

The proposed rule change is designed to perfect the mechanism of a free and open market and, in general, to protect investors and the public interest in that it will facilitate the listing and trading of an additional type of actively-managed exchange-traded product that will enhance competition among market participants, to the benefit of investors and the marketplace. As noted above, the Shares will be subject to the existing trading surveillances, administered by FINRA on behalf of the Exchange, which are designed to detect violations of Exchange rules and federal securities laws applicable to trading on the Exchange. FINRA, on behalf of the Exchange, will communicate as needed regarding trading in the Shares, equity securities, Underlying ETFs, and certain futures contracts and exchange-listed options contracts with other markets and other entities that are members of the ISG, and FINRA, on behalf of the Exchange, may obtain trading information regarding trading in the Shares, equity securities, Underlying ETFs, and certain futures contracts and exchange-listed options contracts from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares, equity securities, Underlying ETFs, and certain futures contracts and exchange-listed options contracts from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement. Not more than 10% of the assets of the Fund in the aggregate shall consist of non-U.S. equity securities whose principal market is not a member of ISG or is a market with which the Exchange does not have a comprehensive surveillance sharing agreement. Furthermore, not more than 10% of the net assets of the Fund in the aggregate shall consist of futures contracts or exchange-traded options whose principal market is not a member of ISG or is a market with which the Exchange does not have a comprehensive surveillance sharing agreement. In addition, the Exchange also has a general policy prohibiting the distribution of material, non-public information by its employees. In addition, as noted above, investors will have ready access to information regarding the Fund's holdings, the PIV, the Disclosed Portfolio, and quotation and last sale information for the Shares. The Fund's investments will be consistent with its investment objective and will not be used to provide multiple returns of a benchmark or to produce leveraged returns. The Fund's investments will not be used to seek

performance that is the multiple or inverse multiple (*i.e.*, 2Xs and 3Xs) of the Fund's primary broad-based securities benchmark index (as defined in Form N-1A).

#### *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 purpose of the Act. The Exchange notes that the proposed rule change will facilitate the listing and trading of an additional type of actively-managed exchange-traded product that will enhance competition among market participants, to the benefit of investors and the marketplace.

#### *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 within such longer period (i) as the Commission may designate up to 90 days of such date 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 email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-NYSEArca-2014-20 on the subject line.

#### *Paper Comments*

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

All submissions should refer to File Number SR-NYSEArca-2014-20. 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 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-2014-20 and should be submitted on or before April 7, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>37</sup>

**Kevin M. O'Neill,**  
*Deputy Secretary.*

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## **SECURITIES AND EXCHANGE COMMISSION**

**[Release No. 34-71690; File No. SR-MSRB-2014-02]**

### **Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Consisting of Changes to the MSRB's Electronic Municipal Market Access System, Real-Time Transaction Reporting System, and Short-Term Obligation Rate Transparency System**

March 11, 2014.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the

<sup>37</sup> 17 CFR 200.30-3(a)(12).

“Act”)<sup>1</sup> and Rule 19b–4 thereunder,<sup>2</sup> notice is hereby given that on February 28, 2014, the Municipal Securities Rulemaking Board (the “MSRB” or “Board”) filed with the Securities and Exchange Commission (the “SEC” or “Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the MSRB. The MSRB has designated the proposed rule change as changing fees imposed by the MSRB under Section 19(b)(3)(A)(ii) of the Act,<sup>3</sup> which renders the proposal effective upon receipt of this filing by the Commission. The implementation date of the proposed rule change will be April 1, 2014. 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 MSRB is filing with the Commission a proposed rule change relating to the MSRB’s Electronic Municipal Market Access system (“EMMA”), Real-time Transaction Reporting System (“RTRS”), and Short-Term Obligation Rate Transparency System (“SHORT System”) (the “proposed rule change”). The proposed rule change consists of (i) fee increases for the MSRB’s Real-Time Transaction Data Subscription Service, Comprehensive Transaction Data Subscription Service, and SHORT System subscription service; (ii) revisions to the EMMA, RTRS, and the SHORT System facilities language to clarify or otherwise provide that the MSRB may waive fees for these subscription services for non-profit organizations (including institutions of higher education) and for organizations providing, at no out-of-pocket charge to the MSRB, services or products to the MSRB for internal or public use or dissemination on EMMA on terms agreeable to the MSRB; (iii) revisions to the EMMA Continuing Disclosure Service facilities language to clarify that a Nationally Recognized Statistical Rating Organization (“NRSRO”) for which such service or product fees are waived could, nevertheless, be treated as having agreed to provide credit rating and related information to the MSRB on terms that qualify for the display of that information on EMMA; and (iv) revisions to the RTRS Historical Transaction Data Product facilities language to clarify that the purchase

price of the product does not include sales tax, as required by Virginia state law, in order to harmonize the language for that product with the existing language of the EMMA, SHORT, and other RTRS facilities.

The text of the proposed rule change is available on the MSRB’s Web site at [www.msrb.org/Rules-and-Interpretations/SEC-Filings/2014-Filings.aspx](http://www.msrb.org/Rules-and-Interpretations/SEC-Filings/2014-Filings.aspx), at the MSRB’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 MSRB 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 these statements may be examined at the places specified in Item IV below. The MSRB has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

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

##### **1. Purpose**

RTRS is a facility for the collection and dissemination of information about transactions occurring in the municipal securities market. RTRS and its Real-Time Transaction Data Subscription Service provide a real-time stream of data representing municipal securities transaction reports made by brokers, dealers, and municipal securities dealers to RTRS for an annual subscription fee of \$10,000.<sup>4</sup> The MSRB proposes to increase the annual subscription fee for the Real-Time Transaction Data Subscription Service from \$10,000 to \$11,000, effective April 1, 2014.

Another component of RTRS is the MSRB Comprehensive Transaction Data Subscription Service (the “Comprehensive Service”), which consists of three trade reports: Transaction data one business day after the trade (T+1), transaction data five business days after the trade (T+5), and transaction data 20 business days after the trade (T+20). The MSRB proposes to increase the annual subscription fee for the Comprehensive Service from \$5,000 to \$5,500, effective April 1, 2014.

The SHORT System is a facility of the MSRB for the collection and dissemination of information about securities bearing interest at short-term rates. Currently, these securities consist of auction rate securities and variable-rate demand obligations. The MSRB makes the information and documents collected by the SHORT System available through a subscription service, which is available for an annual fee of \$10,000.<sup>5</sup> The MSRB proposes to increase the annual subscription fee for the SHORT System subscription service from \$10,000 to \$11,000, effective April 1, 2014.

The MSRB has not increased the cost of either the Real-Time Transaction Data Subscription Service or the Comprehensive Service since January 2011, and has not increased the cost of the SHORT System subscription service since its inception in 2010. The SEC and Congress, as noted below, have recognized the need for the MSRB to charge commercially reasonable fees for automated subscription-based feeds. Currently, the Real-Time Transaction Data Subscription Service generates revenue of approximately \$540,000 annually, the Comprehensive Service generates revenue of approximately \$185,000 annually, and the SHORT System subscription service generates revenue of approximately \$120,000 annually. The MSRB believes that incremental increases under the proposed rule change are commercially reasonable and notes that, even with the proposed increases, such fees would cover only a portion of the RTRS and SHORT System operating costs.

The MSRB proposes to revise the EMMA, RTRS, and the SHORT System facilities language to clarify, add to and harmonize the provisions pertaining to the waiver of fees for subscription services or products for non-profit organizations (including institutions of higher education) and for organizations providing, at no out-of-pocket charge to the MSRB, services or products to the MSRB for internal or public use or dissemination on EMMA on terms agreeable to the MSRB. Currently, the facilities language for most of the products and services provides that the MSRB can, in its discretion, waive certain fees for non-profit organizations, but the effectuating language is inconsistent across the facilities.

The MSRB believes that waivers of fees are potentially appropriate for non-profit organizations and organizations

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b–4.

<sup>3</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>4</sup> See Securities Exchange Act Release No. 63340 (Nov. 18, 2010), 75 FR 72850 (Nov. 26, 2010), File No. SR-MSRB-2010-09.

<sup>5</sup> The SHORT System subscription service became effective September 30, 2010. See Securities Exchange Act Release No. 62993 (Sept. 24, 2010), 75 FR 60488 (Sept. 30, 2010), File No. SR-MSRB-2010-06.

that provide, at no out-of-pocket charge, services or products to the MSRB for its internal or public use or dissemination on EMMA. Non-profit organizations generally have a charitable or otherwise public purpose, and the MSRB likewise has a public purpose. In addition, the ability to waive fees can facilitate the MSRB's receipt of services or products at no out-of-pocket charge to be used by the MSRB to advance its public mission. This waiver ability is consistent with the policy already embodied in the existing facilities language on the MSRB's granting of waivers. The proposed rule change would clarify, add to and conform the facilities language consistent with this view. Further, the MSRB proposes an amendment to the EMMA Continuing Disclosure Service to clarify that an NRSRO can be treated, notwithstanding the MSRB providing access to such NRSRO to any of the MSRB's subscription products or services at either a reduced or no charge, as agreeing to provide credit rating and related information to the MSRB on terms that qualify for the display of that information on EMMA.

The MSRB also proposes to revise the RTRS Historical Transaction Data Product facilities language to include language pertaining to the purchase price in order to harmonize the RTRS Historical Transaction Data Product facility with the existing language of the EMMA, SHORT, and other RTRS facilities. Currently, the EMMA, SHORT, and other RTRS facilities provide that the purchase price of a product does not include sales tax, as required by Virginia state law, and that the purchase price is a one-time charge for each facility and will not include any future additions for enhancements that may be added to the data for each facility. The proposed rule change would add this provision to the RTRS Historical Transaction Data Product facility in conformity with the other analogous facilities.

## 2. Statutory Basis

The MSRB believes that the proposed rule change is consistent with Section 15B(b)(2)(j) of the Securities Exchange Act of 1934 (the "Act"),<sup>6</sup> which requires, in pertinent part, that the Board's rules shall "provide that each municipal securities broker, municipal securities dealer, and municipal advisor shall pay to the Board such reasonable fees and charges as may be necessary or appropriate to defray the costs and expenses of operating and administering the Board." The proposed rule change provides for reasonable fees to partially

offset costs associated with operating and administering the Board, including operating RTRS and the SHORT System and producing and disseminating transaction reports to subscribers.

The MSRB also believes that the proposed rule change is consistent with Section 15B(b)(3)(B)(ii) of the Act,<sup>7</sup> which provides that the MSRB "shall not be prohibited from charging commercially reasonable fees for automated subscription-based feeds or similar services, or for charging for other data or document-based services customized upon request of any person, made available to commercial enterprises, municipal securities market professionals, or the general public, whether delivered through the Internet or any other means, that contain all or part of the documents or information, subject to approval of the fees by the Commission under Section 19(b)" of the Act.<sup>8</sup> Implicit within the authority to charge fees, is the ability to waive fees.

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

The MSRB does not believe that the proposed rule change would impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The fee increases would apply equally to all market participants that choose to subscribe to the services (unless waived by the MSRB), and those who choose not to subscribe may view the same information for free on the EMMA web portal.

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

Written comments were neither solicited nor received on the proposed rule change.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act and paragraph (f) of Rule 19b-4 thereunder. 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](mailto:rule-comments@sec.gov). Please include File Number SR-MSRB-2014-02 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.

All submissions should refer to File Number SR-MSRB-2014-02. 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 the filing also will be available for inspection and copying at the principal office of the MSRB. 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-MSRB-2014-02 and should be submitted on or before April 7, 2014.

<sup>7</sup> 15 U.S.C. 78o-4(b)(3)(B)(ii).

<sup>8</sup> See Securities Exchange Act Release No. 66866 (Apr. 26, 2012), 77 FR 26063 (May 2, 2012), File No. SR-MSRB-2012-02; Securities Exchange Act Release No. 66865 (Apr. 26, 2012), 77 FR 26061 (May 2, 2012), File No. SR-MSRB-2012-03.

<sup>6</sup> 15 U.S.C. 78o-4(b)(2)(j).

For the Commission, pursuant to delegated authority.<sup>9</sup>

Kevin M. O'Neill,  
Deputy Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-71689; File No. SR-NYSE-2014-11]

### Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending its Price List To Modify the Current Adding Credit Tiers and Add a New Adding Credit Tier

March 11, 2014.

Pursuant to Section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934 (the "Act")<sup>2</sup> and Rule 19b-4 thereunder,<sup>3</sup> notice is hereby given that, on February 28, 2014, New York Stock Exchange LLC ("NYSE" 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. 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 its Price List to modify the current adding credit tiers and add a new adding credit tier. The proposed fees would be operative on March 1, 2014. The text of the proposed rule change is available on the Exchange's Web site at [www.nyse.com](http://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 Exchange proposes to amend its Price List to modify the current adding credit tiers and add a new adding credit tier. The proposed fees would be operative on March 1, 2014.

Under the current Tier 1 Adding Credit, the Exchange offers a credit of \$0.0020 per share (\$0.0010 if a Non-Displayed Reserve Order or \$0.0015 if a Midpoint Passive Liquidity ("MPL") order) for transactions in stocks with a per share price of \$1.00 or more when adding liquidity to the Exchange if:

(i) The member organization has average daily trading volume ("ADV") that adds liquidity to the NYSE during the billing month ("Adding ADV," which shall exclude any liquidity added by a Designated Market Maker ("DMM")) that is at least 1.5% of consolidated average daily volume in NYSE-listed securities during the billing month ("NYSE CADV"), and executes market at-the-close ("MOC") and limit at-the-close ("LOC") orders of at least 0.375% of NYSE CADV;

(ii) the member organization has Adding ADV that is at least 0.8% of NYSE CADV, executes MOC and LOC orders of at least 0.12% of NYSE CADV, and adds liquidity to the NYSE as a Supplemental Liquidity Provider ("SLP") for all assigned SLP securities in the aggregate (including shares of both an SLP proprietary trading unit ("SLP-Prop") and an SLP market maker ("SLMM") of the same member organization) of more than 0.15% of NYSE CADV; or

(iii) the member organization has ADV that adds liquidity in customer electronic orders to the NYSE ("Customer Electronic Adding ADV," which shall exclude any liquidity added by a Floor broker, DMM, or SLP) during the billing month that is at least 0.5% of NYSE CADV, executes MOC and LOC orders of at least 0.12% of NYSE CADV, and has Customer Electronic Adding ADV during the billing month that, taken as a percentage of NYSE CADV, is at least equal to the member organization's Customer Electronic Adding ADV during September 2012 as a percentage of consolidated average daily volume in NYSE-listed securities during September 2012 plus 15%.

The Exchange proposes to modify the first method by which a member organization may qualify for the current Tier 1 Adding Credit. Specifically, a member organization would qualify for the credit of \$0.0020 per share (\$0.0010 if a Non-Displayed Reserve Order or \$0.0015 if an MPL order) for transactions in stocks with a per share price of \$1.00 or more when adding liquidity to the Exchange if the member organization has Customer Electronic Adding ADV that is at least 1.1% of NYSE CADV, and executes MOC and LOC orders of at least 0.375% of NYSE CADV. The Exchange does not propose to modify the second or third methods by which a member organization may qualify for the current Tier 1 Adding Credit.

The Exchange also proposes to establish a new adding credit tier, which would provide a credit of \$0.0022 per share (\$0.0010 if a Non-Displayed Reserve Order or \$0.0015 if an MPL order) for transactions in stocks with a per share price of \$1.00 or more when adding liquidity to the Exchange if:

(i) The member organization has Customer Electronic Adding ADV during the billing month that is at least 1.25% of NYSE CADV, and executes MOC and LOC orders of at least 0.12% of NYSE CADV; or

(ii) the member organization has Customer Electronic Adding ADV during the billing month that is at least 0.85% of NYSE CADV, executes MOC and LOC orders of at least 0.12% of NYSE CADV, and either (a) adds liquidity to the NYSE as an SLP for all assigned SLP securities in the aggregate (including shares of both an SLP-Prop and an SLMM of the same member organization) of more than 0.3% of NYSE CADV or (b) adds liquidity to the NYSE as a Floor broker of more than 0.3% of NYSE CADV.

The Exchange proposes to name the new adding credit tier the "Tier 1 Adding Credit" and would rename the current Tier 1 Adding Credit and Tier 2 Adding Credit, the "Tier 2 Adding Credit" and "Tier 3 Adding Credit," respectively. The Exchange also proposes to make certain non-substantive, conforming changes to the Price List.<sup>4</sup>

<sup>4</sup> The Exchange notes that it has previously filed with the Securities and Exchange Commission a proposed rule change to amend the Price List (File No. SR-NYSE-2014-09). Exhibit 5 to SR-NYSE-2014-09 specified an effective date for the revised Price List of March 1, 2014 (changed from February 1, 2014). Exhibit 5 to the instant proposed rule change also specifies an effective date of March 1, 2014. SR-NYSE-2014-09 also modified the credit for executions of orders sent to the Floor broker for representation on the Exchange when adding

<sup>9</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 15 U.S.C. 78a.

<sup>3</sup> 17 CFR 240.19b-4.