4(f)(6)(iii)[10] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The ISE requests that the Commission waive the 30-day operative delay, as specified in Rule 19b–4(f)(6)(iii),[11] which would make the rule change operative upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because such waiver will allow the pilot periods to continue without interruption.[12] Accordingly, the Commission designates the proposed rule change operative upon filing with the Commission.

At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

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

Electronic Comments

• Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml);* or

• Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–ISE–2009–52 on the subject line.

Paper Comments

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

All submissions should refer to File Number SR–ISE–2009–52. 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 Web site (*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 inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 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–ISE–2009–52 and should be submitted on or before August 14, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–17634 Filed 7–23–09; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–60322; File No. SR–NYSEArca–2009–68]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Implementing the Schedule of Fees and Charges for Exchange Services

July 16, 2009.

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 July 10, 2009, NYSE Arca, Inc. ("NYSE Arca" or the "Exchange") 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. NYSE Arca filed the proposal pursuant to Section 19(b)(3)(A)[4] of the Act and Rule 19b–4(f)(2)[5] thereunder. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange proposes to amend the Schedule of Fees and Charges for Exchange Services (the "Schedule"). While changes to the Schedule pursuant to this proposal will be effective upon filing, the changes will become operative on July 13, 2009. A copy of this filing is available on the Exchange's Web site at *http://www.nyse.com*, at the Exchange's principal office 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 received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

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

1. Purpose

On June 30, 2009 the Exchange filed with the Commission a rule change adding four new Self Trade Prevention ("STP") Modifiers.[6] The new STP functionality allows Equity Trading Permit ("ETP") Holders entering orders into the system to elect to prevent those orders from executing against other orders entered into the System by the same ETP Holder. Pursuant to this proposal the Exchange seeks to add to the Schedule a credit and fee for orders returned to an ETP Holder using the STP Modifiers.

ETP Holders entering an incoming order with either the STP Cancel Both ("STPC") or the STP Decrement and Cancel ("STPD") Modifier will be charged $0.0030 per share for orders

[10] 17 CFR 240.19b–4(f)(6)(iii).

[11] *Id.*

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

[13] 17 CFR 200.30–3(a)(12).

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

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] 15 U.S.C. 78s(b)(3)(A).

[5] 17 CFR 240.19b–4(f)(2).

[6] See Securities and Exchange Act Release No. 60191 (June 30, 2009), 74 FR 32660 (July 8, 2009)(Notice of Filing and Immediate Effectiveness for NYSEArca–2009–58).

returned to the ETP Holder. The ETP Holders [sic] corresponding resting order marked with any of the STP Modifiers that interacts with an incoming STPC or STPD Modifier will be credited $0.0029 per share for orders returned to the ETP Holder. ETP Holders entering an incoming order with either the STP Cancel Newest (''STPN'') or the STP Cancel Oldest (''STPO'') Modifier will not be credited or charged any fees. Similar to the way in which STP Modifiers interact, the incoming order with an STP Modifier controls the fees charged.

Example 1:

—A STPN (or STPO) Order is entered by an ETP Holder and is resting in the NYSE Arca Book.
—A STPC (or STPD) Order is subsequently entered by the same ETP Holder and is marketable against the STPN (or STPO) Order.
—The ETP Holder is credited $0.0029 per share for the resting STP Order and charged $0.0030 per share for the incoming STPC (or STPD) Order.

Example 2:

—A STPC (or STPD) Order is entered by an ETP Holder and is resting in the NYSE Arca Book [sic].
—A STPN (or STPO) Order is subsequently entered by the same ETP Holder and is marketable against the STPC (or STPD) Order.
—The ETP Holder is not credited or charged a fee for either order returned back to the ETP Holder.

On incoming orders marked with the STPD Modifier, both orders will be cancelled back to the ETP Holder if the orders are equivalent in size. If the orders are not equivalent in size, the equivalent size will be cancelled back to the ETP Holder and the larger order will be decremented by the size of the smaller order with the balance remaining on the NYSE Arca Book. For billing purposes, only the size of the portion of the orders cancelled back to the ETP Holder will be charged or credited. For example, if an incoming 1000 share STPD Order interacts with a resting 200 share STP Order from the same ETP ID, the ETP Holder will be credited and charged for the 200 shares that were cancelled back.

On incoming orders marked with the STPC Modifier, the entire size of both orders will be cancelled back to ETP Holder. However, for billing purposes, incoming orders marked with the STPC Modifier will only be charged or credited up to the equivalent size of both orders. For example, if an incoming 200 share STPC Order interacts with a resting 1000 share STP Order, the ETP Holder will only be charged and credited for the equivalent size, which is 200 shares. Similarly, if an incoming 1000 share STPC Order interacts with a 200 share resting STP Order, the ETP Holder will only be charged and credited for 200 shares.

The Exchange plans to implement these new fees and credits in conjunction with the implementation of this STP functionality scheduled for July 13, 2009.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Securities Exchange Act of 1934 (the ''Act''),[7] in general, and Section 6(b)(4) of the Act,[8] in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among its members and other persons using its facilities.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

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

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

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

The foregoing proposed rule change is effective upon filing pursuant to Section 19(b)(3)(A)[9] of the Act and subparagraph (f)(2) of Rule 19b–4[10] thereunder, because it establishes a due, fee, or other charge imposed by NYSE Arca.

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

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

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–NYSEArca–2009–68 on the subject line.

Paper Comments

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

All submissions should refer to File Number SR–NYSEArca–2009–68. 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 Web site (*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 inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEArca–2009–68 and should be submitted on or before August 14, 2009.

[7] 15 U.S.C. 78f(b).
[8] 15 U.S.C. 78f(b)(4).
[9] 15 U.S.C. 78s(b)(3)(A).
[10] 17 CFR 240.19b–4(f)(2).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–17632 Filed 7–23–09; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–60321; File No. SR–NYSEArca–2009–65]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending NYSE Arca Equities Rule 7.31(mm)

July 16, 2009.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that, on June 8, 2009, NYSE Arca, Inc. (''NYSE Arca'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange proposes to amend NYSE Arca Equities Rule 7.31(mm) governing the PNP (Post No Preference) Blind orders. The text of the proposed rule change is attached as Exhibit 5 to the 19b–4 form. A copy of this filing is available on the Exchange's Web site at *http://www.nyse.com,* at the Exchange's principal office 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 received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

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

1. Purpose

The purpose of this rule filing is to amend the definition and operation of PNP Blind orders under NYSE Arca Equities Rule 7.31(mm). A PNP Blind order is a PNP Order [3] priced at or through the Best Protected Bid or Best Protected Offer (''PBBO'') that is displayed on the NYSE Arca Book [4] at the price of the contra quote. The priority and execution of PNP Blind orders are governed by the Exchange's Display Order Process set forth in Rule 7.36. Presently, pursuant to 7.31(mm)(4), marketable contra orders execute first against PNP Blind orders, then the rest of the book. Pursuant to this proposal, the Exchange seeks to clarify that where a PNP Blind order is un-displayed, any displayed order priced at or through the PBBO will take priority over the un-displayed PNP Blind order at the same prices. Of course, once a PNP Blind order is displayed, it will be ranked in price/time priority with all other orders.

Example

10:03:00 PBBO: $15.00 to $15.05
10:03:30 B1 PNPB Buy 1000 at 15.10 (order is booked at $15.05, un-displayed)
10:03:45 B2 PNP ISO Buy 1000 at $15.05 (order is immediately posted)
10:04:00 S1 Sell 1000 at $15.05

Results Currently: S1 interacts with un-displayed order B1

Revised Results: S1 trades with displayed order B2.

The Exchange believes that amending this functionality is consistent with its Display Order Process which favors executing displayed liquidity before un-displayed liquidity.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) [5] of the Securities Exchange Act of 1934 (the ''Exchange Act''), in general, and furthers the objectives of Section 6(b)(5) [6] in particular in that 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, and to remove impediments to and perfect the mechanism of a free and open market and a national market system. The proposed rule change clarifies PNP Blind order functionality consistent with its Display Order Process.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

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

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

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

Because the foregoing proposed rule change: (i) Does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) by its terms, does not become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, it has become effective pursuant to Section 19(b)(3)(A) of the Act [7] and Rule 19b–4(f)(6) thereunder.[8]

A proposed rule change filed under Rule 19b–4(f)(6) normally may not become operative prior to 30 days after the date of filing.[9] However, Rule 19b–4(f)(6)(iii) [10] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The

[11] 17 CFR 200.30–3(a)(12).

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

[2] 17 CFR 240.19b–4.

[3] NYSE Arca Equities Rule 7.31(w).

[4] NYSE Arca Equities Rule 1.1(a). The term ''NYSE Arca Book'' shall refer to the NYSE Arca Marketplace's electronic file of orders, which contains all the User's orders in each of the Directed Order, Display Order, Working Order and Tracking Order Processes.

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

[7] 15 U.S.C. 78s(b)(3)(A).

[8] 17 CFR 240.19b–4(f)(6).

[9] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) 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 complied with this requirement.

[10] *Id.*