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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-84857; File No. SR-NYSEARCA-2018-97]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change of Amendments to Delete References to the Term “Allied Person” from Exchange Rules
December 19, 2018.

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 December 18, 2018, NYSE Arca, Inc. (the “Exchange” or “NYSE Arca”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes amendments to delete references to the term “allied person” from Exchange rules. The proposed rule change is intended to harmonize Exchange rules with the rules of the Exchange’s affiliates and the Financial Regulatory Authority, Inc. (“FINRA”) and thus promote consistency within the securities industry. 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.

¹ 15 U.S.C.78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

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

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

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

1. Purpose

The Exchange proposes to amend its rules to delete the term “allied person” from its rules. The “allied person” designation is a regulatory category based on a person’s control of an OTP Firm or ETP Holder.⁴ The Exchange’s affiliate New York Stock Exchange LLC (the “NYSE”) no longer has allied members.⁵ More recently, another affiliate of the Exchange, NYSE American LLC (“NYSE American”), deleted the term “allied member” from its rules.⁶ FINRA has also deleted the term from its Incorporated NYSE Rules.⁷ In order to harmonize with the rules of the NYSE, NYSE American and FINRA, the Exchange accordingly proposes to delete reference to “allied person” from

⁴ See current Rule 1.1(b), defining Allied Person.

⁵ See Securities Exchange Act Release No. 58549 (September 15, 2008), 73 FR 54444 (September 19, 2008) (SR-NYSE-2008-80) (Notice).

⁶ See Securities Exchange Act Release No. 84724 (December 6, 2018), 83 FR 63960 (December 12, 2018) (SR-NYSEAmer-2018-54) (Notice).

⁷ See Securities Exchange Act Release No. 58533 (September 12, 2008), 73 FR 54652 (September 22, 2008) (SR-FINRA-2008-036) (Order).

the following Exchange rules: Rule 1.1(c), Rule 1.1(qq), Rule 1.1(aaa), Rule 2.14, Rule 2.21, Rule 2.23, Commentary .01, Rule 2.24, Commentary .01, Rule 3.2, Rule 4.2-O(a), Rule 4.2-O(b), Rule 4.2-O(e), Rule 4.2-O(g), Rule 4.2-O(h), Rule 4.16-O(b), Rule 4.16-O(c), Rule 4.16-O(d), Rule 6.2-O, Rule 9.1-O(c), Rule 9.2-O(c), Commentary .01, Rule 9.3-O(b), Rule 9.6-O(a), Rule 4.3-E(a), Rule 4.3-E(b), Rule 4.3-E(e), Rule 4.3-E(h), Rule 4.3-E(i), Rule 4.15-E(b), Rule 4.15-E(c), Rule 4.15-E(d), Rule 7.3-E, Rule 9.1-E(c), Rule 9.2-E(c), Commentary .01, Rule 9.3-E(b) and Rule 9.6-E(a). The Exchange also proposes to delete Rule 1.1(b), which defines the term allied person, in its entirety.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Securities Exchange Act of 1934 (the “Act”),⁸ in general, and furthers the objectives of Section 6(b)(5),⁹ 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 rule change will harmonize its rules with NYSE, NYSE American and FINRA rules, thus assisting ETP Holders, OTP Holders and OTP Firms in complying with those rules and thereby enhancing regulatory efficiency. In addition, the Exchange believes that providing greater harmonization between the Exchange and NYSE, NYSE American and FINRA rules would result in less

⁸ 15 U.S.C. 78f(b).

⁹ 15 U.S.C. 78f(b)(5).

burdensome and more efficient regulatory compliance for ETP Holders, OTP Holders and OTP Firms that are subject to regulatory examination and oversight, thereby removing impediments to and perfecting the mechanism of a free and open market and a national market system, consistent with the objectives of Section 6(b)(5) of the Act. Additionally, the Exchange believes that deletion of the term “allied person” is consistent with the Act because the Exchange no longer recognizes allied person as a registration category and no ETP Holder, OTP Holder or OTP Firm is currently registered as an allied person. Accordingly, deletion of the term from the Exchange’s rules will provide clarity and remove any potential confusion among potential ETP Holders, OTP Holders or OTP Firms as to the category of memberships and registration requirements on the Exchange.

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 amendments are intended to promote clarity to the Exchange’s rules applicable to ETP Holders, OTP Holders and OTP Firms and their registered personnel. Further, the proposed changes would apply to all ETP Holders, OTP Holders and OTP Firms in the same manner and therefore would not impose any unnecessary intramarket burdens.

C. Self-Regulatory Organization’s Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act¹⁰ and Rule 19b-4(f)(6) thereunder.¹¹ Because the proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b-4(f)(6)(iii) thereunder.¹²

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)¹³ of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

¹⁰ 15 U.S.C. 78s(b)(3)(A)(iii).

¹¹ 17 CFR 240.19b-4(f)(6).

¹² 17 CFR 240.19b-4(f)(6)(iii). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

¹³ 15 U.S.C. 78s(b)(2)(B).

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-NYSEARCA-2018-97 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-NYSEARCA-2018-97. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the

principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NYSEARCA-2018-97 and should be submitted on or before [INSERT DATE 21 DAYS FROM PUBLICATION IN THE FEDERAL REGISTER].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁴

Brent J. Fields,
Secretary.

¹⁴ 17 CFR 200.30-3(a)(12).

