders, after they have been transmitted, provided such cancellations or modifications are transmitted from off an exchange floor.³⁷ In the 1979 Release discussing both the Pacific Stock Exchange's

³⁵ See, e.g., Securities Exchange Act Release Nos. 49068 (January 13, 2004), 69 FR 2775 (January 20, 2004) (order approving the Boston Options Exchange as an options trading facility of the Boston Stock Exchange); 44983 (October 25, 2001), 66 FR 55225 (November 1, 2001) (order approving Archipelago Exchange ("ArcaEx") as electronic trading facility of the Pacific Exchange ("PCX")("Arca Ex Order")); 29237 (May 24, 1991), 56 FR 24853 (May 31, 1991) (regarding NYSE's Off-Hours Trading Facility); 15533 (January 29, 1979); and 14563 (March 14, 1978), 43 FR 11542 (March 17, 1978) (regarding the NYSE's Designated Order Turnaround System ("1978 Release")).

³⁶ Id. 1978 Release, supra note 35.

³⁷ Id.

COM EX system and the Philadelphia Stock Exchange's PACE system, the Commission noted that a member relinquishes any ability to influence or guide the execution of its order at the time the order is transmitted into the systems, and although the execution is automatic, the design of such systems ensures that members do not possess any special or unique trading advantages in handling orders after transmission to the systems.³⁸ The Exchange's Pillar trading system would at no time following the submission of an order allow an ETP Holder or an associated person of such member to acquire control or influence over the result or timing of an order's execution. The execution of an ETP Holder's order would be determined solely by what quotes and orders are present in the system at the time the member submits the order and the order priority based on Exchange rules. Therefore, the Exchange believes the non-participation requirement would be met through the submission and execution of orders in the Exchange's Pillar trading system.

3. **Execution Through an Unaffiliated Member.** Although Rule 11a2-2(T) contemplates having an order executed by an exchange member, unaffiliated with the member initiating the order, the Commission has recognized the requirement is satisfied where automated exchange facilities are used as long as the design of these systems ensures that members do not possess any special or unique trading advantages in handling their orders after transmitting them to the exchange. In the 1979

³⁸ 1979 Release, supra, note 33.

Release, the Commission noted that while there is not an independent executing exchange member, the execution of an order is automatic once it has been transmitted into the systems. Because the design of these systems ensures that members do not possess any special or unique trading advantages in handling their orders after transmitting them to the exchange, the Commission has stated that executions obtained through these systems satisfy the independent execution requirement of Rule 11a2-2(T). Because the design of the Exchange's Pillar trading system ensures that no ETP Holder has any special or unique trading advantages over nonmembers in the handling of its orders after transmitting its orders to the Exchange, the Exchange believes that its Pillar trading system would satisfy this requirement.

4. **Non-Retention of Compensation for Discretionary Accounts.** Finally, Rule 11a2-2(T) states, in the case of a transaction effected for the account for which the initiating member or its associated person exercises investment discretion, in general, the member or its associated person may not retain compensation for effecting the transaction, unless the person authorized to transact business for the account has expressly provided otherwise by written contract referring to both Section 11(a) of the Exchange Act and Rule 11a2-2(T). The Exchange will advise its membership through the issuance of a Regulatory Bulletin that those ETP Holders trading for covered accounts over which they exercise investment discretion must comply with this condition in order to rely on the exemption in Rule 11a2-2(T) from the prohibition in Section 11(a) of the Exchange Act.

In conclusion, The Exchange believes that its Pillar trading system would satisfy the four requirements of Rule 11a2-2(T) as well as the general policy objectives of Section 11(a). The Exchange's proposed Pillar trading system would place all users, members and non-members, on the "same footing" with respect to transactions on the Exchange for covered accounts as intended by Rule 11a2-2(T). As such, no Exchange ETP Holder would be able to engage in proprietary trading in a manner inconsistent with Section 11(a).

As discussed above, because of the technology changes associated with the migration to the Pillar trading platform, the Exchange will announce by Trader Update when rules with an "E" modifier will become operative.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Securities Exchange Act of 1934 (the “Act”),³⁹ in general, and furthers the objectives of Section 6(b)(5),⁴⁰ 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 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 Exchange believes that the proposed rules to support Pillar on the Exchange would remove impediments to and perfect the mechanism of a free and open market because they provide for a complete set of rules to support the Exchange’s transition to a fully automated cash equities trading model on the Pillar trading platform.

Generally, the Exchange believes that the proposed rules would support the Exchange’s transition to a fully automated cash equities trading market with a price-time priority model because they are based on the rules of its affiliated market, NYSE Arca Equities. The proposed rule change would therefore remove impediments to and perfect the mechanism of a free and open market and a national market system because they are based on the approved rules of another exchange.

More specifically, the Exchange believes that the proposed definitions for Rule 1.1E would remove impediments to and perfect the mechanism of a free and open market and a national market system because the proposed definitions are terms that would be used in the additional rules proposed by the Exchange. The Exchange also believes that proposed Rule 2E would remove impediments to and perfect the mechanism of a free and open market and a

³⁹ 15 U.S.C. 78f(b).

⁴⁰ 15 U.S.C. 78f(b)(5).

national market system because it would specify the requirements to obtain an ETP for trading on the Exchange's Pillar trading platform. In addition, the proposed rules governing employee registrations would remove impediments to and perfect the mechanism of a free and open market and a national market system because they would ensure that employees of broker-dealers that are members of both NYSE Arca Equities and the Exchange would be subject to the same registration requirements. The proposed rule change would therefore also promote just and equitable principles of trade by requiring the same registration requirements for the same type of trading on affiliated exchanges.

The Exchange believes that proposed Rule 3E would remove impediments to and perfect the mechanism of a free and open market and a national market system because it would move existing rules to new rule numbering that aligns with the Framework Filing rule numbering. The proposed rule change would therefore promote consistency among the Exchange and its affiliates and make its rules easier to navigate for the public, the Commission, and members.

The Exchange believes that proposed Rule 6E is designed to prevent fraudulent and manipulative acts and practices and to promote just and equitable principles of trade because it would establish regulatory requirements for its ETP Holders. Proposed Rule 6.3E is designed to prevent fraudulent and manipulative acts and practices because it addresses the potential misuse of material non-public information and is based on NYSE Arca Equities Rule 6.3. The remaining rules proposed for Rule 6E are based on existing Exchange rules and the Exchange believes it would make its rules easier to navigate to move the text of these rules to rule numbers consistent with the Framework Filing.

The Exchange believes that proposed Rule 7E would remove impediments to and perfect the mechanism of a free and open market and a national market system because it would

establish rules that would govern trading on the Exchange, including post-trade requirements, that would establish the Exchange as a fully automated trading market with a price-time priority trading model. The proposed rules are based on the rules of NYSE Arca Equities, and include rules governing orders and modifiers, ranking and display, execution and routing, trading sessions, and auctions. The Exchange believes that the proposed substantive difference that its proposed Early Trading Session would begin at 7:00 a.m. Eastern Time, rather than 4:00 a.m. Eastern Time, would remove impediments to and perfect the mechanism of a free and open market and a national market system because it would provide transparency of the trading hours of the Exchange when it begins trading on the Pillar trading platform.

The Exchange believes that proposed Rule 7.39E, which would govern the Off-Hours Trading Facility on the Exchange, would remove impediments to and perfect the mechanism of a free and open market and a national market system because it would use Framework Filing rule numbering and Pillar terminology to describe the Off-Hours Trading Facility that would continue to be available once the Exchange transitions to Pillar. Proposed Rule 7.39E, which would offer ETP Holders the ability to enter Aggregate-Price Coupled Orders, is based on the Rule 900 Series.

The Exchange believes that proposed Rule 12E would remove impediments to and perfect the mechanism of a free and open market and a national market system because it would move an existing rule to new rule numbering that aligns with the Framework Filing rule numbering. The proposed rule change would therefore promote consistency among the Exchange and its affiliates and make its rules easier to navigate for the public, the Commission, and members.

The Exchange believes that proposed Rule 13E would remove impediments to and

perfect the mechanism of a free and open market and a national market system because it would harmonize the Exchange's rules governing liability for its equity market with Exchange rules governing liability for its options markets, and the rules governing liability on NYSE Arca Equities. The proposed rule change would therefore promote consistency among the Exchange and its affiliates and make its rules easier to navigate for the public, the Commission, and members.

The Exchange further believes that it would remove impediments to and perfect the mechanism of a free and open market and a national market system to specify which current rules would not be applicable to trading on the Pillar trading platform. The Exchange believes that the following legend, which would be added to existing rules, "This rule is not applicable to trading on the Pillar trading platform," would promote transparency regarding which rules would govern trading on the Exchange once it transitions to Pillar. The Exchange has proposed to add this legend to rules that would be superseded by proposed rules or rules that would not be applicable because they concern Floor-based trading. The Exchange also believes that it would remove impediments to and perfect the mechanism of a free and open market and a national market system to delete rule numbers that are currently "reserved" because it would reduce confusion and promote transparency to delete references to rules that do not have any substantive content. The Exchange further believes that because it is transitioning to a new rule numbering framework, maintaining these rules on a reserved basis is no longer necessary

For reasons described above, the Exchange believes that the proposal for the Exchange to operate on a fully automated trading market without a Floor is consistent with Section 11(a) of the Act and Rule 11a2-2(T) thereunder.

Finally, the Exchange believes that proposed Rule 2.17E furthers the objectives of

Section 6(b)(4) of the Act,⁴¹ 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. Specifically, proposed Rule 2.17E does not establish a new fee. Rather, the proposed rule is based on existing provisions of current Rule 440H – Equities relating to Activity Assessment Fees without any substantive differences. The Exchange proposes to move the rule text to Rule 2.17E to use rule numbering for Pillar that is consistent with the Framework Filing, with non-substantive differences to use Pillar terminology, and not move obsolete rule text.

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 proposed change is designed to propose rules to support the Exchange’s new Pillar trading platform, which would be a fully automated cash equities trading market that trades all NMS Stocks and is based on the rules of NYSE Arca Equities. The Exchange operates in a highly competitive environment in which its unaffiliated exchange competitors operate multiple affiliated exchanges that operate under common rules. By moving the Exchange to a fully automated trading model that trades all NMS Stocks, the Exchange believes that it will be able to compete on a more level playing field with its exchange competitors that similarly trade all NMS Stocks on fully automated trading models. In addition, by basing its rules on those of NYSE Arca Equities, the Exchange will provide its members with consistency across affiliated exchanges, thereby enabling the Exchange to compete with unaffiliated exchange competitors that similarly operate multiple exchanges on the same trading platforms

⁴¹ 15 U.S.C. 78f(b)(4).

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

Within 45 days of the date of publication of this notice in the Federal Register or up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

- (A) by order approve or disapprove the proposed rule change, or
- (B) institute proceedings to determine whether the proposed rule change should be 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-NYSEMKT-2017-01 on the subject line.

Paper comments:

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

All submissions should refer to File Number SR-NYSEMKT-2017-01. 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; 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-NYSEMKT-2017-01 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.⁴²

Eduardo A. Aleman
Assistant

Secretary

⁴² 17 CFR 200.30-3(a)(12).

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