rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions, and to the extent applicable, derivative agreements, contracts and transactions and to comply with the provisions of the Act and the rules and regulations thereunder. ICC believes that the proposed rule changes are consistent with the requirements of the Act and the rules and regulations thereunder applicable to ICC, in particular, to Section 17(A)(b)(3)(F).[6] The proposed rule changes will facilitate the prompt and accurate clearance and settlement of securities transactions and derivatives agreements, contracts, and transactions, as the proposed revisions accommodate industry changes regarding the reduction of the frequency for which SN CDS contracts roll to the new on-the-run contract. The proposed amendments to the End-of-Day Price Discovery Policies and Procedures will thus enable ICC to appropriately complete its end of day price discovery process in light of such industry changes. The completion of ICC's end of day price discovery process allows ICC to provide reliable, market-driven prices for its CDS instruments. As such, the proposed changes are designed to promote the prompt and accurate clearance and settlement of securities transactions, derivatives agreements, contracts, and transactions within the meaning of Section 17A(b)(3)(F)[7] of the Act.

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

ICC does not believe the proposed rule changes would have any impact, or impose any burden, on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposed changes are designed to accommodate industry changes regarding the reduction of the frequency for which SN CDS contracts roll to the new on-the-run-contract, and will apply uniformly across all market participants. ICC is not changing the products or tenors of SN CDS offered, and does not believe that the amendments will adversely affect access to clearing or the cost of clearing for CPs or other market participants. Therefore, ICC does not believe the proposed rule changes impose any burden on competition that is inappropriate 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

Written comments relating to the proposed rule change have not been solicited or received. ICC will notify the Commission of any written comments received by ICC.

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

The foregoing rule change has become effective upon filing pursuant to Section 19(b)(3)(A)[8] of the Act and Rule 19b–4(f)(4)(i) thereunder, as the amendments effect a change in an existing service of a registered clearing agency that does not adversely affect the safeguarding of securities or funds in the custody or control of the clearing agency or for which it is responsible and does not significantly affect the respective rights or obligations of the clearing agency or persons using the service, within the meaning of Rule 19b–4(f)(4)(i). At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

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 email to *rule-comments@sec.gov.* Please include File Number SR–ICC–2015–018 on the subject line.

Paper Comments

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

All submissions should refer to File Number SR–ICC–2015–018. This file number should be included on the subject line if email 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 Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filings will also be available for inspection and copying at the principal office of ICE Clear Credit and on ICE Clear Credit's Web site at *https://www.theice.com/clear-credit/regulation.*

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–ICC–2015–018 and should be submitted on or before December 10, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[9]

Brent J. Fields,

Secretary.

[FR Doc. 2015–29489 Filed 11–18–15; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–76436; File No. SR–NYSE–2015–35]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing of Amendment Nos. 3 and 5 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment Nos. 1, 3 and 5, Amending Exchange Disciplinary Rules To Facilitate the Reintegration of Certain Regulatory Functions From Financial Industry Regulatory Authority, Inc.

November 13, 2015.

I. Introduction

On August 5, 2015, New York Stock Exchange LLC (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') pursuant

[6] *Id.*

[7] *Id.*

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 200.30–3(a)(12).

to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change amending its disciplinary rules to facilitate the reintegration of certain regulatory functions from Financial Industry Regulatory Authority, Inc. (''FINRA''). On August 14, 2015, the Exchange filed Amendment No. 1 to the proposed rule change, which amended and replaced the proposed rule change in its entirety. The proposed rule change, as modified by Amendment No. 1, was published in the **Federal Register** on August 24, 2015.[3] On October 6, 2015, the Exchange filed Amendment No. 2 to the proposal.[4] On October 7, 2015, the Commission extended the time period in which to either approve the proposal, disapprove the proposal, or institute proceedings to determine whether to approve or disapprove the proposal, to November 22, 2015.[5] On October 8, 2015, the Exchange filed Amendment No. 3 to the proposed rule change, which amended and replaced Amendment No. 2 in its entirety.[6] On October 28, 2015 and November 6, 2015, the Exchange filed Amendment Nos. 4 [7] and 5,[8] respectively, to the proposed rule change. Amendment No. 5 superseded Amendment No. 4 in its entirety. The Commission received no comments on the proposed rule change. The Commission is publishing this notice to solicit comment on this filing as amended by Amendment Nos. 3 and 5 from interested persons, and is approving the proposed rule change, as modified by Amendment Nos. 1, 3 and 5, on an accelerated basis.

II. Description of the Proposal [9]

The Exchange proposes to amend its disciplinary rules to permit the reintegration of certain regulatory functions from FINRA as of January 1, 2016.

A. Background of the Proposed Rule Change

On June 14, 2010, the NYSE, NYSE Regulation and FINRA entered into a Regulatory Services Agreement (''RSA''), whereby FINRA was retained to perform the market surveillance and enforcement functions that had previously been performed by NYSE, through its wholly-owned subsidiary NYSE Regulation. Pursuant to the RSA, FINRA has been performing Exchange enforcement-related regulatory services, including investigating and bringing enforcement actions for violations of Exchange rules, and conducting disciplinary proceedings arising out of such enforcement actions, including those relating to NYSE-only rules and against dual members and non-FINRA members. To facilitate FINRA's performance of these functions, the Exchange amended its rules to provide that Exchange rules that refer to NYSE Regulation or its staff, Exchange staff, and Exchange departments should be understood to also refer to FINRA staff and FINRA departments acting on behalf of the Exchange pursuant to the RSA.[10]

In 2013, the Exchange adopted new disciplinary rules that are, with certain exceptions, substantially the same as the FINRA Rule 8000 Series and Rule 9000 Series, which set forth rules for conducting investigations and enforcement actions.[11] Those rules were implemented on July 1, 2013,[12] and, among other things, the rules: (i) Identify FINRA's Department of Enforcement and Department of Market Regulation as the departments permitted to commence disciplinary proceedings, when authorized by FINRA's Office of Disciplinary Affairs (''ODA''); (ii) identify ODA as the office permitted to accept or reject an AWC or minor rule violation plan letter on behalf of the Board; and (iii) identify ODA as the office permitted to accept or reject an offer of settlement if not opposed by FINRA's Department of Enforcement or Department of Market Regulation. Those rules do not, however, specify whether Exchange staff or departments may perform the functions described in the rules.

In October 2014, the Exchange announced that, upon expiration of the current RSA on December 31, 2015, certain market surveillance, investigation and enforcement functions performed by FINRA on behalf of the Exchange would be reintegrated.[13]

---

[1] 15 U.S.C. 19s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 75721 (August 18, 2015), 80 FR 51334 (''Notice'').

[4] In Amendment No. 2, the Exchange revised proposed NYSE Rules 9216, 9270 and 9310 to allow any Director or member of the Committee for Review (''CFR'') to require a review by the Board of any determination or penalty, or both, imposed in connection with an Acceptance, Waiver, and Consent (''AWC'') letter or offer of settlement determined to be uncontested before a hearing on the merits has begun pursuant to Rules 9216 and 9270, respectively. The Exchange also amended its proposed rules to permit any party to require review by the Board of any rejection by the Chief Regulatory Officer (''CRO'') of an AWC letter or offer of settlement determined to be uncontested before a hearing on the merits has begun. The Exchange further amended Rule 9310(a)(2) to provide that the transmission of the record of a disciplinary proceeding applied only to review of determinations made or penalties imposed by a Hearing Panel or Extended Hearing Panel, and not to determination made or penalties imposed pursuant to an AWC letter or an offer of settlement determined to be uncontested before a hearing on the merits has begun as no hearing record would exist. Finally, the Exchange also amended proposed Rule 9120(t), Interested Staff, to reflect that the terms ''Regulatory Staff'' and ''Exchange Staff'' have the same meaning for purposes of the 8000 and 9000 series as defined in proposed Rule 9120(x), Regulatory Staff. The amendment makes clear that ''Interested Staff'' encompasses any staff of the Exchange or FINRA that directly or indirectly participated in any proceeding brought under the Code of Procedure, not just Regulatory Staff. The Exchange further represented that the proposed definition of ''Interested Staff'' is not intended to substantively amend the rule and would encompass all staff referenced in and covered by the current definition.

[5] *See* Securities Exchange Act Release No. 76088, 80 FR 61857 (October 14, 2015).

[6] In Amendment No. 3, the Exchange restated Amendment No. 2 and made the following changes: (i) Clarified in its discussion that proposed NYSE Rule 9310(a)(2) would apply to a review of a determination or penalty imposed by a Hearing Panel or Extended Hearing Panel, (ii) made a technical change to its rule text to harmonize its Exhibits 4 and 5, and (iii) amended proposed NYSE Rule 9310(a) to reflect rule text recently approved in NYSE–2015–27. *See* Securities Exchange Act Release No. 75991 (September 28, 2015), 80 FR 59837 (October 2, 2015) (''NYSE ROC Filing''). The Commission recently approved the Exchange's filing to, among other things, establish a Regulatory Oversight Committee (''ROC''); terminate the agreement delegating regulatory functions to NYSE Regulation, Inc. (''NYSE Regulation''); and establish a CFR modeled on the current NYSE Regulation Board committee as a subcommittee of the ROC.

[7] In Amendment No. 4, the Exchange clarified the call for review process between January 1, 2016, when the proposed amendments to Rule 9216, 9270, and 9310 would be effective, if approved, and the termination of the delegation agreement and creation of the NYSE's ROC and CFR. The Exchange represented that the NYSE ROC and CFR would be created and the delegation agreement terminated no later than June 1, 2016. The Exchange further represented that it would be able to operate consistent with its proposed call for review process in proposed Rule 9310. Prior to the termination of the delegation agreement, a member of NYSE Regulation's CFR could call a matter for review. A matter called for review would be heard by the current NYSE Regulation's CFR and would be considered final action of the Exchange and could not be appealed to the Exchange Board. After the termination of the delegation agreement, a member of NYSE's CFR would have the authority to call a matter for review.

[8] In Amendment No. 5, the Exchange substantially restated Amendment No. 4, but further clarified that prior to the termination of the delegation agreement, the NYSE Regulation's CFR would be acting on behalf of the Exchange's Board of Directors and any decision would be considered final action of the Exchange. The Exchange also deleted the final sentence of Amendment No. 4.

[9] A full description of the proposed rule change may be found in the Notice, *supra* note 3.

[10] *See* NYSE Rule 0. References to NYSE Regulation and its staff were removed from NYSE Rule 0 as part of the NYSE ROC Filing. *See* NYSE ROC Filing, *supra* note 6.

[11] *See* Securities Exchange Act Release Nos. 68678 (January 16, 2013), 78 FR 5213 (January 24, 2013) (SR–NYSE–2013–02), 69045 (March 5, 2013), 78 FR 15394 (March 11, 2013) (SR–NYSE–2013–02), and 69963 (July 10, 2013), 78 FR 42573 (July 16, 2013) (SR–NYSE–2013–49).

[12] *See* NYSE Information Memorandum 13–8 (May 24, 2013).

[13] According to the Exchange, it anticipates that FINRA, under a new RSA currently being

Continued

Therefore, effective January 1, 2016, the Exchange would perform certain of the market surveillance, investigation and enforcement functions FINRA was retained to perform in 2010. According to the Exchange, the proposed changes to the disciplinary rules in the present filing are necessary to permit the Exchange to perform these functions.

B. Proposal

The Exchange proposes the following changes to facilitate the reintegration of certain regulatory functions from FINRA by providing that investigative and enforcement functions of the Exchange under the Rule 8000 and 9000 Series would be performed by personnel and departments reporting to the CRO of the Exchange [14] or by FINRA personnel and departments. These changes would be operative on January 1, 2016.

1. Replacement of References to Exchange and FINRA Departments and Personnel With References to Enforcement and Regulatory Staff

NYSE Rule 9210 sets forth the definitions applicable to the disciplinary code. The Exchange proposes to add definitions of ''Enforcement,'' referring to any department reporting to the CRO of the Exchange with responsibility for investigating or imposing sanctions on a member organization or covered person, in addition to FINRA's Departments of Enforcement and Market Regulation; [15] and ''Regulatory Staff,'' referring to any officer or employee reporting, directly or indirectly, to the CRO of the Exchange, in addition to FINRA staff acting on behalf of the Exchange in connection with the Rule 8000 and 9000 Series.[16] According to the Exchange, the proposed amendments would allow disciplinary actions to be investigated and prosecuted on the Exchange's behalf by officers or employees reporting to the CRO beginning on January 1, 2016, while still enabling FINRA staff to continue to perform investigative and disciplinary activities that FINRA is authorized to perform on the Exchange's behalf. Accordingly, the Exchange proposes to amend Rules 9120, 9131, 9146, 9211, 9212, 9213, 9215, 9216, 9251, 9253, 9264, 9269, 9270, 9551, 9552, 9554, 9556, 9810, 9820 and 9830 to replace references to Exchange and FINRA departments and personnel [17] with references to the defined terms ''Enforcement'' and ''Regulatory Staff.''

The Exchange further proposes to streamline the definition of ''Interested Staff'' (Rule 9120(u)) to eliminate references to Exchange and FINRA departments and staff, and provide that ''Interested Staff'' under any proceeding brought under the Code of Procedure (''Code'') means Regulatory Staff or staff [18] who (i) report, directly or indirectly, to any Enforcement employee, or to the head of any department or office that issues a notice or decision or is designated as a Party under the Rule 9000 Series, (ii) directly participated in the authorization or initiation of a complaint or proceeding, (iii) directly participated in the proceeding, or (iv) directly participated in an examination, investigation, prosecution, or litigation related to a proceeding, as well as any person(s) who supervises such staff. Thus, according to the Exchange, as in the current definition, the new definition of ''Interested Staff'' in a particular matter encompasses supervisory personnel up to the most senior level, including the CRO, when staff reporting to such supervisory personnel directly participated in the matter.

2. Independence of the CRO and Staff in the Disciplinary Process

The Exchange proposes to amend Rules 8210 and 9110 to add rule text providing that in performing functions under the Code, as well as in performing the functions necessary to an investigation, developing a complaint, examination, or proceeding authorized by Exchange rules, the CRO and Regulatory Staff would function independently of the commercial interests of the Exchange and the commercial interests of the member organizations.

3. One Year Revolving Door Restriction and Prohibition on Serving as Expert Witness

The Exchange proposes to amend Rules 9141 and 9242 to prohibit former Regulatory Staff from appearing on behalf of any other person in a proceeding under the Rule 9000 Series and from providing expert testimony on behalf of any other person in a proceeding under the Rule 9000 Series within one year of termination of employment with the Exchange or FINRA, respectively. However, Regulatory Staff would be permitted to testify as a witness on behalf of the Exchange or FINRA.

4. Substitution of CRO for ODA in Rules 9211, 9216 and 9270

The Exchange proposes to amend Rules 9211, 9216 and 9270 to provide that the CRO would be responsible for (i) authorizing Enforcement to issue a complaint; (ii) accepting or rejecting AWC letters and minor rule violation plan letters; and (iii) accepting or rejecting uncontested offers of settlement before a hearing on the merits has begun, rather than FINRA's ODA.[19]

5. Call for Review Process [20]

The Exchange proposes to amend Rules 9216, 9270 and 9310 to permit a Director and any member of the CFR to require a review by the Board of any AWC letter under Rule 9216 and any offer of settlement under Rule 9270. The Exchange also proposes to permit any party to require a review by the Board of any rejection by the CRO or Hearing Panel or Extended Hearing Panel of an AWC letter or uncontested offer of settlement.

---

negotiated, would continue to conduct, *inter alia*, the registration, testing and examination of broker-dealer members of the Exchange, and certain cross-market surveillance and related investigation and enforcement activities. *See* Notice, *supra* note 3, at n.9.

[14] Prior to the NYSE ROC Filing, NYSE Regulation staff reported to the Chief Executive Officer of NYSE Regulation, who was also the CRO of the Exchange.

[15] *See* Proposed Rule 9120(m).

[16] *See* Proposed Rule 9210(x). Certain rules in the Rule 8000 and 9000 Series currently refer to ''Exchange staff.'' The proposed definition of ''Regulatory Staff'' also provides that for purposes of the Rule 8000 Series and Rule 9000 Series (except for Rule 9557), the term ''Exchange staff'' would have the same meaning as ''Regulatory Staff.'' The Commission notes that Exchange Rule 9557 already defines ''Exchange staff'' for purposes of that Rule. *See* NYSE Rule 9557(h).

[17] The Exchange also proposes to delete the definitions of ''Head of Enforcement'' (Rule 9120(q)) and ''Head of Market Regulation'' (Rule 9120(r)), which refer to the FINRA department heads. The Commission notes that these defined terms only appear in the 8000 and 9000 series in the definition of ''Interested Staff,'' which the Exchange is also proposing to amend. The Exchange also proposes to delete the definition of ODA (Rule 9120(v)) and replace all references to ODA in the Exchange's rules with CRO, for the reasons discussed in ''Substitution of CRO for ODA in Rules 9211, 9216 and 9270,'' *infra.* The remaining definitions in Rule 9120 would be renumbered.

[18] *See* Amendment No. 3, *supra* note 6 (replacing the term ''Exchange staff'' with ''staff'' in proposed Rule 9120(t)). The Exchange has represented that the proposed definition is not intended to substantively amend the rule and would encompass all staff referenced in and covered by the current definition. *Id.*

[19] After a hearing on the merits has begun, an uncontested offer of settlement would continue to be considered by a Hearing Panel or Extended Hearing Panel as provided for under the current rule. *See* Proposed Rule 9270(f). The Exchange has represented that, because the Exchange does not have sanction guidelines, the CRO, Hearing Panel, or Extended Hearing Panel, as applicable, would consider Exchange precedent or such other precedent as it deemed appropriate in determining whether or not to accept a settlement offer under Rule 9270. *See* Notice, *supra* note 3, at n.19.

[20] *See* Amendment No. 3, *supra* note 6.

a. Call for Review of AWC Letters and Offers of Settlement

The Exchange proposes to add subparagraph (B)(i) to Rule 9310(a)(1), providing that any Director and any member of the CFR may require a review by the Board of any determination or penalty, or both, imposed in connection with an AWC letter under Rule 9216 or an offer of settlement determined to be uncontested before a hearing on the merits has begun under Rule 9270(f), except that none of those persons could request Board review of a determination or penalty concerning an Exchange member or member organization that is an affiliate of the Exchange. Under current Rule 9310(a)(1), the call for review process encompasses only determinations or penalties imposed by a Hearing Panel or Extended Hearing Panel, and thus is not available with respect to AWC letters and offers of settlement determined to be uncontested before a hearing on the merits has begun. The Exchange further proposes that a request for review would be made by filing with the Secretary of the Exchange a written request stating the basis and reasons for such review, within 25 days after an AWC letter or an offer of settlement has been sent to each Director and each member of the CFR pursuant to Rule 9216(a)(4) or Rule 9270(f)(3).[21] The Exchange proposes that the Secretary of the Exchange would give notice of any such request for review to the parties.

b. Call for Review of Rejected AWC Letters and Offers of Settlement

In addition to broadening the types of settlements with respect to which a Director or member of the CFR may require Board review, the Exchange proposes that any party could require a review by the Exchange Board of Directors of any rejection by the CRO of an AWC letter under Rule 9216 or an offer of settlement determined to be uncontested before a hearing on the merits has begun under Rule 9270(f), except that no party could request Board review of a rejection of an AWC letter or offer of settlement concerning an Exchange member or member organization that is an affiliate of the Exchange. Thus, while current Rule 9310(a)(1) permits parties to request Board review of a determination by a Hearing Panel or Extended Hearing Panel to reject an uncontested offer of settlement, the proposed rule change would also allow parties to request Board review of any rejection of an AWC letter or uncontested offer of settlement by the CRO. Under subparagraph (B)(ii) of proposed Rule 9310(a)(1), such a request for review would be made by filing with the Secretary of the Exchange a written request therefor, which states the basis and reasons for such review, within 25 days after notification pursuant to Rule 9216(a)(3) or Rule 9270(h) that an AWC letter or uncontested offer of settlement or order of acceptance is not accepted by the CRO. The Exchange proposes that the Secretary of the Exchange would give notice of any such request for review to the parties.

6. Miscellaneous Amendments to Rules 476, 8120, 9001, 9110, 9217, 9232, 9310 and 9810

The Exchange also proposes amending Rules 476, 8120, 9001, 9110, 9217, 9232, 9310 and 9810 to make certain technical changes and correct a typographical error in Exchange Rule 9217. Specifically, the Exchange proposes to (i) include a reference to the 8000 series in Rule 476(a) and Exchange Rule 9001, (ii) delete obsolete text in Rule 476 and 9110, (iii) cross-reference the term ''Regulatory Staff'' in Rule 8120, (iv) revise Rule 9232 to provide that the Board shall from time to time appoint a Hearing Board in lieu of the Chairman of the Board subject to the Board's approval, (v) revise the title of Rule 9810(a) from ''Department of Enforcement or Department of Regulation'' to ''Enforcement; Service and Filing of Notice,'' and (vi) amend Rule 9310 to provide that none of the persons referenced in the Rule, *i.e.*, Board Directors, members of the Committee for Review, and the parties, may request Board review of a decision concerning an Exchange member organization that is an affiliate. Under the current Rule, only the parties are prohibited from requesting Board review of a decision in such circumstances.

III. Discussion and Commission Findings

The Commission believes that the proposed rule change, as modified by Amendment Nos. 1, 3 and 5, is consistent with Section 6 of the Act,[22] and the rules and regulations thereunder applicable to a national securities exchange.[23] Specifically, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[24] which requires among other things, that the Exchange's rules be 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 regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system. In addition, the Commission finds that the proposed rule change is consistent with Section 6(b)(7) of the Act,[25] which requires in part, that the rules of the Exchange provide fair procedures for the disciplining of members and persons associated with members, the denial of membership to any person seeking membership therein, the barring of any person from becoming associated with a member thereof, and the prohibition or limitation by the Exchange of any person with respect to access to services offered by the Exchange or a member thereof.

The Commission believes that (i) eliminating specific references to FINRA departments and replacing them with ''Enforcement,'' which would include departments reporting to the CRO of the Exchange with responsibility for investigating or sanctioning member organizations or covered persons, as well as FINRA's Departments of Enforcement and Market Regulation, and (ii) using the term ''Regulatory Staff, '' which would include both Exchange employees, including officers, reporting directly or indirectly to the CRO and FINRA staff acting on behalf of the Exchange in connection with the 8000 and 9000 series, should enable the Exchange to perform the functions described in the rules after it resumes certain regulatory functions next year. In addition, the proposed rule change would continue to allow FINRA to perform certain functions, such as cross-market surveillance and related investigation and enforcement activities, on behalf of the Exchange.[26] According to the Exchange, the substance of the rules would remain unchanged.[27]

[21] Conforming changes would be made to Rule 9216(a)(3) and (4) and Rule 9270(f)(3) and (g). Rule 9216(a)(3) would be further amended to provide that if an AWC letter is rejected by the CRO, the member organization or covered person who executed the letter would be notified in writing and the letter deemed withdrawn.

[22] 15 U.S.C. 78f(b).

[23] In approving the proposed rule change, as modified by Amendment Nos. 1, 3 and 5, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[24] 15 U.S.C. 78f(b)(5).

[25] 15 U.S.C. 78f(b)(7).

[26] *See supra* note 13.

[27] *See* Notice, *supra* note 3, at 51339. The Exchange is also proposing to streamline its definition of ''Interested Staff'' under proposed Rule 9120(t). While specific references to the heads of

Continued

The Commission also believes that making the CRO responsible for authorizing complaints and approving AWC letters, minor rule violation plan letters and offers of settlement determined to be uncontested prior to a hearing on the in merits, in place of FINRA's ODA is consistent with the Act. These changes are similar to the rules of other self-regulatory organizations.[28] Moreover, as part of the proposed rule change, the Exchange proposes codifying the requirement that the CRO and Regulatory Staff function independently of the commercial interests of the Exchange and member organizations in performing their functions under the 8000 and 9000 series. These provisions recognize the importance of maintaining the integrity and independence of the disciplinary process and should help to ensure that the Exchange acts in an independent and impartial manner in performing its regulatory functions.[29] The call for review process proposed in Rule 9310(a)[30] should provide additional oversight of the AWC and settlement process and further help to ensure impartial results.[31] These changes are consistent with the statutory requirement to provide a fair procedure for disciplining members.

The Commission also believes that it is consistent with the Act for the Exchange to have a rule prohibiting former Regulatory Staff from representing respondents and providing expert testimony in Exchange disciplinary matters within one year of termination of employment with either FINRA or the Exchange. These provisions are substantially similar to FINRA Rules 9141(c) and 9242(b),[32] which the Exchange did not adopt in 2013 when the Exchange adopted its 8000 and 9000 series based on FINRA's rules. At the time, the Exchange believed such provisions were unnecessary as its employees were not generally involved in the regulatory and disciplinary functions which were carried out by FINRA on behalf of the Exchange. As such, their appearance would not have created the same type of conflict of interest.[33] Given that the Exchange now proposes to perform functions under the 8000 and 9000 series, in addition to FINRA, the Commission believes that it is appropriate for the Exchange to adopt similar provisions.

Finally, with respect to the Exchange's proposed miscellaneous changes to Rules 476, 8120, 9001, 9110, 9217, 9232, 9310 and 9810, the Commission notes that most of these changes, such as deleting obsolete text, correcting a typographical error, adding cross-references, and amending the title of a rule to better reflect the rule, are merely technical in nature. With respect to the Exchange's proposed change to Rule 9232, which would require the Board to appoint a Hearing Board in lieu of the Chairman of the Board, subject to the Board's approval, the Commission believes that as the Board is currently required to approve the appointment of the Hearing Board, it is unnecessary to require the Chairman to appoint the Hearing Board as an initial matter. Also, with respect to the Exchange's proposed changes to Rule 9310(a), the Commission notes that some of the changes to this filing are necessary to reflect recently approved rule text.[34] Moreover, the Exchange's proposed change to prohibit any party, Director, or CFR member from appealing a decision concerning an affiliate of the Exchange to the Exchange Board is consistent with the Exchange's current Rule 9268(e), which states that a majority decision of the Hearing Panel or Extended Hearing Panel with respect to an affiliate of the Exchange is final disciplinary action of the Exchange that may not be reviewed under Rule 9310.

For the foregoing reasons, the Commission finds that the proposed rule change, as modified by Amendment Nos. 1, 3, and 5, is consistent with Sections 6(b)(5) and 6(b)(7) of the Act[35] and the rules and regulations thereunder applicable to a national securities exchange.

IV. Accelerated Approval of the Proposed Rule Change as Modified by Amendment Nos. 1, 3 and 5

The Commission finds good cause, pursuant to Section 19(b)(2) of the Act, to approve the proposal, as modified by Amendment Nos. 1, 3, and 5, prior to the 30th day after publication of Amendment Nos. 3 and 5 in the **Federal Register**. Currently, the Exchange's call for review process under Rule 9310(a) only applies to determinations or penalties imposed by a Hearing Panel or Extended Hearing Panel under the 9200 series. Amendment No. 3 would allow a call for review in a broader array of contexts, including when a CRO accepts or rejects an AWC letter or an offer of settlement determined to be uncontested before a hearing on the merits has begun, unless the determination applies to an affiliate. The Commission notes that NYSE's proposed call for review process is substantially similar to the current call for review process under Rule 9310(a)(1) and NYSE Rule 476(g) and therefore, does not raise any novel issues.[36] Further, in Amendment No. 5, the Exchange merely clarified the application of the call for review process after the effective date of the proposed rules, if approved, and prior to the termination of the delegation agreement and confirmed that the Exchange would operate consistent with its rules in permitting calls for review during that time. Accordingly, the Commission finds good cause, pursuant to Section 19(b)(2) of the Act,[37] to

departments have been deleted, the Exchange has represented that it is not substantively amending the rule and it would encompass all staff referenced in and covered by the current definition. *See* Amendment No. 3, *supra* note 6.

[28] For example, the International Securities Exchange (''ISE'') requires its CRO to approve the statement of charges. *See* ISE Rule 1604. The ISE also requires offers of settlement to be approved by its CRO if a panel has not yet been appointed. However, letters of consent must be found acceptable by the CRO and then approved by its business conduct committee. *See* ISE Rules 1603 and 1609. BATS Exchange, Inc. (''BATS'') Rule 8.3, however, allows its CRO to accept letters of consent; BATS Rule 8.8 permits its CRO to accept or reject settlement agreements, subject to a call for review by its Board pursuant to BATS Rule 8.10(c).

[29] *See* Proposed rules 8210(a) and 9110(a). The Commission expects the Exchange to affirmatively monitor and enforce compliance with these proposed rules, as it does with the other rules of the Exchange and consistent with its statutory obligations.

[30] *See* Amendment No. 3, *supra* note 6.

[31] Furthermore, the Commission notes that the Exchange has represented that, because the Exchange does not have sanction guidelines, the CRO, Hearing Panel, or Extended Hearing Panel, as applicable, would consider Exchange precedent or such other precedent as it deemed appropriate in determining whether or not to accept a settlement offer under Rule 9270. *See* Notice, *supra* note 3, at n.19. The Commission would also expect the Exchange to consider precedent in determining whether to accept or reject an AWC letter under Rule 9216.

[32] FINRA's rules only apply to officers of FINRA and termination of employment with FINRA, while the Exchange's proposed rules would apply to all Regulatory Staff and termination of employment with FINRA or the Exchange.

[33] *See* Securities Exchange Act Release No. 69045, *supra* note 11, at n.14 and 21. The Commission notes that the Exchange, similar to FINRA, would permit a former Regulatory Staff member to testify as a witness on behalf of the Exchange or FINRA. *See* Proposed Rule 9242(b). The Commission does not believe that this poses the same potential conflict of interest.

[34] *See* Amendment No. 3, *supra* note 6.

[35] 15 U.S.C. 78f(b)(5) and (7).

[36] The Commission notes that the other changes made in Amendment No. 3 are merely technical changes to the Exchange's rule text to (i) incorporate changes recently approved in the NYSE ROC Filing, (ii) reflect that the terms ''Regulatory Staff'' and ''Exchange Staff'' have the same meaning for purposes of the 8000 and 9000 series as defined in proposed Rule 9120(x), Regulatory Staff, and (iii) clarify that the transmission of the record of a disciplinary proceeding only applies to reviews of determinations made or penalties imposed by a Hearing Panel or Extended Hearing Panel as a hearing record would not exist under the circumstances provided for under Rule 9310(a)(1)(B).

[37] 15 U.S.C. 78s(b)(2).

approve the proposed rule change, as modified by Amendment Nos. 1, 3 and 5, on an accelerated basis.

V. Solicitation of Comments on Amendment Nos. 3 and 5

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether this filing, as modified by Amendment Nos. 3 and 5, 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 email to *rule-comments@sec.gov.* Please include File Number SR–NYSE–2015–35 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–NYSE–2015–35. This file number should be included on the subject line if email 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 Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSE–2015–35, and should be submitted on or before December 10, 2015.

VI. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[38] that the proposed rule change, as modified by Amendment Nos. 1, 3 and 5 (NYSE–2015–35) be, and it hereby is, approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[39]

Brent J. Fields,

Secretary.

[FR Doc. 2015–29488 Filed 11–18–15; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–76438; File No. SR–NYSEARCA–2015–108]

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

November 13, 2015.

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 November 2, 2015, 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 to amend the NYSE Arca Options Fee Schedule (''Fee Schedule''). The Exchange proposes to implement the fee changes effective November 2, 2015. The text of the proposed rule change is available on the Exchange's Web site 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 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 purpose of this filing is to amend the Fee Schedule in a number of different ways, effective November 2, 2015. Specifically, the Exchange proposes to increase certain Take Liquidity Fees charged; to introduce new posting credits; and to modify the Take Fee Discount Qualification, as described below.

Transaction Fees for Taking Liquidity in Penny Pilot Issues

The Exchange proposes to modify the fees paid by Market Makers, Lead Market Makers, Firms and Broker Dealers, and Professional Customers (collectively, ''Non-Customers'') for Taking Liquidity in Penny Pilot Issues (''Take Fees''). Currently, Non-Customers pay Take Fees of $0.50 per contract for electronic executions. The Exchange proposes to raise that fee to $0.52 per contract, which is within the range of fees charged by competing option exchanges.[4]

Customer Monthly Posting Credit Tiers for Penny Pilot Issues

The Exchange is proposing to add a new tier to the Customer Monthly Posting Credit Tiers for Penny Pilot Issues (''Posting Credit Tiers,'' each a ''Tier''), which currently has six Tiers.

[38] 15 U.S.C. 78s(b)(2).

[39] 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] For example, MIAX charges $0.55 for executions [sic] in the following penny pilot options: EEM, GLD, IWM, QQQ and SPY. *See* MIAX fee schedule, *available here, https://www.miaxoptions.com/sites/default/files/MIAX_Options_Fee_Schedule_10012015C.pdf.* BOX assesses fees greater than $0.55 to Non-customers [sic] for executions in penny pilot options. *See* BOX Options fee schedule, *available here, http://boxexchange.com/assets/BOX_Fee_Schedule.pdf.* In addition, NOM recently proposed to charge non-NOM Market Markers $0.55 for executions in the following penny pilot options: EEM, GLD, IWM, QQQ, and SPY; and charge all other account types $0.50 for removing liquidity in these symbols. *See* File SR–NASDAQ–2015 [sic].