

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 not necessary or appropriate in furtherance of the purposes of the Act. In this regard and as indicated above, the Exchange notes that the rule change is similar to rules of the Exchange's PIP and Solicitation Auction. The Exchange believes that the proposed rule change should incent OFPs to continue submitting block trades to the Facilitation Auction to the benefit of the Exchange and its Participants and public customers. The Exchange believes that the proposal will enhance competition by providing an opportunity for Participants to receive a greater allocation at the end of the Facilitation Auction.

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

The Exchange has neither solicited nor received comments on the proposed rule change.

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

Because the proposed rule change does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative 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, the proposed rule change has become effective pursuant to section 19(b)(3)(A) of the Act⁹ and Rule 19b-4(f)(6) thereunder.¹⁰

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. If the Commission takes such action, the Commission shall institute proceedings

to determine whether the proposed rule should be approved or 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. Please include File Number SR-BOX-2015-33 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-BOX-2015-33. 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-BOX-2015-33, and should be submitted on or before November 3, 2015.

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

Robert W. Errett,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-76084; File No. SR-NYSEARCA-2015-87]

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

October 6, 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 September 22, 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 Equities Schedule of Fees and Charges for Exchange Services ("Fee Schedule"). 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,

⁹ 15 U.S.C. 78s(b)(3)(A).

¹⁰ 17 CFR 240.19b-4(f)(6). As required under Rule 19b-4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the text of 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.

¹¹ 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.

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 the Fee Schedule to (i) change certain rebate and volume thresholds applicable to Lead Market Makers ("LMMs")⁴ for providing liquidity in primary listed securities in which they are registered as the LMM, (ii) adopt an incremental tiered-rebate structure applicable to LMMs and to ETP Holders and Market Makers affiliated with the LMM that provide liquidity in Tape B securities to the NYSE Arca Book, (iii) increase the fee charged to LMMs for removing liquidity from the NYSE Arca Book, (iv) revise the requirements, fees and credits for Tier 1, (v) revise the requirements for the current Cross Asset Tier, and rename it Cross Asset Tier 1, (vi) adopt a new pricing tier, Cross Asset Tier 2, (vii) add two new Step Up Tiers for Tape B Securities, (viii) eliminate obsolete pricing tiers, and (ix) amend Port Fees. The Exchange proposes to implement the fee changes effective October 1, 2015.

LMM Transaction Credits

The Exchange proposes to amend the Fee Schedule to modify the structure of the transaction credits it provides to LMMs for providing displayed liquidity in the NYSE Arca Marketplace⁵ primary listed securities in which they are registered as the LMM. The Exchange has a tiered rebate structure that is based on the consolidated average daily volume ("CADV") of the security in the previous month. Specifically, the current rebates are as follows:

- \$0.0035 per share (credit) for orders that provide displayed liquidity to the Book in securities for which they are registered as the LMM and which have a CADV in the previous month greater than 5,000,000 shares
- \$0.004 per share (credit) for orders that provide displayed liquidity to the Book in securities for which they are registered as the LMM and which have

a CADV in the previous month of between 1,000,000 and 5,000,000 shares

- \$0.0045 per share (credit) for orders that provide displayed liquidity to the Book in securities for which they are registered as the LMM and which have a CADV in the previous month of less than 1,000,000 shares

The Exchange proposes to lower the credit for the tier requiring a CADV in the previous month greater than 5,000,000 shares from \$0.0035 per share to \$0.0033 per share. The Exchange is not proposing any change to the credits provided for the other two tiers. The Exchange also proposes to lower the volume threshold for the tier requiring a CADV in the previous month greater than 5,000,000 million shares from 5,000,000 shares to 3,000,000 shares, and lower the volume threshold for the tier requiring a CADV in the previous month of between 1,000,000 shares and 5,000,000 to 1,000,000 shares and 3,000,000 shares. The Exchange is not proposing any change to the volume threshold for the remaining tier.

As proposed, the transaction credits and volume thresholds would be as follows:

- \$0.0033 per share (credit) for orders that provide displayed liquidity to the Book in securities for which they are registered as the LMM and which have a CADV in the previous month greater than 3,000,000 shares
- \$0.004 per share (credit) for orders that provide displayed liquidity to the Book in securities for which they are registered as the LMM and which have a CADV in the previous month of between 1,000,000 and 3,000,000 shares
- \$0.0045 per share (credit) for orders that provide displayed liquidity to the Book in securities for which they are registered as the LMM and which have a CADV in the previous month of less than 1,000,000 shares

LMMs and Affiliated ETP Holders and Market Makers Incremental Transaction Credits

The Exchange proposes to adopt tier-based incremental credits for orders that provide displayed liquidity to the NYSE Arca Book in Tape B Securities. Specifically, LMMs that are registered as the LMM in Tape B securities that have a CADV in the previous month of less than 100,000 shares ("Less Active ETP Securities"), and the ETP Holders and Market Makers affiliated with such LMMs, would receive an additional credit for orders that provide displayed liquidity to the Book in any Tape B Securities that trade on the Exchange.⁶

⁶ The Exchange defines "affiliate" to "mean any ETP Holder under 75% common ownership or

As proposed, the incremental credits and volume thresholds would be as follows:

- An additional credit of \$0.0004 per share if an LMM is registered as the LMM in at least 300 Less Active ETP Securities
- An additional credit of \$0.0003 per share if an LMM is registered as the LMM in at least 200 but less than 300 Less Active ETP Securities
- An additional credit of \$0.0002 per share if an LMM is registered as the LMM in at least 100 but less than 200 Less Active ETP Securities

The number of Less Active ETP Securities for the billing month would be based on the number of Less Active ETP Securities in which an LMM is registered as the LMM on the last business day of the previous month. As noted above, the proposed incremental credits would also apply to ETP Holders and Market Makers affiliated with the LMM whose orders in Tape B Securities provide displayed liquidity to the NYSE Arca Book.

For example, a LMM that provides liquidity to the NYSE Arca Book in a security for which the LMM is registered as the LMM which has a CADV in the previous month of at least 1,000,000 shares would receive a credit of \$0.0045 per share. If that LMM is a Tier 1 firm that is also registered as an LMM in 250 Less Active ETP Securities, the LMM would receive an incremental credit of \$0.0003 per share under the proposed new rebate structure, for a total credit of \$0.0048 per share. Additionally, affiliated ETP Holders and Market Makers of such LMM that provide displayed liquidity in Tape B Securities would receive a total credit of \$0.0026 per share, *i.e.*, \$0.0023 per share Tier 1 credit for orders that provide liquidity to the NYSE Arca Book plus \$0.0003 per share for being registered as a LMM in 250 Less Active ETP Securities.

With this pricing incentive, the Exchange hopes to provide incentives for increased trading in Less Active ETP Securities for market participants.

LMM Transaction Fees

The Exchange currently charges a fee of \$0.0025 per share to LMMs for orders in primary listed securities that remove liquidity from the NYSE Arca Book. The Exchange proposes to increase this fee to \$0.0028 per share.

Tier 1

Currently, ETP Holders and Market Makers qualify for Tier 1 fees and

control of that ETP Holder." See Fee Schedule, NYSE Arca Marketplace: General.

⁴ The term "Lead Market Maker" is defined in Rule 1.1(ccc) to mean a registered Market Maker that is the exclusive Designated Market Maker in listings for which the Exchange is the primary market.

⁵ The term "NYSE Arca Marketplace" is defined in Rule 1.1(e) to mean the electronic securities communications and trading facility designated by the Board of Directors through which orders of Users are consolidated for execution and/or display.

credits by meeting one of two requirements. These participants can either provide liquidity an average daily share volume per month of 0.70% or more of the US CADV, or (a) provide liquidity an average daily share volume per month of 0.15% or more of the US CADV and (b) are affiliated with an OTP Holder or OTP Firm that provides an ADV of electronic posted executions (including all account types) in Penny Pilot issues on NYSE Arca Options (excluding mini options) of at least 100,000 contracts, of which at least 25,000 contracts must be for the account of a market maker. In Tape A and Tape C Securities, ETP Holders and Market Makers currently receive a credit of \$0.0030 per share for orders that provide liquidity to the Book and pay a fee of \$0.0030 per share for orders that take liquidity from the Book. In Tape B Securities, ETP Holders and Market Makers receive a credit of \$0.0023 per share for orders that provide liquidity to the Book.

The Exchange proposes to simplify this pricing tier by removing the second requirement. As proposed, ETP Holders and Market Makers will qualify for Tier 1 fees and credits if they provide liquidity an average daily share volume per month of 0.70% or more of the US CADV. Additionally, the Exchange proposes distinct fees and credits applicable to Tape A and Tape C Securities. As proposed, ETP Holders and Market Makers would receive an increased credit of \$0.0031 per share for orders that provide liquidity to the Book in Tape A Securities and will continue to pay a fee of \$0.0030 per share for orders that take liquidity from the Book in Tape A Securities. ETP Holders and Market Makers would receive an increased credit of \$0.0033 per share for orders that provide liquidity to the Book in Tape C Securities and would pay a lower fee of \$0.0029 per share for orders that take liquidity from the Book in Tape C Securities. The Exchange is not proposing any change to the per share credit provided to ETP Holders and Market Makers in Tape B Securities.

Cross-Asset Tier

Currently, ETP Holders and Market Makers receive a credit of \$0.0030 per share in Tape A, Tape B and Tape C Securities when such participants (1) provide liquidity of 0.40% or more of the US CADV per month, and (2) are affiliated with an OTP Holder or OTP Firm that provides an ADV of electronic posted Customer executions in Penny Pilot issues on NYSE Arca Options (excluding mini options) of at least 0.95% of total Customer equity and ETF option ADV as reported by OCC, or

when such participants (1) provide liquidity of 0.30% or more of the US CADV per month, (2) are affiliated with an OTP Holder or OTP Firm that provides an ADV of electronic posted Customer executions in all issues on NYSE Arca Options (excluding mini options) of at least 0.80% of total Customer equity and ETF option ADV as reported by OCC, and (3) execute an ADV of Retail Orders that provide liquidity during the month that is 0.10% or more of the US CADV. Under the current tier, participants receive a credit of \$0.0030 per share for providing liquidity to the order book in Tape A, Tape B and Tape C Securities.

The Exchange proposes to simplify this pricing tier by removing the first requirement. As proposed, ETP Holders and Market Makers would receive a per share credit when such participants (a) provide liquidity of 0.30% or more of the US CADV per month, (b) are affiliated with an OTP Holder or OTP Firm that provides an ADV of electronic posted Customer executions in all issues on NYSE Arca Options (excluding mini options) of at least 0.80% of total Customer equity and ETF option ADV as reported by OCC, and (c) execute an ADV of Retail Orders that provide liquidity during the month that is 0.10% or more of the US CADV. The Exchange is not proposing any change to the amount of the credit in Tape A, Tape B and Tape C Securities, which will remain at \$0.0030 per share. The Exchange also proposes to rename the current tier to Cross Asset Tier 1 to distinguish this pricing tier from Cross Asset Tier 2, which the Exchange is proposing to adopt with this proposed rule change.

Cross Asset Tier 2

The Exchange proposes a new pricing tier—Cross Asset Tier 2—for securities with a per share price above \$1.00.

As proposed, the Cross Asset Tier 2 would apply to ETP Holders and Market Makers that (a) provide liquidity an average daily volume share per month of 0.30% or more of the US CADV and (b) are affiliated with an OTP Holder or OTP Firm that provides an ADV of electronic posted executions for the account of a market maker in Penny Pilot issues on NYSE Arca Options (excluding mini options) of at least 90,000 contracts. Such ETP Holders and Market Makers would receive a credit of \$0.0031 per share for orders that provide liquidity to the order book in Tape A Securities; a credit of \$0.0030 per share for providing liquidity to the order book and a fee of \$0.0028 per share for taking liquidity from the order book in Tape B Securities; and a credit

of \$0.0033 per share for providing liquidity to the order book and a fee of \$0.0029 per share for taking liquidity from the order book in Tape C Securities.

Tape B Tiers

The Exchange proposes to introduce two new pricing tier levels—Tape B Tier 1 and Tape B Tier 2—for securities with a per share price above \$1.00.

As proposed, a new Tape B Tier 1 credit of \$0.0030 per share⁷ would be applicable to ETP Holders, including Market Makers, that, on a daily basis, measured monthly, directly execute providing volume in Tape B Securities during the billing month (“Tape B Adding ADV”) that is equal to at least 0.40% of US Tape B CADV over the ETP Holder’s second quarter 2015 Tape B Adding ADV taken as a percentage of Tape B CADV (“Tape B Baseline % CADV”). For example, if an ETP Holder’s Tape B Baseline % CADV during second quarter 2015 was 0.10%, the ETP Holder would need a Tape B Adding ADV of at least 0.50% in order to qualify for the proposed Tape B Tier 1 credit of \$0.0030 per share (*i.e.*, 0.10% Tape B Baseline % CADV plus 0.40% of the US Tape B CADV for the billing month).⁸ LMMs cannot qualify for the Tape B Tier 1.

Additionally, a new Tape B Tier 2 credit of \$0.0028 per share⁹ would be applicable to ETP Holders and Market Makers, that, on a daily basis, measured monthly, directly execute Tape B Adding ADV that is equal to at least 0.20% of the US Tape B CADV over the ETP Holder’s or Market Maker’s Tape B Baseline % CADV. For example, if an ETP Holder’s Tape B Baseline % CADV during second quarter 2015 was 0.10%, the ETP Holder would need to have a Tape B Adding ADV of at least 0.30% in order to qualify for the proposed Tape B Tier 2 credit of \$0.0028 per share (*i.e.*, 0.10% Tape B Baseline % CADV plus 0.20% of the US Tape B CADV for the billing month).¹⁰ LMMs cannot qualify for the Tape B Tier 2.

⁷ Under the Basic Rate, ETP Holders receive a credit of \$0.0020 per share for Tape B orders that provide liquidity to the Book.

⁸ The Exchange recognizes that a firm that becomes an ETP Holder or Market Maker after the Baseline Month would have a Tape B Baseline ADV of zero. In this regard, a new ETP Holder or Market Maker would need to have a Tape B Adding ADV during the billing month of no less than 0.40% of US Tape B CADV for the \$0.0030 per share credit to apply.

⁹ Under the Basic Rate, ETP Holders receive a credit of \$0.0020 per share for Tape B orders that provide liquidity to the Book.

¹⁰ The Exchange recognizes that a firm that becomes an ETP Holder or Market Maker after the Baseline Month would have a Tape B Baseline ADV

Elimination of Obsolete Pricing

The Fee Schedule currently includes several pricing tiers that have not encouraged ETP Holders and Market Makers to increase their activity to quality for the tiers as significantly as the Exchange anticipated they would. These tiers are as follows: (i) Step Up Tier 1, (ii) Step Up Tier 2, (iii) Step Up Tier 3, (iv) Tape B Step Up Tier, (v) Tape C Step Up Tier, (vi) Tape C Step Up Tier 2, and (vii) Routable Order Tier. The Exchange proposes to remove these pricing tiers from the Fee Schedule as well as any related cross references.

Port Fees

The Exchange currently makes ports available that provide connectivity to the Exchange's trading systems (*i.e.*, ports for entry of orders and/or quotes ("order/quote entry ports")) and charges \$200 per port per month for users of 1–5 ports, and \$500 per port per month for users of 6 or more ports.¹¹ The Fee Schedule currently provides that no fees apply to ports in the backup datacenter that are not utilized during the relevant month. The Fee Schedule further provides that no fees apply to ports in the backup datacenter that are utilized when the primary datacenter is unavailable but that the fees would apply if a port in the backup datacenter is utilized when the primary datacenter is available. The Exchange also currently makes ports available for drop copies and charges \$500 per port per month.¹² The Fee Schedule provides that no fees apply to ports in the backup datacenter if configured such that it is duplicative of another drop copy port of the same user.

The Exchange proposes to standardize the port fee and charge \$550 per port per month, regardless of the number of users and whether the port is used for order/quote entry or for drop copies. The Exchange believes standardizing the port fees will permit the Exchange to offset, in part, its infrastructure costs associated with making such ports available. The proposed change would also encourage users to become more efficient with their usage of the ports

thereby resulting in a corresponding increase in the efficiency that the Exchange would be able to realize with respect to managing its own infrastructure. In this regard, as users decrease the number of ports that they utilize, the Exchange would similarly be able to decrease the amount of its hardware that it is required to support to interface with such ports.

The proposed changes are not otherwise intended to address any other issues, and the Exchange is not aware of any problems that ETP Holders would have in complying with the proposed changes.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act,¹³ in general, and furthers the objectives of sections 6(b)(4) and (5) of the Act,¹⁴ in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

LMM Transaction Credits

The Exchange believes the proposed new incremental tiered-rebates will provide a further incentive for LMMs to quote and trade a greater number of securities on the Exchange and will generally allow the Exchange and LMMs to better compete for order flow and thus enhance competition. Specifically, the Exchange believes that its proposal, which among other things, adjusts the CADV and credits for LMMs based on the CADV of the security in primary listed securities in which they are registered as the LMM, is reasonable as it is still the highest credit in securities with a CADV greater than 3,000,000 shares. The Exchange also believes that the rebate for providing displayed liquidity is equitable because it would uniformly apply to all LMMs.

LMMs and Affiliated ETP Holders and Market Makers Incremental Transaction Credits

The proposed fee change is intended to encourage ETP Holders to promote price discovery and market quality in Less Active ETP Securities for the benefit of all market participants. The Exchange believes the proposed credits are reasonable and appropriate in that they are based on the amount of business transacted on the Exchange. The Exchange notes that the proposed

fee change is similar to market quality incentive programs already in place on other markets, such as the Qualified Market Maker incentive on the NASDAQ Stock Market LLC ("NASDAQ"), which requires a member on that exchange to provide meaningful and consistent support to market quality and price discovery by quoting at the National Best Bid and Offer in a large number of securities. In return, NASDAQ provides such member with an incremental rebate.¹⁵ NASDAQ OMX PHLX LLC ("PHLX") also provides enhanced credits to Market Makers on certain volumes based on an affiliate's activity. Specifically, PHLX offers a tiered Customer Rebate Program that qualifies either a Specialist or Market Maker or its affiliate under Common Ownership¹⁶ to an additional rebate provided the Specialist or Market Maker has reached the Monthly Market Maker Cap.¹⁷ The Exchange believes that providing increased credits to ETP Holders and Market Makers that are affiliated with a LMM that add liquidity in Tape B securities to the Exchange is reasonable because the Exchange believes that by providing increased rebates to affiliated ETP Holders and Market Makers of a LMM, more LMMs will register to quote and trade in Less Active ETP Securities. The Exchange believes the proposed incremental credit for adding liquidity is also reasonable because it will encourage liquidity and competition in Tape B securities quoted and traded on the Exchange. Moreover, the Exchange believes that the proposed fee change will incentivize LMMs to register as an LMM in Less Active ETP Securities and thus, add more liquidity in these and other Tape B Securities to the benefit of all market participants.

The Exchange believes the proposed incremental credits are equitable and not unfairly discriminatory because they are open to all ETP Holders and Market Makers affiliated with a LMM on an equal basis and provide discounts that are reasonably related to the value to the Exchange's market quality associated with higher volumes. The Exchange further believes that the proposed incremental rebate is not unfairly discriminatory because it is consistent with the market quality and

of zero. In this regard, a new ETP Holder or Market Maker would need to have a Tape B Adding ADV during the billing month of no less than 0.200% of US Tape B CADV for the \$0.0028 per share credit to apply.

¹¹ The Fee Schedule provides that users of the Exchange's Risk Management Gateway service are not charged for order/quote entry ports if such ports are designated as being used for RMG purposes. See Securities Exchange Act Release No. 68227 (November 14, 2012), 77 FR 69679 (November 20, 2012) (SR-NYSEArca-2012-123).

¹² Only one fee per drop copy port applies, even if receiving drop copies from multiple order/quote entry ports and/or from NYSE Arca Options.

¹⁵ See NASDAQ Rule 7014.

¹⁶ The term "Common Ownership" is defined as meaning "members or member organizations under 75% common ownership or control." See PHLX fee schedule, at <http://www.nasdaqtrader.com/Micro.aspx?id=phlxpricing>.

¹⁷ *Id.* (Section II, Monthly Market Maker Cap). See also Securities Exchange Act Release No. 70969 (December 3, 2013), 78 FR 73906 (December 9, 2013) (SR-Phlx-2013-114).

¹³ 15 U.S.C. 78f(b).

¹⁴ 15 U.S.C. 78f(b)(4) and (5).

competitiveness benefits associated with the proposed fee program and because the magnitude of the additional rebate is not unreasonably high in comparison to the rebate paid with respect to other displayed liquidity-providing orders. The Exchange does not believe that it is unfairly discriminatory to offer increased rebates to LMMs as LMMs are subject to additional requirements and obligations (such as quoting requirements) that other market participants are not. When PHLX adopted its proposal to provide enhanced credits, it noted its belief that the additional rebate it provides was equitable, and not unfairly discriminatory because, among other things, Specialists and Market Makers “have burdensome quoting obligations,” to the market that other market participants do not; are subject to higher transaction costs and incur higher costs related to market making activities; and “also serve an important role on the Exchange with regard to order interaction and they provide liquidity in the marketplace.”¹⁸ PHLX further noted that the “proposed differentiation as between Specialists and Market Makers as compared to other market participants recognizes the differing contributions made to the trading environment on the Exchange by these market participants.” The Exchange also believes that allowing ETP Holders to receive enhanced credits based on activities of their affiliates is reasonable, equitable and not unfairly discriminatory because the Exchange believes that ETP Holders affiliated with LMMs may qualify to earn enhanced credits in recognition of their shared economic interest, which includes the heightened obligations and costs imposed on LMMs. ETP Holders unaffiliated with LMMs do not share the same type of economic interests. Further, ETP Holders not affiliated with a LMM have an opportunity to establish such affiliation by several means, including but not limited to, a business combination or the establishment of their own market making operation, which each unaffiliated firm has the potential to establish.

LMM Transaction Fees

The Exchange believes that it is reasonable to increase the fee charged to LMMs for orders in primary listed securities that remove liquidity from the NYSE Arca Book as this fee is same as the fee charged by the Exchange to Tier 1, Tier 2 and Tier 3 ETP Holders and

Market Makers that take liquidity in Tape B securities.¹⁹ In addition, the proposed fee change is equitable and not unfairly discriminatory because it would apply uniformly to all similarly situated LMMs.

Tier 1

The Exchange believes that the amendments to Tier 1 is reasonable, equitable and not unfairly discriminatory because the proposed amendment would apply uniformly to all similarly situated ETP Holders and Market Makers that send orders to the Exchange. The Exchange believes providing increased credits and charging lower fees for orders in Tape A and Tape C Securities will incentivize ETP Holders to increase the orders sent to the Exchange and therefore provide liquidity that supports the quality of price discovery and promotes market transparency. The Exchange believes that by recalibrating the fees for taking liquidity and credits for providing liquidity will attract additional order flow and liquidity to the Exchange, thereby contributing to price discovery on the Exchange and benefiting investors generally. The Exchange also believes it is reasonable to remove one of the two current requirements for ETP Holders and Market Makers to qualify for Tier 1 fees and credits. The proposed change will simplify the tier by removing a multi-prong requirement. The Exchange believes that the proposed change is equitable and not unfairly discriminatory because the requirement would be eliminated entirely—no ETP Holders would remain able to qualify for the eliminated prong.

Cross Asset Tiers

The Exchange believes that the amendments to the Cross Asset Tier is reasonable, equitable and not unfairly discriminatory because the proposed amendment would continue to directly relate to the activity of an ETP Holder and the activity of an affiliated OTP Holder or OTP Firm on NYSE Arca Options, thereby encouraging increased trading activity on both the NYSE Arca equity and option markets. In this regard, the proposal is designed to bring additional posted order flow to NYSE Arca Options, so as to provide additional opportunities for all OTP Holders and OTP Firms to trade on NYSE Arca Options. Furthermore, similar to the revised Cross Asset Tier, the NYSE Arca Options Fee Schedule

includes a credit for OTP Holders and OTP Firms that is based on both equity and options volume. Additionally, ETP Holders that are not affiliated with an NYSE Arca Options OTP Holder or OTP Firm are still eligible for fees and credits by means other than the Cross Asset Tier. NASDAQ similarly charges certain fees based on both equity and options volume.²⁰ Further, the Exchange believes it is reasonable to remove one of the two current requirements for ETP Holders and Market Makers to qualify for Cross Asset Tier fees and credits as its removal would simplify the pricing tier. The Exchange believes that the proposed change is equitable and not unfairly discriminatory because the requirement would be eliminated entirely—no ETP Holders would remain able to qualify for the eliminated prong.

The Exchange believes the proposed Cross Asset Tier 2 is reasonable and equitably allocated because it would apply to ETP Holders and Market Makers that provide liquidity to the Exchange and is designed to incentivize these market participants to increase the orders sent directly to the Exchange and therefore provide liquidity that supports the quality of price discovery and promotes market transparency. The Exchange believes the new Cross Asset Tier 2 is equitable because it would be available to all similarly situated ETP Holders and Market Makers on an equal basis and would provide credits that are reasonably related to the value of an exchange's market quality associated with higher volumes. The Exchange further believes that the proposed Cross Asset Tier 2 is reasonable, equitable and not unfairly discriminatory because the Exchange has previously implemented cross asset tiers, including the current Cross Asset Tier.

Tape B Tiers

The Exchange believes the proposed Tape B Tiers are reasonable and equitably allocated because they apply to ETP Holders and Market Makers that provide liquidity to the Exchange and are designed to incentivize these market participants to increase the orders sent directly to the Exchange and therefore provide liquidity that supports the quality of price discovery and promotes market transparency. The Exchange believes the new Tape B Tiers are equitable because they are open to all similarly situated ETP Holders and Market Makers on an equal basis and provide credits that are reasonably related to the value of an exchange's market quality associated with higher volumes. The Exchange further believes

¹⁸ See Securities Exchange Act Release No. 70969 (December 3, 2013), 78 FR 73906 (December 9, 2013) (SR-Phlx-2013-114).

¹⁹ See NYSE Arca Marketplace: Trade Related Fees and Credits, Tier 1, Tier 2 and Tier 3, Tape B Securities at https://www.nyse.com/publicdocs/nyse/markets/nyse-arca/NYSE_Arca_Marketplace_Fees.pdf.

²⁰ See NASDAQ Rule 7018.

that the proposed Tape B Tier 1 and Tape B Tier 2 are reasonable, equitable and not unfairly discriminatory because the Exchange has previously implemented multiple step up tiers, including Step Up Tier 1, Step Up Tier 2 and Step Up Tier 3.

Elimination of Obsolete Pricing

The Exchange believes that it is reasonable to eliminate the obsolete pricing tiers from the Fee Schedule because ETP Holders have not increased their activity to qualify for these tiers as significantly as the Exchange anticipated they would. The Exchange believes that it is equitable and not unfairly discriminatory to eliminate these tiers because they would be eliminated entirely—no ETP Holders would remain able to qualify for the eliminated tiers. This aspect of the proposed change would therefore result in a more streamlined Fee Schedule, including with respect to removal of related cross references.

Port Fees

The Exchange believes that the proposal to amend the port fees constitutes an equitable allocation of fees because all similarly situated ETP Holders and other market participants would be charged the same amount. The Exchange believes that the proposed change to the monthly rates is reasonable because the proposed port fees are expected to permit the Exchange to offset, in part, its infrastructure costs associated with making such ports available, including costs based on gateway software and hardware enhancements and resources dedicated to gateway development, quality assurance, and support. In this regard, the Exchange believes that the proposed fees are competitive with those charged by other exchanges.²¹ The proposed change is also reasonable because the proposed per port rates would encourage users to become more efficient with, and reduce the number of ports used, thereby resulting in a corresponding increase in the efficiency that the Exchange would be able to realize with respect to managing its own infrastructure.

Finally, the Exchange believes that it is subject to significant competitive forces, as described below in the Exchange's statement regarding the burden on competition. For these

reasons, the Exchange believes that the proposal is consistent with the Act.

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

In accordance with section 6(b)(8) of the Act,²² the Exchange believes that the proposed rule change would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Instead, the Exchange believes that the proposed change would encourage increased participation by LMMs in the trading of ETP securities generally and Less Active ETP Securities, in particular. The proposed change would also encourage the submission of additional liquidity to a public exchange, thereby promoting price discovery and transparency and enhancing order execution opportunities for ETP Holders and Market Makers affiliated with LMMs.

Further, the proposal to amend the requirements to qualify for Tier 1 and the Cross Asset Tier will not place an undue burden on competition because both pricing tiers would remain available for all ETP Holders to satisfy, except, with respect to the Cross Asset Tier which would not be available for those ETP Holders that are not affiliated with an NYSE Arca Options OTP Holder or OTP Firm. ETP Holders that are not affiliated with an NYSE Arca Options OTP Holder or OTP Firm are eligible for fees and credits by others means than the Cross Asset Tier. The Exchange believes that the proposed change to adopt the Tape B Tiers will encourage competition by attracting additional liquidity to the Exchange, which will make the Exchange a more competitive venue for, among other things, order execution and price discovery. An ETP Holder could qualify for the proposed new Tape B Tiers by providing sufficient adding liquidity to satisfy the applicable proposed volume requirements. The Exchange also notes that the proposed Tape B Tiers would be similar to existing pricing tiers and applicable credits on the Exchange. Also, the Exchange does not believe that the proposed change will impair the ability of ETP Holders or competing order execution venues to maintain their competitive standing in the financial markets. In this regard, the Exchange notes that existing pricing tiers of other exchanges similarly provide for credits for market participants that provide certain levels of liquidity on those exchanges.²³ In general, ETP Holders impacted by the

proposed change may readily adjust their trading behavior to maintain or increase their credits or decrease their fees in a favorable manner, and will therefore not be disadvantaged in their ability to compete.

The removal of obsolete pricing tiers is not competitive in nature, but would result in a more streamlined Fee Schedule.

The Exchange believes the proposed change to the port fees sets the fees that are competitive with those charges by other exchanges,²⁴ and would encourage users to become more efficient with, and reduce the number of ports used, thereby resulting in a corresponding increase in the efficiency of the ports utilized by users.

The Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues. In such an environment, the Exchange must continually review, and consider adjusting, its fees and credits to remain competitive with other exchanges. For the reasons described above, the Exchange believes that this proposal promotes a competitive environment.

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 rule change is effective upon filing pursuant to section 19(b)(3)(A)²⁵ of the Act and subparagraph (f)(2) of Rule 19b-4²⁶ thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under section 19(b)(2)(B)²⁷ of the Act to determine whether the proposed rule

²¹ For example, the charge on the NASDAQ for a FIX Trading Port is \$550 per port per month. See NASDAQ Rule 7015. A separate charge for Pre-Trade Risk Management ports also is applicable, which ranges from \$400 to \$600 and is capped at \$25,000 per firm per month. See NASDAQ Rule 7016.

²² 15 U.S.C. 78f(b)(8).

²³ See, e.g., the "Investor Support Program" under NASDAQ Rule 7014.

²⁴ See *supra* note 21.

²⁵ 15 U.S.C. 78s(b)(3)(A).

²⁶ 17 CFR 240.19b-4(f)(2).

²⁷ 15 U.S.C. 78s(b)(2)(B).

change should be approved or 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. Please include File Number SR-NYSEARCA-2015-87 on the subject line.

Paper Comments

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

All submissions should refer to File Number SR-NYSEARCA-2015-87. 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 will also be available for inspection and copying at the NYSE's principal office and on its Internet Web site at www.nyse.com. 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-2015-87 and should be submitted on or before November 3, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁸

Robert W. Errett,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE., Washington, DC 20549-2736

Extension: Rule 22e-3,
SEC File No. 270-603, OMB Control No. 3235-0658.

Notice is hereby given that, under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520), the Securities and Exchange Commission (the "Commission") has submitted to the Office of Management and Budget a request for extension of the previously approved collection of information discussed below.

Section 22(e) of the Investment Company Act [15 U.S.C. 80a-22(e)] ("Act") generally prohibits funds, including money market funds, from suspending the right of redemption, and from postponing the payment or satisfaction upon redemption of any redeemable security for more than seven days. The provision was designed to prevent funds and their investment advisers from interfering with the redemption rights of shareholders for improper purposes, such as the preservation of management fees. Although section 22(e) permits funds to postpone the date of payment or satisfaction upon redemption for up to seven days, it does not permit funds to suspend the right of redemption for any amount of time, absent certain specified circumstances or a Commission order.

Rule 22e-3 under the Act [17 CFR 270.22e-3] exempts money market funds from section 22(e) to permit them to suspend redemptions in order to facilitate an orderly liquidation of the fund. Specifically, rule 22e-3 permits a money market fund to suspend redemptions and postpone the payment of proceeds pending board-approved liquidation proceedings if: (i) The fund's board of directors, including a majority of disinterested directors, determines pursuant to § 270.2a-7(c)(8)(ii)(C) that the extent of the deviation between the

fund's amortized cost price per share and its current net asset value per share calculated using available market quotations (or an appropriate substitute that reflects current market conditions) may result in material dilution or other unfair results to investors or existing shareholders; (ii) the fund's board of directors, including a majority of disinterested directors, irrevocably approves the liquidation of the fund; and (iii) the fund, prior to suspending redemptions, notifies the Commission of its decision to liquidate and suspend redemptions. Rule 22e-3 also provides an exemption from section 22(e) for registered investment companies that own shares of a money market fund pursuant to section 12(d)(1)(E) of the Act ("conduit funds"), if the underlying money market fund has suspended redemptions pursuant to the rule. A conduit fund that suspends redemptions in reliance on the exemption provided by rule 22e-3 is required to provide prompt notice of the suspension of redemptions to the Commission. Notices required by the rule must be provided by electronic mail, directed to the attention of the Director of the Division of Investment Management or the Director's designee.¹ Compliance with the notification requirement is mandatory for money market funds and conduit funds that rely on rule 22e-3 to suspend redemptions and postpone payment of proceeds pending a liquidation, and are not kept confidential.

Commission staff estimates that, on average, one money market fund would break the buck and liquidate every six years.² In addition, Commission staff estimates that there are an average of two conduit funds that may be invested in a money market fund that breaks the buck.³ Commission staff further estimates that a money market fund or conduit fund would spend approximately one hour of an in-house attorney's time to prepare and submit

¹ See rule 22e-3(a)(3).

² This estimate is based upon the Commission's experience with the frequency with which money market funds have historically required sponsor support. Although the vast majority of money market fund sponsors have supported their money market funds in times of market distress, for purposes of this estimate Commission staff conservatively estimates that one or more sponsors may not provide support.

³ Based on a review of filings with the Commission, Commission staff estimates that 2.3 conduit funds are invested in each master fund. However, master funds account for only 11.3% of all money market funds. Solely for the purposes of this information collection, and to avoid underestimating possible burdens, the Commission conservatively assumes that any money market that breaks the buck and liquidates would be a master fund.

²⁸ 17 CFR 200.30-3(a)(12).