to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be approved or disapproved. The 45th day after publication of the notice for this proposed rule change is March 25, 2018. The Commission is extending this 45-day time period.

The Commission finds that it is appropriate to designate a longer period within which to take action on the proposed rule change so that the Commission has sufficient time to consider the proposed rule change. Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,[5] designates May 9, 2018, as the date by which the Commission should approve or disapprove or institute proceedings to determine whether to disapprove the proposed rule change (File Number SR–CBOE–2018–008).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[6]

Brent J. Fields,

Secretary.

[FR Doc. 2018–06296 Filed 3–28–18; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82945; File No. SR–NYSE–2017–36]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing of Amendment No. 1 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 1, To Adopt New Equity Trading Rules To Trade Securities Pursuant to Unlisted Trading Privileges, Including Orders and Modifiers, Order Ranking and Display, and Order Execution and Routing on Pillar, the Exchange's New Trading Technology Platform

March 26, 2018.

I. Introduction

On July 28, 2017, New York Stock Exchange LLC ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities

Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] a proposed rule change to adopt new equity trading rules to allow the Exchange to trade securities pursuant to unlisted trading privileges ("UTP Securities")[3] on Pillar, the Exchange's new trading technology platform. The proposed rule change was published for comment in the **Federal Register** on August 9, 2017.[4] On September 18, 2017, the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved.[5] On November 7, 2017, the Commission instituted proceedings under Section 19(b)(2)(B) of the Act[6] to determine whether to approve or disapprove the proposed rule change.[7] On February 1, 2018, the Commission designated a longer period for Commission action on the proceedings to determine whether to approve or disapprove the proposed rule change.[8] The Commission received one comment letter on the proposal.[9] On February 23, 2018, the Exchange filed Amendment No. 1 to the proposed rule change, which replaces and supersedes the proposed rule change in its entirety.[10] The Commission is

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

[2] 17 CFR 240.19b–4.

[3] NYSE Rules define "UTP Security" as a security that is listed on a national securities exchange other than the Exchange and that trades on the Exchange pursuant to unlisted trading privileges. *See* NYSE Rule 1.1(ii).

[4] *See* Securities Exchange Act Release No. 81310 (Aug. 3, 2017), 82 FR 37257 (Aug. 9, 2017).

[5] *See* Securities Exchange Act Release No. 81641 (Sept. 18, 2017), 82 FR 44483 (Sept. 22, 2017).

[6] 15 U.S.C. 78s(b)(2)(B).

[7] *See* Securities Exchange Act Release No. 82028 (Nov. 7, 2017), 82 FR 52757 (Nov. 14, 2017) ("Order Instituting Proceedings").

[8] *See* Securities Exchange Act Release No. 82613 (Feb. 1, 2018), 83 FR 5499 (Feb. 7, 2018).

[9] *See* Letter from Joanne Moffic-Silver, Executive Vice President, General Counsel, and Corporate Secretary, Cboe Global Markets, Inc., to Brent J. Fields, Secretary, Commission (Feb. 1, 2018) ("Cboe Letter").

[10] In Amendment No. 1, among other changes, the Exchange proposes to: (i) Respond to the Commission's concerns in the Order Instituting Proceedings relating to offering a separate parity allocation for floor brokers by (a) setting forth additional requirements for floor broker orders to be eligible for a separate parity allocation, (b) proposing to permit floor brokers to engage in floor-based point-of-sale trading and crossing transactions in UTP Securities, and (c) providing additional justification for providing floor brokers with parity; (ii) amend the definition of Aggressing Order to include that a resting order may become an Aggressing Order if its working price change, the best protected bid or offer ("PBBO") or the national best bid or offer ("NBBO") is updated, there are changes to other orders on the Exchange Book, or when processing inbound messages; (iii) amend the rules relating to the Mid-Point Liquidity ("MPL") Order and the Minimum Trade Size ("MTS")

publishing notice of the filing of Amendment No. 1 to interested persons, and is approving the proposed rule change, as modified by Amendment No. 1, on an accelerated basis.

II. Exchange's Description of the Proposed Rule Change, as Modified by Amendment No. 1

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 V 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

On January 29, 2015, the Exchange announced the implementation of Pillar, which is an integrated trading technology platform designed to use a single specification for connecting to the equities and options markets operated by the Exchange and its affiliates, NYSE Arca, Inc. ("NYSE Arca") and NYSE American LLC ("NYSE American").[11] NYSE Arca's cash equities market was the first trading system to migrate to Pillar.[12] NYSE American's cash equities

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Modifier to reflect those of NYSE Arca and NYSE American and proposes additional rules setting forth how orders with an MTS Modifier would trade in a parity allocation model; (iv) change the list of rules that are not applicable to Pillar; (v) amend proposed NYSE Rules 7.37 and 7.46 to refer to an order with an MTS as an order with an "MTS Modifier;" (vi) change cross-references to NYSE Arca's rules to reflect the merger of NYSE Arca and NYSE Arca Equities, and (vii) reflect the renaming of NYSE MKT to NYSE American. Amendment No. 1 is available at *https://www.sec.gov/comments/sr-nyse-2017-36/nyse201736-3137940-161948.pdf)*.

[11] *See* Trader Update dated January 29, 2015, available here: *www.nyse.com/pillar.*

[12] In connection with the NYSE Arca implementation of Pillar, NYSE Arca filed four rule proposals relating to Pillar. *See* Securities Exchange Act Release Nos. 74951 (May 13, 2015), 80 FR 28721 (May 19, 2015) (Notice) and 75494 (July 20, 2015), 80 FR 44170 (July 24, 2015) (SR–NYSEArca–2015–38) (Approval Order of NYSE Arca Pillar I Filing, adopting rules for Trading Sessions, Order Ranking and Display, and Order Execution); Securities Exchange Act Release Nos. 75497 (July 21, 2015), 80 FR 45022 (July 28, 2015) (Notice) and 76267 (October 26, 2015), 80 FR 66951 (October 30, 2015) (SR–NYSEArca–2015–56) (Approval Order of NYSE Arca Pillar II Filing, adopting rules for Orders and Modifiers and the Retail Liquidity Program); Securities Exchange Act Release Nos. 75467 (July 16, 2015), 80 FR 43515 (July 22, 2015) (Notice) and 76198 (October 20, 2015), 80 FR 65274 (October 26, 2015) (SR–NYSEArca–2015–58) (Approval Order of

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[5] *Id.*

[6] 17 CFR 200.30–3(a)(31).

market transitioned to Pillar on July 24, 2017.[13]

Overview

The NYSE serves a unique role in the U.S. market as the only cash equities exchange that still has an active Trading Floor.[14] Member organizations that operate a Floor broker business play a vital role in that model, through participation in auctions and point-of-sale trading with other members on the Floor. Under Exchange rules, member organizations that operate a Floor broker business are eligible for parity allocations for liquidity-providing orders that are entered on the Floor.[15] Because Floor brokers operate an agency-only business, such parity

NYSE Arca Pillar III Filing, adopting rules for Trading Halts, Short Sales, Limit Up-Limit Down, and Odd Lots and Mixed Lots); and Securities Exchange Act Release Nos. 76085 (October 6, 2015), 80 FR 61513 (October 13, 2015) (Notice) and 76869 (January 11, 2016), 81 FR 2276 (January 15, 2016) (Approval Order of NYSE Arca Pillar IV Filing, adopting rules for Auctions). NYSE Arca Equities, Inc., which was a wholly-owned corporation of NYSE Arca, has been merged with and into NYSE Arca and as a result, certain former NYSE Arca Equities rules are now the rules of NYSE Arca using the same rule number but with an additional suffix of "-E" added to each rule. *See* Securities Exchange Act Release No. 81419 (August 17, 2017), 82 FR 40044 (August 23, 2017) (SR–NYSEArca–2017–40) (Approval Order).

[13] In connection with the NYSE American implementation of Pillar, NYSE American filed several rule changes. *See* Securities Exchange Act Release Nos. 79242 (November 4, 2016), 81 FR 79081 (November 10, 2016) (SR–NYSEMKT–2016–97) (Notice and Filing of Immediate Effectiveness of Proposed Rule Change of framework rules); 81038 (June 28, 2017), 82 FR 31118 (July 5, 2017) (SR–NYSEMKT–2016–103) (Approval Order) (the "ETP Listing Rules Filing"); 80590 (May 4, 2017), 82 FR 21843 (May 10, 2017) (Approval Order) (NYSE MKT rules governing automated trading); 80577 (May 2, 2017), 82 FR 21446 (May 8, 2017) (SR–NYSEMKT–2017–04) (Approval Order) (NYSE MKT rules governing market makers); 80700 (May 16, 2017), 82 FR 23381 (May 22, 2017) (SR–NYSEMKT–2017–05) (Approval Order) (NYSE MKT rules governing delay mechanism). NYSE American was previously known as NYSE MKT LLC. *See* Securities Exchange Act Release No. 80748 (May 23, 2017), 82 FR 24764, 24765 (SR–NYSEMKT–2017–20) (Notice of filing and immediate effectiveness of proposed rule change to change the name of NYSE MKT to NYSE American).

[14] The term "Floor" means the trading Floor of the Exchange and the premises immediately adjacent thereto, such as the various entrances and lobbies of the 11 Wall Street, 18 New Street, 8 Broad Street, 12 Broad Street and 18 Broad Street Buildings, and also means the telephone facilities available in these locations. *See* Rule 6. The term "Trading Floor" means the restricted-access physical areas designated by the Exchange for the trading of securities, commonly known as the "Main Room" and the "Buttonwood Room," but does not include (i) the areas in the "Buttonwood Room" designated by the Exchange where NYSE American-listed options are traded, which, for the purposes of the Exchange's Rules, shall be referred to as the "NYSE American Options Trading Floor" or (ii) the physical area within fully enclosed telephone booths located in 18 Broad Street at the Southeast wall of the Trading Floor. *See* Rule 6A.

[15] *See* NYSE Rules 70 and 72.

allocations always accrue to their customers. All other national securities exchanges use a price-time allocation methodology. On an exchange with price-time allocation, the order resting on the book that arrived first will be executed in full before other orders at that same price are executed. In this way, a price-time allocation creates incentives for market participants to invest in technology and use the fastest telecommunication lines. While the Exchange does not contend there is anything wrong with price-time allocation, it believes that a parity allocation model serves as a choice to investors that are not driven by speed and that value the service an agency Floor broker can provide in managing order flow. The Exchange currently offers this choice for trading in its listed securities and is proposing to offer investors that same choice in other NMS securities.

Currently, the Exchange only trades securities listed on the Exchange. With Pillar, the Exchange proposes to expand its offering and introduce trading of UTP Securities.[16] Because trading in UTP Securities on the Exchange is designed to complement and be an extension of the current trading services it offers, customer orders in both Exchange-listed securities and UTP Securities entered by Floor brokers while on the Floor would have consistent allocation behavior. Accordingly, the Exchange proposes that trading in UTP Securities would be subject to a parity allocation model that is similar to the existing allocation model for Exchange-listed securities, with modifications described below.

Unlike the trading of listed securities on the Exchange, the Exchange would not conduct any auctions in UTP Securities.[17] Even though DMMs would not be assigned to UTP Securities, the Exchange proposes to offer point-of-sale trading of UTP Securities for Floor brokers on the Trading Floor for crossing transactions. Accordingly, member organizations that operate Floor broker operations would be able to

[16] The term "UTP Security" means a security that is listed on a national securities exchange other than the Exchange and that trades on the Exchange pursuant to unlisted trading privileges. *See* Rule 1.1(ii). The Exchange has authority to extend unlisted trading privileges to any security that is an NMS Stock that is listed on another national securities exchange or with respect to which unlisted trading privileges may otherwise be extended in accordance with Section 12(f) of the Act. *See* Rule 5.1(a)(1).

[17] The Exchange will continue to trade NYSE-listed securities on its current trading platform without any changes. The Exchange will transition trading in NYSE-listed securities to Pillar at a separate date, which will be the subject of separate proposed rule changes.

represent their customers' orders in UTP Securities under both current rules relating to manual transactions on the Trading Floor and proposed rules relating to trading on the Pillar trading platform. As with listed securities, member organizations approved as Supplemental Liquidity Providers would be eligible to be assigned UTP Securities.[18]

Member organizations trading UTP Securities would continue to be required to comply with Section 11(a)(1) of the Act, 15 U.S.C. 78k(a)(1), and any applicable exceptions thereto as are currently applicable to trading on the Exchange. As described below, trading by Floor brokers on the Trading Floor at the point of sale for UTP Securities, also referred to as "manual trading" or "manual transactions," would continue to be subject to current rules relating to such trading. In addition, all trading by Floor brokers in UTP Securities (whether manual or electronic transactions) on the Exchange would continue to be subject to rules that are unique to Floor brokers, including Rules 95 (Discretionary Transactions), 122 (Orders with More than One Broker), 123 (Record of Orders), and paragraphs (d)–(j) of Rule 134 and related Supplementary Material (requirement for Floor brokers to maintain an error account).

With the exception of specified point-of-sale trading for Floor brokers, trading in UTP Securities would be subject to the Pillar Platform Rules, as set forth in Rules 1P–13P.[19] With this proposed rule change, the Exchange proposes changes to Rule 7P Equities Trading that would govern such trading in UTP Securities. The proposed rules are based in part on the rules of NYSE Arca and NYSE American, with the following substantive differences:

• Consistent with the Exchange's current allocation model, trading in UTP Securities on the Exchange would be a parity allocation model with a setter priority allocation for the participant that sets the BBO.[20]

• The Exchange would not offer a Retail Liquidity Program and related order types (Retail Orders and Retail Price Improvement Orders) for UTP Securities.

[18] *See* Rule 107B, which the Exchange is proposing to amend, *see infra.*

[19] *See* Securities Exchange Act Release Nos. 76803 (December 30, 2015), 81 FR 536 (January 6, 2016) (SR–NYSE–2015–67) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change) ("Framework Filing"); and 80214 (March 10, 2017), 82 FR 14050 (March 16, 2017) (SR–NYSE–2016–44) (Approval Order) ("ETP Listing Rules Filing"). *See also* SR–NYSE–2017–35.

[20] The term "BBO" means the best bid or offer on the Exchange. *See* Rule 1.1(h).

• The Exchange would not conduct auctions in UTP Securities.

• The Exchange would offer two trading sessions, with the Early Trading Session beginning at 7:00 a.m. Eastern Time.

• The Exchange is not proposing to offer the full suite of order instructions and modifiers that are available on NYSE Arca and NYSE American.

Subject to rule approvals, the Exchange will announce the implementation of trading UTP Securities on the Pillar trading system by Trader Update, which the Exchange anticipates will be in the second quarter of 2018.

Applicability of Current Rules on Trading UTP Securities on Pillar

Once trading in UTP Securities on the Pillar trading platform begins, specified current Exchange trading rules would not be applicable for trading UTP Securities. As described in more detail below, for each current rule that would not be applicable for trading on the Pillar trading platform, the Exchange proposes to state in a preamble to such rule that ''this rule is not applicable to trading UTP Securities on the Pillar trading platform.'' Current Exchange rules governing equities trading that do not have this preamble will govern Exchange operations on Pillar.[21]

The Exchange proposes that current rules governing Floor-based crossing transactions would be applicable to trading in UTP Securities. As with crossing transactions for Exchange-listed securities, any such cross transactions must meet the requirements of current Rule 76. However, unlike trading in Exchange-listed securities, because UTP Securities would not be assigned to a trading post with a DMM, the trading crowd for such trading, *i.e.,* the point of sale, would be a physical location on the Trading Floor designated by the Exchange and staffed by an Exchange employee.

Because the Exchange proposes to provide for Floor crossing transactions in UTP Securities, Rules 74, 75, and 76, which relate to crossing transactions on the Floor and ancillary Floor-based requirements, would be applicable to trading UTP Securities. At this time, the Exchange would not make available for UTP Securities the cross function described in Supplementary Material .10 to Rule 76. Accordingly, the Exchange proposes to add a preamble to

Rule 76 that would provide that Supplementary Material .10 to that Rule would not be applicable to trading UTP Securities on the Pillar trading platform.

The Exchange also proposes to amend the existing preambles to Rules 128A, 128B, 130, 131, 132, and 135[22] to reflect that crossing transactions pursuant to Rule 76 would be subject to existing Exchange rules relating to publication of Floor-based transactions, corrections to the Tape, and clearing. The amended preambles to these rules would provide that ''except for manual transactions pursuant to Rule 76,'' such rules would not be applicable to trading UTP Securities on the Pillar trading platform.

Finally, the Exchange proposes to amend the preamble to Rule 134, which currently provides that such rule is not applicable to trading UTP Securities on the Pillar trading platform. Rule 134(a)–(c) relates to clearing of Floor-based transactions, and would be applicable to any manual transactions pursuant to Rule 76 in UTP Securities. Rule 134(d)–(j) separately requires a Floor broker to maintain an error account. Because Floor brokers would continue to be subject to Section 11(a)(1) of the Act for all trading in UTP Securities, the Exchange proposes that current Rules 134(d)–(j) would be applicable to all Floor broker trading of UTP Securities on the Exchange. To effect these two changes, the Exchange proposes that the preamble to Rule 134 would be amended to provide that: ''Except for manual transactions pursuant to Rule 76, paragraphs (a)–(c) of this Rule are not applicable to trading UTP Securities on the Pillar trading platform.''

Proposed Rule Changes

As noted above, with the exception of crossing transactions pursuant to Rule 76 and related rules, the Exchange proposes rules that would be applicable to trading UTP Securities on Pillar that are based on the rules of NYSE Arca and NYSE American. As a global matter, the Exchange proposes non-substantive differences as compared to the NYSE Arca rules to use the terms ''Exchange'' instead of the terms ''NYSE Arca Marketplace'' or ''NYSE Arca'' and to use the terms ''mean'' or ''have meaning'' instead of the terms ''shall mean'' or ''shall have the meaning.'' In addition, the Exchange will use the term ''member organization,'' which is defined in Rule 2, instead of the terms ''ETP Holder'' or ''User.''[23]

As previously established in the Framework Filing, Section 1 of Rule 7P sets forth the General Provisions relating to trading on the Pillar trading platform and Section 3 of Rule 7P sets forth Exchange Trading on the Pillar trading platform. In this filing, the Exchange proposes new Rules 7.10, 7.11, and 7.16 and to amend Rule 7.18 for Section 1 of Rule 7P and new Rules 7.31, 7.34, 7.36, 7.37, and 7.38 for Section 3 of Rule 7P. In addition, the Exchange proposes new Section 5 of Rule 7P to establish rules for the Plan to Implement a Tick Size Pilot Program, and proposes new Rule 7.46 in that section.

Below, the Exchange first describes proposed Rules 7.36 and 7.37, as these rules would establish the Exchange's Pillar rules governing order ranking and display and order execution and routing. Next, the Exchange describes proposed Rule 7.31, which would establish the orders and modifiers available for trading UTP Securities on Pillar. Finally, the Exchange describes proposed Rules 7.10, 7.11, 7.16, 7.34, 7.38, and 7.46 and amendments to Rule 7.18.

Proposed Rule 7.36

Proposed Rule 7.36 (Order Ranking and Display) would establish how orders in UTP Securities would be ranked and displayed on the Pillar trading platform. As described above, the Exchange proposes to extend its current allocation model to trading UTP Securities on Pillar, including the concept of ''setter interest,'' which the Exchange would define in proposed Rule 7.36 as ''Setter Priority.'' Except for the addition of Setter Priority, the Exchange proposes to use Pillar functionality for determining how orders would be ranked and displayed. Accordingly, proposed Rule 7.36 is based in part on NYSE Arca Rule 7.36–E and NYSE American Rule 7.36E, with substantive differences as described below.

Proposed Rule 7.36(a)–(g)

Proposed Rules 7.36(a)–(g) would establish rules defining terms that would be used in Rule 7P—Equities Trading and that describe the display and ranking of orders on the Exchange, including ranking based on price, priority category, and time. The proposed rule text is based on NYSE Arca Rule 7.36–E(a)–(g) and NYSE American Rule 7.36E(a)–(g) with the following substantive differences:

• Proposed Rule 7.36(a)(5) would add a definition of the term ''Participant,'' which is based on how the term ''individual participant'' is defined in current Rule 72(c)(ii), with non-

[21] *See* Securities Exchange Act Release No. 81225 (July 27, 2017), 82 FR 36033 (August 2, 2017) (SR–NYSE–2017–35) (Notice of filing to amend certain Exchange rules to add a preamble that such rules would not be applicable to trading UTP Securities on the Pillar trading platform).

[22] *See id.*

[23] Because these non-substantive differences would be applied throughout the proposed rules, the Exchange will not note these differences separately for each proposed rule.

substantive differences. The Exchange proposes that the term ''Participant'' would mean for purposes of parity allocation, a Floor broker trading license (each, a ''Floor Broker Participant'') or orders collectively represented in the Exchange Book that have not been entered by a Floor Broker Participant (''Book Participant'').[24] The Exchange proposes to use the term ''Floor broker trading license'' rather than ''each single Floor broker'' because pursuant to Rule 300 a trading license is required to effect transactions on the Floor of the Exchange or any facility thereof and a member organization designates natural persons to effect transactions on the Floor on its behalf. Accordingly, reference to a ''Floor broker trading license'' makes clear that the Floor broker participant is at the trading license level, rather than at the member organization level. The Exchange also proposes to use the term ''Exchange Book,'' which is a defined term, rather than referring more generally to ''Exchange systems.''

As described in greater detail below, the Exchange proposes that its existing parity allocation model would be available for all securities that trade on the Exchange. Because there would not be a DMM assigned to any UTP Securities, orders represented by individual Floor Brokers and the Book Participant would be eligible for a parity allocation for UTP Securities.

Because trading in UTP Securities is intended to be an extension of the Exchange's current Floor-based trading model, the Exchange proposes that Floor Broker Participant allocations for UTP Securities would be available only to Floor brokers that also engage in a Floor broker business in Exchange-listed securities. As further proposed, an order entered by a Floor broker would be eligible to be included in the Floor Broker Participant only if: (A) Such order is entered by a Floor broker while on the Trading Floor, which is an existing requirement; [25] and (B) such

order is not entered for the account of the member organization, the account of an associated person, or an account with respect to which the member, member organization, or an associated person exercises investment discretion, unless such order is entered pursuant to Rule 134(d)–(j), *i.e.,* the order is entered via the Floor broker's error account.

• Proposed Rule 7.36(a)(6) would add the definition of ''Aggressing Order'' to mean a buy (sell) order that is or becomes marketable against sell (buy) interest on the Exchange Book and that a resting order may become an Aggressing Order if its working price changes, if the PBBO or NBBO is updated, because of changes to other orders on the Exchange Book, or when processing inbound messages.[26] This proposed term would be used in proposed Rule 7.37, described below.

• Because all displayed Limit Orders would be displayed on an anonymous basis, the Exchange does not propose to include text based on the first clause of NYSE Arca Rule 7.36–E(b)(2) in proposed Rule 7.36(b)(2).

• Proposed Rule 7.36(c) regarding ranking would not include reference to price-time priority, as the Exchange's allocation model would not always be a price-time priority allocation, as described below. As further described below, the Exchange would rank orders consistent with proposed Rule 7.36(c).

• Proposed Rule 7.36(e) would establish three priority categories: Priority 1—Market Orders, Priority 2—Display Orders, and Priority 3—Non-Display Orders. The Exchange would not offer any additional priority categories for trading of UTP Securities.

In addition to these substantive differences, the Exchange proposes a non-substantive clarifying difference for proposed Rule 7.36(f)(1)(B) to add ''[o]ther than as provided for in Rule 7.38(b)(2),'' to make clear that the way in which a working time is assigned to an order that is partially routed to an Away Market and returns to the Exchange is addressed in both proposed Rule 7.36(f)(1)(B) and proposed Rule 7.38(b)(2). The Exchange also proposes non-substantive differences to proposed Rule 7.36(f)(2) and (3) to streamline the rule text.

Proposed Rule 7.36(h)—Setter Priority

Proposed Rule 7.36(h) would establish how Setter Priority would be assigned to an order and is based in part on current Rules 72(a) and (b). Rule 72(a)(ii) provides that when a bid or offer, including pegging interest is established as the only displayable bid or offer made at a particular price and such bid or offer is the only displayable interest when such price is or becomes the Exchange BBO (the ''setting interest''), such setting interest is entitled to priority for allocation of executions at that price as described in Rule 72. The rule further provides that:

• Odd-lot orders, including aggregated odd-lot orders that are displayable, are not eligible to be setting interest. (Rule 72(a)(ii)(A))

• If, at the time displayable interest of a round lot or greater becomes the Exchange BBO, there is other displayable interest of a round lot or greater, including aggregated odd-lot orders that are equal to or greater than a round lot, at the price that becomes the Exchange BBO, no interest is considered to be a setting interest, and, therefore, there is no priority established. (Rule 72(a)(ii)(B))

• If, at the time displayable interest of a round lot or greater becomes the Exchange BBO, there is other displayable interest the sum of which is less than a round lot, at the price that becomes the Exchange BBO, the displayable interest of a round lot or greater will be considered the only displayable bid or offer at that price point and is therefore established as the setting interest entitled to priority for allocation of executions at that price as described in this rule. (Rule 72(a)(ii)(C))

• If executions decrement the setting interest to an odd-lot size, a round lot or partial round lot order that joins such remaining odd-lot size order is not eligible to be the setting interest. (Rule 72(a)(ii)(D))

• If, as a result of cancellation, interest is or becomes the single displayable interest of a round lot or greater at the Exchange BBO, it becomes the setting interest. (Rule 72(a)(ii)(E))

• Only the portion of setting interest that is or has been published in the Exchange BBO is entitled to priority allocation of an execution. That portion of setting interest that is designated as reserve interest and therefore not displayed at the Exchange BBO (or not displayable if it becomes the Exchange BBO) is not eligible for priority allocation of an execution irrespective of the price of such reserve interest or the time it is accepted into Exchange systems. However, if, following an

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[24] As defined in Rule 1.1(a), the term ''Exchange Book'' refers to the Exchange's electronic file of orders, which contains all orders entered on the Exchange. Accordingly, all orders entered by Floor brokers in UTP Securities are included in the Exchange Book. The Exchange proposes to use the term ''Book Participant'' as continuity from its current rules, which refer to the Book Participant. *See* Rule 72(c)(ii).

[25] Rule 70(a)(i) requires a Floor broker to be in the ''Crowd'' in order to enter e-Quotes, which are eligible for a parity allocation. Rule 70.30 defines the term ''Crowd'' as the rooms on the Exchange Floor that contain active posts/panels where Floor brokers are able to conduct business and a Floor broker is considered to be in the Crowd if he or she is physically present in one of these room. Rule 6A defines the term ''Trading Floor'' to mean the restricted-access physical areas designated by the

Exchange for the trading of securities, commonly known as the ''Main Room'' and the ''Buttonwood Room.'' The terms ''Crowd'' and ''Trading Floor'' therefore refer to the same physical location.

[26] NYSE Arca and NYSE American have recently amended their rules to add this definition of ''Aggressing Order.'' *See* Securities Exchange Act Release Nos. 82447 (January 5, 2018), 83 FR 1442 (January 11, 2018) (SR–NYSEAmer–2017–40) and 82504 (January 16, 2018), 83 FR 3038 (January 22, 2018) (SR–NYSEArca–2018–02) [sic].

execution of part or all of setting interest, such setting interest is replenished from any reserve interest, the replenished volume of such setting interest shall be entitled to priority if the setting interest is still the only interest at the Exchange BBO. (Rule 72(a)(ii)(F))

• If interest becomes the Exchange BBO, it will be considered the setting interest even if pegging interest, Limit Orders designated ALO, or sell short orders during a Short Sale Period under Rule 440B(e) are re-priced and displayed at the same price as such interest, and it will retain its priority even if subsequently joined at that price by re-priced interest. (Rule 72(a)(ii)(G))

Rule 72(b)(i) provides that once priority is established by setting interest, such setting interest retains that priority for any execution at that price when that price is at the Exchange BBO and if executions decrement the setting interest to an odd-lot size, such remaining portion of the setting interest retains its priority for any execution at that price when that price is the Exchange BBO. Rule 72(b)(ii) further provides that for any execution of setting interest that occurs when the price of the setting interest is not the Exchange BBO, the setting interest does not have priority and is executed on parity. Finally, Rule 73(b)(ii) provides that priority of setting interest will not be retained after the close of trading on the Exchange or following the resumption of trading in a security after a trading halt in such security has been invoked pursuant to Rule 123D or following the resumption of trading after a trading halt invoked pursuant to the provisions of Rule 80B. In addition, priority of the setting interest is not retained on any portion of the priority interest that is routed to an away market and is returned unexecuted unless such priority interest is greater than a round lot and the only other interest at the price point is odd-lot orders, the sum of which is less than a round lot.

Proposed Rule 7.36(h) would use Pillar terminology to establish ''Setter Priority,'' which would function similarly to setting interest under Rule 72. The Exchange proposes the following substantive differences to how Setter Priority would be assigned and retained on Pillar:

• To be eligible for Setter Priority, an order would have to establish not only the BBO, but also either join an Away Market NBBO or establish the NBBO. The Exchange believes that requiring an order to either join or establish an NBBO before it is eligible for Setter Priority would encourage the display of aggressive liquidity on the Exchange.

• A resting order would not be eligible to be assigned Setter Priority simply because it is the only interest at that price when it becomes the BBO (either because of a cancellation of other interest at that price or because a resting order that is priced worse than the BBO becomes the BBO). The Exchange believes that the benefit of Setter Priority should be for orders that are aggressively seeking to improve the BBO, rather than for passive orders that become the BBO.

• The replenished portion of a Reserve Order would not be eligible for Setter Priority. The Exchange believes that Setter Priority should be assigned to interest willing to be displayed, and because the reserve interest would not be displayed on arrival, it would not be eligible for Setter Priority.

• Orders that are routed and returned unexecuted would be eligible for Setter Priority consistent with the proposed rules regarding the working time assigned to the returned quantity of an order. As described in greater detail below, if such orders meet the requirements to be eligible for Setter Priority, *e.g.,* establish the BBO and either join or establish the NBBO, they would be evaluated for Setter Priority.

Proposed Rule 7.36(h) would provide that Setter Priority would be assigned to an order ranked Priority 2—Display Orders with a display quantity of at least a round lot if such order (i) establishes a new BBO and (ii) either establishes a new NBBO or joins an Away Market NBBO. The rule would further provide that only one order is eligible for Setter Priority at each price. This proposed rule text is based in part on Rule 72(a)(ii), 72(a)(ii)(A), 72(a)(ii)(B), 72(a)(ii)(C), subject to the substantive differences described above.[27]

Proposed Rule 7.36(h)(1) would set forth when an order would be evaluated for Setter Priority. As noted above, the Exchange proposes a substantive difference from current Rule 72(a)(ii) in that a resting order would not be eligible to be assigned Setter Priority simply because it is the only interest at that price when it becomes the BBO.

• Proposed Rule 7.36(h)(1)(A) would provide that an order would be evaluated for Setter Priority on arrival, which would include when any portion of an order that has routed returns unexecuted and is added to the

Exchange Book. Pursuant to proposed Rule 7.37(a)(1), described below, an order that is routed on arrival to an Away Market would not be assigned a working time. Proposed Rule 7.36(f) provides that an order would not be assigned a working time until it is placed on the Exchange Book. As such, an order that has returned after routing would be processed similarly to a newly arriving order. Therefore, the Exchange believes that an order should be evaluated for Setter Priority when it returns from an Away Market unexecuted in the same way as evaluating an order for Setter Priority on arrival.

When evaluating Setter Priority for an order that has returned from an Away Market unexecuted, the Exchange would assess whether such order meets the requirements of proposed Rule 7.36(h), which is based in part on the second sentence of Rule 72(b)(iii). The Exchange proposes that for Pillar, an order that was routed to an Away Market and returned unexecuted would be evaluated for Setter Priority based on how a working time would be assigned to the returned quantity of the routed order, as described in proposed Rules 7.16(f)(5)(H), 7.36(f)(1)(A) and (B), and 7.38(b)(2).

○ Proposed Rule 7.16(f)(5)(H) provides that if a Short Sale Price Test, as defined in that rule, is triggered after an order has routed, any returned quantity of the order and the order it joins on the Exchange Book would be adjusted to a Permitted Price.[28] In such case, the returned quantity and the resting quantity that would be re-priced to a Permitted Price would be a single order and the Exchange would evaluate such order for Setter Priority. If such order would set a new BO and either join or establish a new NBO, it would be assigned Setter Priority. For example, if the Exchange receives a sell short order of 200 shares ranked Priority 2— Display Orders, routes 100 shares (''A'') of such order and adds 100 shares (''B'') of such order to the Exchange Book, ''B'' would be displayed at the price of the sell short order. If an Away Market NBB locks the price of ''B'' and then a Short Sale Price Test is triggered, ''B'' would remain displayed at the price of the NBB.[29] If subsequently, ''A'' returns unexecuted, pursuant to proposed Rule

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[27] Because of the proposed substantive differences, the Exchange is not proposing rules based on current Rules 72(a)(ii)(D) and (E). In addition, when an order is considered displayed on Pillar would be addressed in proposed Rule 7.36(b)(1). Accordingly, the Exchange is not proposing rule text based on Rule 72(a)(i).

[28] Pursuant to proposed Rule 7.16(f)(5)(A), described below, during a Short Sale Period, as defined in that rule, short sale orders with a working price and/or a display price equal to or lower than the NBB will have the working price and/or display price adjusted one minimum price increment above the current NBB, which is the ''Permitted Price.''

[29] *See* proposed Rule 7.16(f)(6).

7.16(f)(5)(H), "A" and "B" would be considered a single order and would be re-priced to a Permitted Price, at which point the order would be evaluated for Setter Priority.

○ Proposed Rule 7.36(f)(1)(A) provides that an order that is fully routed to an Away Market would not be assigned a working time unless and until any unexecuted portion of the order returns to the Exchange Book. As proposed, if the Exchange routes an entire order and a portion returns unexecuted, the Exchange would evaluate the returned quantity for Setter Priority as if it were a newly arriving order. For example, if less than a round lot returns unexecuted, the returned quantity would not be eligible for Setter Priority. If at least a round lot returns unexecuted, establishes a new BBO, and either joins or establishes the NBBO, it would be eligible for Setter Priority.

○ Proposed Rule 7.36(f)(1)(B) provides that (except as provided for in proposed Rule 7.38(b)(2)), if an order is partially routed to an Away Market on arrival, the portion that is not routed would be assigned a working time and any portion of the order returning unexecuted would be assigned the same working time as any remaining portion of the original order resting on the Exchange Book and would be considered the same order as the resting order. In such case, if the resting portion of the order has Setter Priority, the returned portion would also have Setter Priority.

For example, if the Exchange receives a 200 share order ranked Priority 2—Display Orders, routes 100 shares ("C") of such order and adds 100 shares ("D") of such order to the Exchange Book, which establishes the BBO and joined the NBBO, "D" would be assigned Setter Priority. If "D" is partially executed and decremented to 50 shares and another order "E" for 100 shares joins "D" at its price, pursuant to proposed Rules 7.36(h)(2)(A) and (B), described below, "D" would retain Setter Priority. If "C" returns unexecuted, it would join the working time of "D" pursuant to proposed Rule 7.36(f)(1)(B), "C" and "D" would be considered a single order, and "C" would therefore also receive Setter Priority.

○ Proposed Rule 7.38(b)(2) provides that for an order that is partially routed to an Away Market on arrival, if any returned quantity of such order joins resting odd-lot quantity of the original order and the returned and resting quantity, either alone or together with other odd-lot orders, would be displayed as a new BBO, both the returned and resting quantity would be

assigned a new working time. In such case, the returned quantity and the resting odd-lot quantity together would be a single order and would be evaluated for Setter Priority.

For example, if the Exchange receives an order for 100 shares, routes 50 shares ("E") of such order and the remaining 50 shares ("F") of such order are added to the Exchange Book, pursuant to proposed Rule 7.36(f)(1)(B), "F" would be assigned a working time when it is added to the Exchange Book. If "E" returns unexecuted, and "E" and "F" together would establish a new BBO at that price, pursuant to proposed Rule 7.38(b)(2), "F" would be assigned a new working time to join the working time of "E," and "E" and "F" would be considered a single order. If the returned quantity together with the resting quantity establishes the BBO pursuant to proposed Rule 7.38(b)(2), the order would be eligible to be evaluated for Setter Priority.

• Proposed Rule 7.36(h)(1)(B) would provide that an order would be evaluated for Setter Priority when it becomes eligible to trade for the first time upon transitioning to a new trading session. When an order becomes eligible to trade upon a trading session transition, it is treated as if it were a newly arriving order. Accordingly, the Exchange believes it would be consistent with its proposal to evaluate arriving orders for Setter Priority to also evaluate orders that become eligible to trade upon a trading session transition for Setter Priority. For example, pursuant to proposed Rule 7.34(c)(1), described below, the Exchange would accept Primary Pegged Orders during the Early Trading Session, however, such orders would not be eligible to trade until the Core Trading Session begins. In such case, a Primary Pegged Order would be evaluated for Setter Priority when it becomes eligible to trade in the Core Trading Session.

Proposed Rule 7.36(h)(2) would establish when an order retains its Setter Priority, as follows:

• If it is decremented to any size because it has either traded or been partially cancelled (proposed Rule 7.36(h)(2)(A)). This proposed rule is based on Rule 72(b)(i), with non-substantive differences to use Pillar terminology.

• if it is joined at that price by a resting order that is re-priced and assigned a display price equal to the display price of the order with Setter Priority (proposed Rule 7.36(h)(2)(B)). This proposed rule is based on Rule 72(a)(ii)(G), with non-substantive differences to use Pillar terminology.

• if the BBO or NBBO changes (proposed Rule 7.36(h)(2)(C)). This proposed rule, together with proposed Rule 7.37(b)(1)(B), described below, is based on Rule 72(b)(ii), with non-substantive differences to use Pillar terminology. Specifically, once an order has been assigned Setter Priority, it has that status so long as it is on the Exchange Book, subject to proposed Rule 7.36(h)(3), described below, regardless of the BBO or NBBO. However, as described in proposed Rule 7.37(b)(1)(B), it would only be eligible for a Setter Priority allocation if it is executed when it is the BBO.

• if the order marking changes from (A) sell to sell short, (B) sell to sell short exempt, (C) sell short to sell, (D) sell short to sell short exempt, (E) sell short exempt to sell, and (F) sell short exempt to sell short (proposed Rule 7.36(h)(2)(D)). This proposed rule text is consistent with proposed Rule 7.36(f)(4) because if an order retains its working time, the Exchange believes it should also retain its Setter Priority status.

• when transitioning from one trading session to another (proposed Rule 7.36(h)(2)(E)). This text would be new because, with Pillar, the Exchange would be introducing an Early Trading Session. The Exchange believes that if an order entered during the Early Trading Session is assigned Setter Priority, it should retain that status in the Core Trading Session.

Proposed Rule 7.36(h)(3) would establish when an order would lose Setter Priority, as follows:

• If trading in the security is halted, suspended, or paused (proposed Rule 7.36(h)(3)(A)). This proposed rule is based on the first sentence of current Rule 72(b)(iii), with non-substantive differences to use Pillar terminology. In addition, because all orders expire at the end of the trading day, the Exchange believes that the current rule text providing that setting interest would not be retained after the close of trading on the Exchange would not be necessary for Pillar.

• if such order is assigned a new display price (proposed Rule 7.36(h)(3)(B)). The Exchange believes that if an order has Setter Priority at a price, and then is assigned a new display price, it should not retain the Setter Priority status that was associated with its original display price.

• if such order is less than a round lot and is assigned a new working time pursuant to proposed Rule 7.38(b)(2). As discussed above, pursuant to proposed Rule 7.38(b)(2) the resting odd-lot portion of an order would be assigned a new working time if the returned quantity of that order, together with the

resting portion, would establish a new BBO. In such case, if the resting quantity had Setter Priority status, it would lose that status, and would be re-evaluated for Setter Priority at its new working time.

For example, if the Exchange receives an order for 200 shares ranked Priority 2—Display Orders, routes 100 shares (''G'') of such order, and the remaining 100 shares (''H'') of such order are added to the Exchange Book and assigned Setter Priority, ''H'' would retain Setter Priority even if it is partially executed and the remaining portion of ''H'' is less than a round lot. If ''G'' returns unexecuted and ''G'' and ''H'' together would establish a new BBO at that price, pursuant to proposed Rule 7.38(b)(2), ''H'' would be assigned a new working time to join the working time of ''G,'' and ''G'' and ''H'' would be considered a single order. When ''H'' is assigned a new working time, it would lose its Setter Priority status. Even though ''G'' and ''H'' would establish the BBO, if that order does not also join or establish an NBBO, it would not be assigned Setter Priority. In this scenario, ''H'' would have lost its Setter Priority. The Exchange believes it is appropriate to re-evaluate such order for Setter Priority because it is being assigned a new working time together with the returned quantity of the order.

Proposed Rule 7.36(h)(4) would establish when Setter Priority is not available, as follows:

• For any portion of an order that is ranked Priority 3—Non-Display Orders (proposed Rule 7.36(h)(4)(A)). This proposed rule text is based on the second sentence of Rule 72(a)(ii)(F), with non-substantive differences to use Pillar terminology.

• when the reserve quantity replenishes the display quantity of a Reserve Order (proposed Rule 7.36(h)(4)(B)). This proposed rule text would be new and would be a substantive difference, described above, as compared to the third sentence of Rule 72(a)(ii)(F).

Because proposed Rule 7.36 would address the display and working time of orders and Setter Priority, the Exchange proposes that Rules 72(a), (b), and (c)(xii) would not be applicable to trading UTP Securities on the Pillar trading platform.

Proposed Rule 7.37

Proposed Rule 7.37 (Order Execution and Routing) would establish rules governing order execution and routing on the Pillar trading platform. As described above, the Exchange proposes to retain its parity allocation model, which the Exchange would set forth in

proposed Rule 7.37(b). Except for the addition of parity allocation, the Exchange proposes to use Pillar functionality for determining how orders would be executed and routed. Accordingly, the proposed rule is based in part on NYSE Arca Rule 7.37–E and NYSE American Rule 7.37E, with substantive differences as described below.

Proposed Rules 7.37(a), (c)–(g)

Proposed Rules 7.37(a) and paragraphs (c)–(d) would establish rules regarding order execution, routing, use of data feeds, locking or crossing quotations in NMS Stocks, and exceptions to the Order Protection Rule. The proposed rule text is based on NYSE Arca Rule 7.37–E(a)–(f) and NYSE American Rule 7.37E(a)–(f) with the following substantive differences: [30]

• Proposed Rule 7.37(a) would use the proposed new term ''Aggressing Order'' rather than the term ''incoming marketable order'' to refer to orders that would be matched for execution. In addition, because the Exchange would not use a price-time priority allocation for all orders, the Exchange proposes to specify that orders would be matched for execution as provided for in proposed Rule 7.37(b).

• As discussed below, the Exchange would not offer all order types that are available on NYSE Arca and NYSE American. Accordingly, proposed Rule 7.37(a)(4) would not include a reference to Inside Limit Orders.

• Similar to NYSE American, because the Exchange would not be taking in data feeds from broker-dealers or routing to Away Markets that are not displaying protected quotations, the Exchange proposes that proposed Rule 7.37 would not include rule text from paragraph (b)(3) of NYSE Arca Rule 7.37–E, which specifies that an ETP Holder can opt out of routing to Away Markets that are not displaying a protected quotation, *i.e.,* broker dealers, or paragraph (d)(1) of NYSE Arca Rule 7.37–E, which specifies that NYSE Arca receives data feeds directly from broker dealers.

• As discussed in greater detail below, because the Exchange would not offer all orders available on NYSE Arca and NYSE American, including orders based on NYSE Arca Rule 7.31–E(f) that are orders with specific routing instructions, the Exchange proposes that proposed Rules 7.37(c)(5) and (c)(7)(B) would not include reference to orders

that are designated to route to the primary listing market. Similarly, the Exchange would not include rule text based on NYSE Arca Rule 7.37–E(b)(7)(C) and NYSE American Rule 7.37E(b)(7)(C).

• The Exchange proposes a non-substantive difference to update the chart in proposed Rule 7.37(e) to reflect the amended names of market centers.

Proposed Rule 7.37(b)—Allocation

Proposed Rule 7.37(b) would set forth how an Aggressing Order would be allocated against contra-side orders and is based in part on current Rule 72(c). The Exchange proposes that its existing parity allocation model, modified as described below, would be applicable to UTP Securities. Like the Exchange's existing parity allocation model for NYSE-listed securities, the proposed parity allocation model for UTP Securities would provide customers with choices. The Exchange's parity allocation model provides customers that do not have latency sensitive strategies or who value intermediation by a trusted agent with an alternative to the price-time priority model offered by other exchanges: Such customers can use a Floor broker and be allocated trades based on parity, as described below. Those customers with latency sensitive strategies or who prefer un-intermediated access can choose to send orders electronically and would be allocated trades as part of the Book Participant. Irrespective of whether the customer chooses to use a Floor broker or enter their interest electronically via the Book Participant, a customer assigned Setter Priority by setting the BBO would receive the first 15% of an allocation.

While there would be no DMMs assigned to UTP Securities, as noted above, the Exchange would require that for an order to be eligible to be included in the Floor Broker Participant, such order must be entered by a Floor broker while on the Trading Floor and only if such Floor broker also engages in a Floor broker business in Exchange-listed securities. In addition, to be eligible to be included in the Floor Broker Participant, orders must be entered on an agency basis (unless trading out of the Floor broker's error account pursuant to Rule 134). As a result, in contrast to off-Floor agency broker-dealers, Floor brokers would not be permitted to trade for their own accounts while on the Trading Floor, including principal trading on behalf of customers. The result of any allocation to an individual Floor broker would therefore always accrue to the customer. In addition, when trading UTP

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[30] Because proposed Rule 7.37(b) would establish parity allocation, proposed Rule 7.37(c)–(g) would be based on NYSE Arca Rules 7.37–E(b)–(f) and NYSE American Rules 7.37E(b)–(f).

Securities, Floor brokers would continue to be subject to current rules that are applicable only to Floor brokers, including Rules 95, 122, 123, and paragraphs (d)–(j) of Rule 134.

The Exchange proposes to use Pillar terminology to describe allocations and proposes the following substantive differences to how allocations are processed under Rule 72(c):

• Mid-point Liquidity Orders (''MPL'') with a Minimum Trade Size (''MTS''), which are not currently available on the Exchange, would be allocated based on MTS size (smallest to largest) and time.

• The Exchange would maintain separate allocation wheels on each side of the market for displayed and non-displayed orders at each price. Currently, the Exchange maintains a single allocation wheel for each security.[31]

• An allocation to a Floor Broker Participant would be allocated to orders represented by that Floor Broker on parity.

• If resting orders on one side of the Exchange Book are repriced such that they become marketable against orders on the other side of the Exchange Book, they would trade as Aggressing Orders based on their ranking pursuant to proposed Rule 7.36(c).

• If resting orders on both side of the Exchange Book are repriced such that they become marketable against each other, *e.g.,* a crossed PBBO becomes uncrossed and orders priced based on the PBBO are repriced, the Exchange would determine which order is the Aggressing Order based on its ranking pursuant to Rule 7.36(c).

• Because there would not be any DMMs assigned to UTP Securities, the proposed rule would not reference DMM allocations.

Proposed Rule 7.37(b)(1) would set forth that at each price, an Aggressing Order would be allocated against contra-side orders as follows:

• Proposed Rule 7.37(b)(1)(A) would provide that orders ranked Priority 1—Market Orders would trade first based on time. This proposed rule is based on the first sentence of Rule 72(c)(i) with non-substantive differences to use Pillar terminology.

• Proposed Rule 7.37(b)(1)(B) would provide that next, an order with Setter Priority that has a display price and working price equal to the BBO would receive 15% of the remaining quantity of the Aggressing Order, rounded up to the next round lot size or the remaining displayed quantity of the order with Setter Priority, whichever is lower. The

rule would further provide that an order with Setter Priority is eligible for allocation under proposed Rule 7.37(b)(1)(B) if the BBO is no longer the same as the NBBO. This proposed rule text is based on Rules 72(b)(ii) and 72(c)(iii) with non-substantive differences to use Pillar terminology. Although the Exchange is using different rule text, the quantity of an Aggressing Order that would be allocated to an order with Setter Priority would be the same under both current rules and the proposed Pillar rule.

• Proposed Rule 7.37(b)(1)(C) would provide that next, orders ranked Priority 2—Displayed Orders would be allocated on parity by Participant and that any remaining quantity of an order with Setter Priority would be eligible to participate in this parity allocation, consistent with the allocation wheel position of the Participant that entered the order with Setter Priority. This proposed rule text is based on Rules 72(c)(i), (iv), (vi), and (ix) with non-substantive differences to use Pillar terminology.

• Proposed Rule 7.37(b)(1)(D) would provide that next, orders ranked Priority 3—Non-Display Orders, other than MPL Orders with an MTS, would be allocated on parity by Participant. This proposed rule text is based on Rules 72(c)(i), (iv), (vi), and (ix) with non-substantive differences to use Pillar terminology and a substantive difference not to include MPL Orders with an MTS in the parity allocation of resting non-displayed orders.

• Proposed Rule 7.37(b)(1)(E) would provide that MPL Orders with an MTS would be allocated based on MTS size (smallest to largest) and time. Because MPL Orders with an MTS would be a new offering on the Exchange, this proposed rule text is new. With an MTS instruction, an [sic] member organization is instructing the Exchange that it does not want an execution of its order if the MTS cannot be met. Accordingly, an MPL Order with an MTS is willing to be skipped if such instruction cannot be met. The Exchange proposes to separate MPL Orders with an MTS from the parity allocation of Priority 3—Non-Display Orders because with a parity allocation, an MTS instruction would not be guaranteed. In order to honor the MTS instruction of the resting MPL Order, the Exchange proposes to allocate these orders after all other Priority 3—Non-Display Orders have been allocated on parity. The Exchange believes that this proposed allocation priority would be consistent with the MTS instruction in that such orders are willing to be skipped in order to have the MTS met.

Proposed Rule 7.37(b)(2) would establish the allocation wheel for parity allocations. The proposed rule would be new for Pillar and would establish that at each price on each side of the market, the Exchange would maintain an ''allocation wheel'' of Participants with orders ranked Priority 2—Display Orders and a separate allocation wheel of Participants with orders ranked Priority 3—Non-Display Orders. The rule further describes how the position of an order on an allocation wheel would be determined, as follows:

• Proposed Rule 7.37(b)(2)(A) would provide that the Participant that enters the first order in a priority category at a price would establish the first position on the applicable allocation wheel for that price. The rule would further provide that if an allocation wheel no longer has any orders at a price, the next Participant to enter an order at that price would establish a new allocation wheel. This proposed rule is based in part on the first sentence of Rule 72(c)(viii)(A), with both non-substantive differences to use Pillar terminology and substantive differences because the Exchange would maintain separate allocation wheels at each price point, rather than a single allocation wheel for a security. Accordingly, an allocation wheel at a price point could be re-established throughout the trading day.

• Proposed Rule 7.37(b)(2)(B) would provide that additional Participants would be added to an allocation wheel based on time of entry of the first order entered by a Participant. This proposed rule is based in part on the second sentence of Rule 72(c)(viii)(A) with non-substantive differences to use Pillar terminology.

• Proposed Rule 7.37(b)(2)(C) would provide that once a Participant has established a position on an allocation wheel at a price, any additional orders from that Participant at the same price would join that position on an allocation wheel. This proposed rule uses Pillar terminology to describe current functionality.

• Proposed Rule 7.37(b)(2)(D) would provide that if an order receives a new working time or is cancelled and replaced at the same working price, a Participant that entered such order would be moved to the last position on an allocation wheel if, that Participant has no other orders at that price. This proposed rule is based in part on the last sentence of Rule 72(c)(viii)(A) with non-substantive differences to use Pillar terminology.

• Proposed Rule 7.37(b)(2)(E) would provide that a Participant would be removed from an allocation wheel if (i) all orders from that Participant at that

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[31] *See* Rule 72(c)(viii)(A).

price are executed or cancelled in full, (ii) the working price of an order changes and that Participant has no other orders at that price, or (iii) the priority category of the order changes and that Participant has no other orders at that price. This proposed rule would be new functionality associated with the substantive difference of having separate allocation wheels at each price point.

• Proposed Rule 7.37(b)(2)(F) would provide that if multiple orders are assigned new working prices at the same time, the Participants representing those orders would be added to an allocation wheel at the new working price in time sequence relative to one another. This proposed rule would be new functionality associated with the substantive difference of having separate allocation wheels at each price point.

Proposed Rule 7.37(b)(3) would set forth the parity pointer associated with the allocation wheel. As proposed, if there is more than one Participant on an allocation wheel, the Exchange would maintain a "pointer" that would identify which Participant would be next to be evaluated for a parity allocation and that the Participant with the pointer would be considered the first position. This proposed rule is based in part on the Parity Example 1 described in Rule 72(c)(viii)(A) and Rule 72(c)(viii)(B), with non-substantive differences to use Pillar terminology. The rule would further provide that the Setter Priority allocation described in proposed Rule 7.37(b)(1)(B) would not move the pointer, which is based on the second sentence of Rule 72(c)(iv) with non-substantive differences to use Pillar terminology.

Proposed Rule 7.37(b)(4) would set forth how an Aggressing Order would be allocated on parity. As proposed, an Aggressing Order would be allocated by round lots. The Participant with the pointer would be allocated a round lot and then the pointer would advance to the next Participant. The pointer would continue to advance on an allocation wheel until the Aggressing Order is fully allocated or all Participants in that priority category are exhausted. This proposed rule is based on Rule 72(c)(viii), sub-paragraphs (A)–(C) of that Rule, and Parity Examples 1 through 4, with non-substantive differences to use Pillar terminology. Rather than include examples in the proposed rule, the Exchange believes that the Pillar terminology streamlines the description of parity allocations in a manner that obviates the need for examples, as follows:

• Proposed Rule 7.37(b)(4)(A) would provide that not all Participants on an allocation wheel would be guaranteed to receive an allocation. The size of an allocation to a Participant would be based on which Participant had the pointer at the beginning of the allocation, the size of the Aggressing Order, the number of Participants in the allocation, and the size of the orders entered by Participants. The Exchange believes that this proposed rule makes clear that while the parity allocation seeks to evenly allocate an Aggressing Order, an even allocation may not be feasible and would be dependent on multiple variables.

For example, if there are three Participants on an allocation wheel, "A," "B," and "C," each representing 200 shares and "A" has the pointer, an Aggressing Order of 450 shares would be allocated as follows: "A" would be allocated 100 shares, "B" would be allocated 100 shares, "C" would be allocated 100 shares, "A" would be allocated 100 shares, and "B" would be allocated 50 shares. In this example, an uneven allocation would result because the Aggressing Order cannot be evenly divided by round lots among the Participants and the allocation sizes would be dependent on which Participant has the pointer at the beginning of the allocation. Accordingly, "A" would be allocated a total of 200 shares, "B" would be allocated a total of 150 shares, and "C" would be allocated a total of 100 shares.

• Proposed Rule 7.37(b)(4)(B) would provide that if the last Participant to receive an allocation is allocated an odd lot, the pointer would stay with that Participant. The Exchange proposes that the pointer would advance only after a round-lot allocation. If the last allocation is an odd-lot, the pointer would stay with that Participant. For example, continuing with the example above where "B" received an allocation of 150 shares because the last allocation was 50 shares, the pointer would remain with "B" for the next allocation at that price. By contrast, if the last Participant receives a round-lot allocation of an Aggressing Order, the pointer would advance to the next Participant for the next allocation at that price.

• Proposed Rule 7.37(b)(4)(C) would provide that if the Aggressing Order is an odd lot, the Participant with the pointer would be allocated the full quantity of the order, unless that Participant does not have an order that could satisfy the Aggressing Order in full, in which case, the pointer would move to the next Participant on an allocation wheel. This proposed rule uses Pillar terminology to describe how

an odd-lot sized Aggressing Order would be allocated.

• Proposed Rule 7.37(b)(4)(D) would provide that a Participant that has an order or orders equaling less than a round lot would be eligible for a parity allocation up to the size of the order(s) represented by that Participant. This proposed rule is based in part on Rule 72(c)(viii)(B) with non-substantive differences to use Pillar terminology.

Proposed Rule 7.37(b)(5) would provide that an allocation to the Book Participant would be allocated to orders that comprise the Book Participant by working time. This proposed rule is based on the second sentence of Rule 72(c)(ii) with non-substantive differences to use Pillar terminology.

Proposed Rule 7.37(b)(6) would provide that an allocation to a Floor Broker Participant, which would be defined as a "Floor Broker Allocation," would be allocated to orders with unique working times that comprise the Floor Broker Participant, which would be defined as "Floor Broker Orders," on parity. In other words, any allocation to an individual Floor Broker Participant at a price would be further allocated among multiple orders that may be represented by that Floor broker. The proposed reference to "unique working times" would refer to orders that have multiple working times. For example, pursuant to proposed Rule 7.31(d)(1)(B), each time a Reserve Order is replenished from reserve interest, a new working time would be assigned to the replenished quantity of the Reserve Order, while the reserve interest would retain the working time of original order entry. As a result, the display quantity of a Reserve Order may be represented by multiple orders with unique working times representing each replenishment. For purposes of the Floor Broker Allocation, each quantity with a unique working time would be considered a separate order.

As further proposed, the parity allocation within a Floor Broker Allocation would be processed as described in proposed Rule 7.37(b)(2)–(4) with the Floor Broker Allocation processed as the "Aggressing Order" and each Floor Broker Order processed as a "Participant." Because a Floor Broker Participant may represent multiple orders, the Exchange believes that allocating the Floor Broker Allocation on parity would be consistent with the Exchange's allocation model, which provides for a parity allocation to Floor brokers. For example, if an Aggressing Order is allocated 200 shares to Floor Broker Participant "X," which would be the Floor Broker Allocation, and "X"

represents three Floor Broker Orders, "A," "B," and "C" for 100 shares each at a price and the parity pointer is on "B," pursuant to proposed Rule 7.37(b)(6), the Floor Broker Allocation would be allocated 100 shares to "B" and 100 shares to "C" and "A" would not receive an allocation.

Proposed Rule 7.37(b)(8) would provide that if resting orders on one side of the market are repriced and become marketable against contra-side orders on the Exchange Book, the Exchange would rank the re-priced orders as described in proposed Rule 7.36(c) and trade them as Aggressing Orders consistent with their ranking.[32] This proposed functionality would be new for Pillar.

Proposed Rule 7.37(b)(9) would provide that if resting orders on both sides of the market are repriced and become marketable against one another, the Exchange would rank the orders on each side of the market as described in Rule 7.36(c) and trade them as follows:

• The best-ranked order would establish the price at which the marketable orders will trade, provided that if the marketable orders include MPL orders, orders would trade at the midpoint of the PBBO (proposed Rule 7.37(b)(9)(A)).

• The next best-ranked order would trade as the Aggressing Order with contra-side orders at that price pursuant to proposed Rule 7.37(b)(1) (proposed Rule 7.37(b)(9)(B)).

• When an Aggressing Order is fully executed, the next-best ranked order would trade as the Aggressing Order with contra-side orders at that price pursuant to proposed Rule 7.37(b)(1) (proposed Rule 7.37(b)(9)(C)).

• Orders on both sides of the market would continue to trade as the Aggressing Order until all marketable orders are executed (proposed Rule 7.37(b)(9)(D)).

Because proposed Rule 7.37 would address order execution and routing, including parity allocations, locking and crossing, and the Order Protection Rule, the Exchange proposes that Rules 15A, 19, 72(c), 1000, 1001, 1002, and 1004 would not be applicable to trading UTP Securities on the Pillar trading platform.[33]

Proposed Rule 7.31

Proposed Rule 7.31 (Orders and Modifiers) would establish the orders

and modifiers that would be available on the Exchange for trading UTP Securities on the Pillar trading platform. The Exchange proposes to offer a subset of the orders and modifiers that are available on NYSE Arca and NYSE American, with specified substantive differences, as described below.

• Proposed Rule 7.31(a) would establish the Exchange's proposed Primary Order Types. The Exchange would offer Market Orders, which would be described in proposed Rule 7.31(a)(1), and Limit Orders, which would be described in proposed Rule 7.31(a)(2). These proposed rules are based on NYSE Arca Rule 7.31–E(a)(1) and (2) with one substantive difference. Because the Exchange would not be conducting auctions for UTP Securities and because, as described below, with the exception of Primary Pegged Orders, Limit Orders entered before the Core Trading Session would be deemed designated for both the Early Trading Session and the Core Trading Session, the Exchange proposes not to include the following text in proposed Rule 7.31(a)(2)(B): "A Limit Order entered before the Core Trading Session that is designated for the Core Trading Session only will become subject to Limit Order Price Protection after the Core Open Auction." Instead, the Exchange proposes to provide that a Limit Order entered before the Core Trading Session that becomes eligible to trade in the Core Trading Session would become subject to the Limit Order Price Protection when the Core Trading Session begins. Accordingly, Primary Pegged Orders entered before the Core Trading Session begins would not be subject to Limit Order Price Protection until the Core Trading Session begins.

• Proposed Rule 7.31(b) would establish the proposed time-in-force modifiers available for UTP Securities on the Pillar trading platform. The Exchange would offer both Day and Immediate-or-Cancel ("IOC") time-in-force modifiers. The rule text is based on NYSE American Rule 7.31E(b) without any substantive differences.

• Proposed Rule 7.31(c) would establish the Exchange's Auction-Only Orders. Because the Exchange would not be conducting auctions in UTP Securities, the Exchange would route all Auction-Only Orders in UTP Securities to the primary listing market, as described in greater detail below in proposed Rule 7.34. To reflect this functionality, proposed Rule 7.31(c) would provide that an Auction-Only Order is a Limit or Market Order that is only to be routed pursuant to Rule 7.34. Proposed Rules 7.31(c)(1)–(4) would define Limit-on-Open Orders ("LOO

Order"), Market-on-Open Order ("MOO Order"), Limit-on-Close Order ("LOC Order"), and Market-on-Close ("MOC Order"). The proposed rule text is based on NYSE Arca Rule 7.31–E(c)(1)–(4) and NYSE American Rule 7.31E(c)(1)–(4), with the substantive difference not to include rule text relating to how Auction-Only Orders would function during a Trading Halt Auction, as the Exchange would not be conducting any auctions in UTP Securities. Because the Exchange would not have defined terms for auctions in the Pillar rules, the Exchange proposes an additional non-substantive difference to use the term "an opening or re-opening auction" instead of "the Core Open Auction or a Trading Halt Auction" and the term "a closing auction" instead of "the Closing Auction."

• Proposed Rule 7.31(d) would describe orders with a conditional or undisplayed price and/or size. Proposed Rule 7.31(d) is based on NYSE Arca Rule 7.31–E(d) and NYSE American Rule 7.31E(d) without any differences.

• Proposed Rule 7.31(d)(1) would establish Reserve Orders, which would be a Limit Order with a quantity of the size displayed and with a reserve quantity ("reserve interest") that is not displayed. Proposed Rule 7.31(d)(1) and subparagraphs (A)–(C) to that rule are based on NYSE Arca Rule 7.31–E(d)(1) and its sub-paragraphs (A)–(C) without any substantive differences. As described below, the Exchange proposes to describe Limit Orders that do not route as a "Limit Non-Routable Order."

• Proposed Rule 7.31(d)(2) would establish Limit Non-Displayed Orders, which would be a Limit Order that is not displayed and does not route. This proposed rule is based on NYSE Arca Rule 7.31–E(d)(2), with one substantive difference: The Exchange would not be offering the ability for a Limit Non-Displayed Order to be designated with a Non-Display Remove Modifier and therefore would not be proposing rule text based on NYSE Arca Rule 7.31–E(d)(2)(B).

• Proposed Rule 7.31(d)(3) would establish MPL Orders, which would be a Limit Order that is not displayed and does not route, with a working price at the midpoint of the PBBO. Proposed Rule 7.31(d)(3) is based on NYSE Arca Rule 7.31–E(d)(3) and NYSE American Rule 7.31E(d)(3) with one substantive difference: Because the Exchange would not be conducting auctions in UTP Securities, the Exchange does not propose to include rule text that MPL Orders do not participate in any auctions.

Proposed Rules 7.31(d)(3)(A)–(F), which further describe MPL Orders, are

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[32] The Exchange proposes to designated [sic] proposed Rule 7.37(b)(7) as "Reserved."

[33] Rule 72(d) would also not be applicable to trading UTP Securities on the Pillar trading platform, accordingly the Exchange would designate the entirety of Rule 72 as not applicable to trading UTP Securities on the Pillar trading platform.

based on NYSE Arca Rule 7.31–E(d)(3)(A)–(F) with two substantive differences. First, the Exchange would not offer the optional functionality for an incoming Limit Order to be designated with a ''No Midpoint Execution'' modifier. Second, the Exchange would not offer for MPL Orders to be designated with a Non-Display Remove Modifier. Because the Exchange would not offer the Non-Display Remove Modifier for MPL Orders, the Exchange is not proposing rule text based on NYSE Arca Rule 7.31–E(d)(3)(G). Proposed Rule 7.31(e) would establish orders with instructions not to route and is based on NYSE Arca Rule 7.31–E(e) and NYSE American Rule 7.31E(e) without any differences.[34]

• Proposed Rule 7.31(e)(1) would establish the Limit Non-Routable Order, which is a Limit Order that does not route. Proposed Rule 7.31(e)(1) and its sub-paragraphs (A)–(B) is based on NYSE Arca Rule 7.31–E(e)(1) and its sub-paragraphs (A)–(B) and NYSE American Rule 7.31E(1) and its sub-paragraphs (A)–(B) without any substantive differences. Because the Exchange would not offer Non-Display Remove Modifiers for Limit Non-Routable Orders, the Exchange is not proposing rule text based on NYSE Arca Rule 7.31–E(e)(1)(C).

• Proposed Rule 7.31(e)(2) and sub-paragraphs (B)–(D) would establish the ALO Order, which is a Limit Non-Routable Order that, except as specified in the proposed rule, would not remove liquidity from the Exchange Book. The proposed rule is based on NYSE Arca Rule 7.31–E(e)(2) and its sub-paragraphs (B)–(D) with two substantive differences. First, because the Exchange would not have auctions in UTP Securities, the Exchange does not propose rule text based on NYSE Arca Rule 7.31–E(e)(2)(A), and would designate this sub-paragraph as ''Reserved.'' Second, because the Exchange would not offer the Non-Display Remove Modifier for Limit Non-Routable Orders or Limit Non-Display Orders, the Exchange does not propose rule text based on NYSE Arca Rule 7.31–E(e)(2)(B)(iv)(b).

• Proposed Rule 7.31(e)(3) and sub-paragraphs (A)–(D) would establish Intermarket Sweep Orders (''ISO''), which would be a Limit Order that does not route and meets the requirements of Rule 600(b)(3) of Regulation NMS and could be designated IOC or Day. The proposed rule is based on NYSE Arca Rule 7.31–E(e)(3) and its sub-paragraphs

(A)–(D) and its sub-paragraphs (A)–(D) with two substantive differences. First, because Exchange Floor brokers do not have the ability to enter orders directly on Away Markets, the Exchange does not currently offer the ability for Floor brokers to enter ISOs.[35] The Exchange similarly proposes that Floor brokers would not be able to enter ISOs for trading UTP Securities on the Pillar trading platform and therefore would specify that ISOs are not available to Floor brokers. Second, because Non-Display Remove Modifiers would not be available, the Exchange is not proposing rule text based on NYSE Arca Rule 7.31–E(e)(3)(D)(iii)(b).

• Because the Exchange would not offer Primary Only Orders or Cross Orders, the Exchange proposes that Rules 7.31(f) and (g) would be designated as ''Reserved.''

• Proposed Rule 7.31(h) would establish Pegged Orders, which would be a Limit Order that does not route with a working price that is pegged to a dynamic reference price. Proposed Rule 7.31(h) is based on NYSE Arca Rule 7.31–E(h) with one substantive difference. Consistent with the Exchange's current rules, Pegged Orders would be available only to Floor brokers.[36]

Proposed Rule 7.31(h)(2) and sub-paragraphs (A) and (B) would establish Primary Pegged Orders, which would be a Pegged Order to buy (sell) with a working price that is pegged to the PBB (PBO), must include a minimum of one round lot of displayed, and with no offset allowed. This proposed rule text is based on NYSE Arca Rule 7.31–E(h)(2) and sub-paragraphs (A) and (B) with one substantive difference. Because the Exchange would not conduct auctions in UTP Securities, the Exchange does not propose to include rule text that a Primary Pegged Order would be eligible to participate in auctions at the limit price of the order.

Proposed Rule 7.31(h)(4) and sub-paragraphs (A) and (B) would establish a Non-Displayed Primary Pegged Order, which would be a Pegged Order to buy (sell) with a working price that is pegged to the PBB (PBO), with no offset allowed, that is not displayed. This rule text is based on NYSE American Rule 7.31E(h)(2), which describes a Primary Pegged Order that is not displayed. Similar to the rules of NYSE American, the proposed Non-Displayed Primary Pegged Order would be rejected on

arrival, or cancelled when resting, if there is no PBBO against which to peg. In addition, Non-Displayed Primary Pegged Orders would be ranked Priority 3—Non-Display Orders and if the PBBO is locked or crossed, both an arriving and resting Non-Displayd [sic] Primary Pegged Order would wait for a PBBO that is not locked or crossed before the working price is adjusted and the order becomes eligible to trade.

Because the Exchange would not offer Market Pegged Order or Discretionary Pegged Orders, the Exchange proposes that paragraphs (h)(1) and (h)(3) of proposed Rule 7.31 would be designated as ''Reserved.''

• Proposed Rule 7.31(i)(2) would establish Self Trade Prevention Modifiers (''STP'') on the Exchange. As proposed, any incoming order to buy (sell) designated with an STP modifier would be prevented from trading with a resting order to sell (buy) also designated with an STP modifier and from the same Client ID, as designated by the member organization, and the STP modifier on the incoming order would control the interaction between two orders marked with STP modifiers. Proposed Rule 7.31(i)(2)(A) would establish STP Cancel Newest (''STPN'') and proposed Rule 7.31(i)(2)(B) would establish STP Cancel Oldest (''STPO''). Proposed Rule 7.31(i)(2) and subparagraphs (A) and (B) are based in part on NYSE Arca Rule 7.31–E(i)(2) and its sub-paragraphs (A) and (B) and NYSE American Rule 7.31E(i)(2) and its sub-paragraphs (A) and (B), with substantive differences to specify how STP modifiers would function consistent with the Exchange's proposed allocation model.

Specifically, because, as described above, resting orders are allocated either on parity or time based on the priority category of an order, the Exchange proposes to specify in proposed Rule 7.31(i)(2) that the Exchange would evaluate the interaction between two orders marked with STP modifiers from the same Client ID consistent with the allocation logic applicable to the priority category of the resting order. The proposed rule would further provide that if resting orders in a priority category do not have an STP modifier from the same Client ID, the incoming order designated with an STP modifier would trade with resting orders in that priority category before being evaluated for STP with resting orders in the next priority category.

For STPN, proposed Rule 7.31(i)(2)(A)(i) would provide that if a resting order with an STP modifier from the same Client ID is in a priority category that allocates orders on price-

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[34] Proposed Rule 7.31 includes behavior relating to MPL Orders that were recently adopted on NYSE Arca and NYSE American. *See supra* note 19.

[35] *See* Rule 70(a)(i).

[36] *See* Rule 13(f)(1)(A)(i), which describes Pegging Interest as being available for e-Quotes and d-Quotes, which is functionality available only to Floor brokers.

time priority, the incoming order marked with the STPN modifier would be cancelled back to the originating member organization and the resting order marked with one of the STP modifiers would remain on the Exchange Book. This proposed rule is based on NYSE Arca Rule 7.31–E(i)(2)(A) and NYSE American Rule 7.31E(i)(2)(A), with non-substantive differences to specify that this order processing would be applicable for orders that are allocated in price-time priority.

Proposed Rule 7.31(i)(2)(A)(ii) would be new and would address how STPN would function for resting orders in a priority category that allocates orders on parity. As proposed, if a resting order with an STP modifier from the same Client ID is in a priority category that allocates orders on parity and would have been considered for an allocation, none of the resting orders eligible for a parity allocation in that priority category would receive an allocation and the incoming order marked with the STPN modifier would be cancelled back.[37] The Exchange believes that if a member organization designates an order with an STPN modifier, that member organization has instructed the Exchange to cancel the incoming order rather than trade with a resting order with an STP modifier from the same Client ID. Because in a parity allocation, resting orders are allocated based on their position on an allocation wheel, as described above, it would be consistent with the incoming order's instruction to cancel the incoming order if any of the resting orders eligible to participate in the parity allocation has an STP modifier from the same Client ID.

For STPO, proposed Rule 7.31(i)(2)(B)(i) would provide that if a resting order with an STP modifier from the same Client ID is in a priority category that allocates orders on price-time priority, the resting order marked with the STP modifier would be cancelled back to the originating member organization and the incoming order marked with the STPO modifier would remain on the Exchange Book. This proposed rule is based on NYSE Arca Rule 7.31–E(i)(2)(B) and NYSE American Rule 7.31E(i)(2)(B), with non-substantive differences to specify that this order processing would be applicable for orders that are allocated in price-time priority.

Proposed Rule 7.31(i)(2)(B)(ii) would be new and would address how STPO would function for resting orders in a priority category that allocates orders on parity. As proposed, if a resting order with an STP modifier from the same Client ID is in a priority category that allocates orders on parity, all resting orders with the STP modifier with the same Client ID in that priority category that would have been considered for an allocation would not be eligible for a parity allocation and would be cancelled. The rule would further provide that an incoming order marked with the STPO modifier would be eligible to trade on parity with orders in that priority category that do not have a matching STP modifier and that resting orders in that priority category with an STP modifier from the same Client ID that would not have been eligible for a parity allocation would remain on the Exchange Book. The Exchange believes that this proposed processing of STPO would allow for the incoming order to continue to trade with resting orders that do not have an STP modifier from the same client ID, while at the same time processing the instruction that resting orders with an STP from the same Client ID would be cancelled if there were a potential for an execution between the two orders.

• Proposed Rule 7.31(i)(3) would describe the Minimum Trade Size ("MTS") Modifier, which is based in part on NYSE Arca Rule 7.31–E(i)(3).[38] The Exchange proposes a substantive difference in that the MTS Modifier would be available only for Limit IOC and MPL Orders. Subject to this difference, proposed Rule 7.31(i)(3)(A)–(E) and (G) is based on NYSE Arca Rule 7.31–E(i)(3)(A)–(F).

The Exchange proposes an additional substantive difference to address how a resting order with an MTS that becomes an Aggressing Order would trade under the parity allocation model. As described in proposed Rule 7.31(i)(3)(B), on arrival, an order to buy (sell) with an MTS Modifier would trade with sell (buy) orders in the Exchange Book that in the aggregate meet such order's MTS. In other words, the MTS of an Aggressing Order on arrival can be met by one or more resting orders. Because more than one resting order can trade with an arriving order with an MTS, such allocation can be made consistent with the Exchange's parity allocation model without any changes.[39]

By contrast, proposed Rule 7.31(i)(3)(E) would provide that a resting order to buy (sell) with an MTS Modifier that becomes an Aggressing Order would trade with individual sell (buy) orders that each meet the MTS. Because a resting order that becomes an Aggressing Order, which could only be an MPL Order, would need to be able to trade with individual contra-side orders that each meet the MTS, the Exchange proposes to address how such requirement would operate with the Exchange's proposed allocation model. Specifically, proposed Rule 7.31(i)(3)(F)(i) would provide that when such Aggressing Order is trading with sell (buy) orders in a priority category that allocates orders on price-time priority, if a sell (buy) order does not meet the MTS, the MPL Order with the MTS Modifier would not trade and would be ranked on the Exchange Book.

Accordingly, for orders that trade in a price-time priority category, the MPL Order with an MTS Modifier would stop trading if a contra-side order does not meet the MTS. This proposal is consistent with how a resting order that becomes an Aggressing Order would trade on NYSE Arca, which has a price-time priority allocation model.

Proposed Rule 7.31(i)(3)(F)(ii) would set forth how a resting MPL Order to buy (sell) with an MTS that becomes an Aggressing Order would trade with sell (buy) orders in a priority category that allocates orders on parity. Because in a parity allocation model, more than one resting order may participate in an allocation, the Exchange proposes that a resting order to buy (sell) with an MTS that becomes an Aggressing Order would not trade with any contra-side orders if at least one sell (buy) order that would have been considered for allocation does not meet the MTS. As proposed, in such case, the resting order with the MTS Modifier would be ranked on the Exchange Book.[40] The Exchange

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[37] As described above, if there were resting Market Orders against which the incoming order was marketable, because Market Orders are in a different priority category, the incoming order would trade with the resting Market Orders before being assessed for STP with resting orders in a parity priority category.

[38] See supra note 19.

[39] For example, if the midpoint of the PBBO is 10.00 and at 10.00, the Exchange has a sell order "A" ranked Priority 3—Non-Displayed for 100 shares from the Book Participant and a sell order

"B" ranked Priority 3—Non-Displayed for 100 shares from the Floor Broker Participant, if the Exchange receives a buy MPL Order with a limit price of 10.00 and an MTS of 200 shares, the MTS could be met by the resting orders in the aggregate, and the arriving buy order would trade with both "A" and "B."

[40] For example, the midpoint of the PBBO is 10.01 and at 10.00, the Exchange has a sell order "A" ranked Priority 3—Non-Displayed for 100 shares from the Book Participant and a sell order "B" ranked Priority 3—Non-Displayed for 200 shares from the Floor Broker Participant and a buy MPL Order with a limit price of 10.00 and an MTS of 200 shares. If the midpoint changes to 10.00, the resting buy MPL Order would become an Aggressing Order. In this scenario, both "A" and "B" would be eligible for an allocation, but because "A" cannot individually meet the MTS of the buy MPL Order, the MPL Order would not trade with either "A" or "B" and the buy MPL Order would

believes that if a member organization designates an MPL Order with an MTS Modifier, that member organization has instructed the Exchange not to trade that order with contra-side orders that are smaller in size than the MTS. Because in a parity allocation, resting orders are allocated based on their position on an allocation wheel, as described above, it would be consistent with the incoming order's instruction not to trade at all rather than to trade with even one order in the parity allocation that that does not meet the MTS.

• Proposed Commentary .01 and .02 to Rule 7.31 is based on Commentary .01 and .02 to NYSE Arca Rule 7.31–E without any substantive differences.

Because proposed Rule 7.31 would govern orders and modifiers, including orders entered by Floor brokers, the Exchange proposes that Rules 13 (Orders and Modifiers) and 70 (Execution of Floor broker interest) would not be applicable to trading UTP Securities on the Pillar trading platform. In addition, references to Trading Collars in Rule 1000(c) would not be applicable to trading UTP Securities on the Pillar Trading platform.[41]

Proposed Rule 7.10

Proposed Rule 7.10 (Clearly Erroneous Executions) would set forth the Exchange's rules governing clearly erroneous executions. The proposed rule is based on NYSE Arca Rule 7.10–E and NYSE American Rule 7.10E with substantive differences not to refer to a Late Trading Session or Cross Orders. The Exchange proposes rule text based on NYSE Arca rather than current Rule 128 (Clearly Erroneous Executions) because the NYSE Arca and NYSE American version of the rule uses the same terminology that the Exchange is proposing for the Pillar trading platform, *e.g.,* references to Early and Core Trading Sessions. Accordingly, the Exchange proposes that Rule 128 (Clearly Erroneous Executions) would not be applicable to trading UTP Securities on the Pillar trading platform.[42] Because the Exchange would not be conducting auctions in UTP Securities, proposed Rule 7.10(a) would not include the last sentence of NYSE Arca Rule 7.10–E(a), which

provides that ''[e]xecutions as a result of a Trading Halt Auction are not eligible for a request to review as clearly erroneous under paragraph (b) of this Rule.''

Proposed Rule 7.11

Proposed Rule 7.11 (Limit Up-Limit Down Plan and Trading Pauses in Individual Securities Due to Extraordinary Market Volatility) would establish how the Exchange would comply with the Regulation NMS Plan to Address Extraordinary Market Volatility (''LULD Plan'').[43] The proposed rule is based on NYSE American Rule 7.11E with the following substantive differences. First, as proposed, the Exchange would not offer the optional functionality for a member organization to instruct the Exchange to cancel a Limit Order that cannot be traded or routed at prices at or within the Price bands, rather than the default processing of re-pricing a Limit Order to the Price Bands, as described in proposed Rule 7.11(a)(5)(B)(i).[44] Accordingly, the Exchange would not include text relating to this instruction, as described in NYSE American Rules 7.11E(a)(5)(B)(i), 7.11E(a)(5)(C), or 7.11E(a)(5)(F). Second, because the Exchange would not be offering orders that include specific routing instructions, Q Orders, or Limit IOC Cross Orders, the Exchange would not include text that references these order types, as described in NYSE American Rule 7.11E(a)(5)(B)(iii), 7.11E(a)(5)(D), 7.11E(a)(5)(E), and 7.11E(a)(6). The Exchange proposes to designate proposed Rules 7.11(a)(5)(D) and 7.11(a)(5)(E) as ''Reserved.''

Finally, because proposed Rule 7.11 would govern trading in UTP Securities and the Exchange would not conduct auctions for such securities, the Exchange does not propose rule text from NYSE American Rule 7.11E(b) that describes how the Exchange would re-open trading in a security. The Exchange proposes that Rule 7.11(b)(1) would be based on rule text from NYSE American Rule 7.11E(b)(1).

Because the proposed rule covers the same subject matter as Rule 80C, the Exchange proposes that Rule 80C would not be applicable to trading UTP Securities on the Pillar trading platform.

Proposed Rule 7.16

Proposed Rule 7.16 (Short Sales) would establish requirements relating to short sales. The proposed rule is based on NYSE Arca Rule 7.16–E and NYSE American Rule 7.16E with two substantive differences. First, because the proposed rule would not be applicable to any securities that are listed on the Exchange, the Exchange would not be evaluating whether the short sale price test restrictions of Rule 201 of Regulation SHO have been triggered. Accordingly, the Exchange does not propose rule text based on NYSE Arca Rule 7.16–E(f)(3) or NYSE American Rule 7.16E(f)(3) and would designate that sub-paragraph as ''Reserved.'' For similar reasons, the Exchange proposes not to include rule text based on NYSE Arca Rules 7.16–E(f)(4)(A) and (B) or NYSE American Rule 7.16E(f)(4)(A) and (B).

Second, because the Exchange would not be offering Tracking Orders, Cross Orders, or the Proactive if Locked/Crossed Modifier, the Exchange does not propose rule text based on NYSE Arca Rule 7.16–E(f)(5)(D), (G), or (I) or NYSE American Rule 7.16E(f)(5)(D), (G), or (I). The Exchange proposes to designate proposed Rules 7.16(f)(5)(D) and (G) as ''Reserved.''

Because the proposed rule covers the same subject matter as Rule 440B (Short Sales), the Exchange proposes that Rule 440B would not be applicable to trading UTP Securities on the Pillar trading platform.

Proposed Rule 7.18

The Exchange proposes to amend Rule 7.18 (Halts) to establish how the Exchange would process orders during a halt in a UTP Security and when it would halt trading in a UTP Exchange Traded Product.[45] Proposed Rule 7.18(b) would provide that the Exchange would not conduct a Trading Halt Auction in a UTP Security and would process new and existing orders in a UTP Security during a UTP Regulatory Halt[46] as described in proposed Rule

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[41] As described in greater detail above in connection with proposed Rule 7.37, the Exchange proposes that the entirety of Rule 1000 would not be applicable to trading UTP Securities on the Pillar trading platform.

[42] The Exchange proposes that because there is not a prior version of proposed Rule 7.10, if the Limit Up-Limit Down Plan is not approved, the prior version of sections (c), (e)(2), (f) and (g) of Rule 128 would be in effect.

be ranked on the Exchange Book as provided for in proposed Rule 7.31(i)(3)(F)(ii).

[43] *See* Securities Exchange Act Release No. 80455 (April 13, 2017), 81 FR 24908 (April 27, 2016) (File No. 4–631) (Order approving 12th Amendment to the LULD Plan).

[44] The Exchange will offer this optional functionality when it implements Pillar phase II communication protocols.

[45] The term ''UTP Exchange Traded Product'' is defined in Rule 1.1(bbb) to mean an Exchange Traded Product that trades on the Exchange pursuant to unlisted trading privileges. The terms ''Exchange Traded Product'' and ''UTP Exchange Traded Product'' on the Exchange have the same meaning as the NYSE Arca terms ''Derivatives Securities Product'' and ''UTP Derivative Securities Product,'' which are defined in NYSE Arca Rule 1.1(k). The Exchange proposes a non-substantive difference in proposed Rule 7.18 as compared to NYSE Arca Rule 7.18–E to use the Exchange-defined terms.

[46] The term ''UTP Regulatory Halt'' is defined in Rule 1.1(kk) to mean a trade suspension, halt, or pause called by the UTP Listing Market in a UTP

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7.18(b)(1)–(6). The proposed rule text is based on NYSE Arca Rule 7.18–E(b) and its sub-paragraphs (1)—(6) and NYSE American Rule 7.18E(b) and its sub-paragraphs (1)–(6) with one substantive difference. Because the Exchange would not be offering ''Primary Only'' orders, proposed Rule 7.18(b)(5) would not reference such order types.

The Exchange proposes to amend Rule 7.18(d)(1)(A) to specify that if a UTP Exchange Traded Product begins trading on the Exchange in the Early Trading Session and subsequently a temporary interruption occurs in the calculation or wide dissemination of the Intraday Indicative Value (''IIV'') or the value of the underlying index, as applicable, to such UTP Exchange Traded Product, by a major market data vendor, the Exchange may continue to trade the UTP Exchange Traded Product for the remainder of the Early Trading Session. This proposed rule text is based on NYSE Arca Rule 7.18– E(d)(1)(A) and NYSE American Rule 7.18E(d)(1)(A) without any substantive differences. The Exchange also proposes to amend Rule 7.18(d)(1)(B) to change the reference from ''Exchange's Normal Trading Hours'' to the term ''Core Trading Session,'' which would be defined in proposed Rule 7.34, described below.

The Exchange also proposes to amend Rule 7.18(a) to change the cross reference from Rule 80C to Rule 7.11 as proposed Rule 7.11 would govern how the Exchange would comply with the LULD Plan for trading UTP Securities.

Proposed Rule 7.34

Proposed Rule 7.34 would establish trading sessions on the Exchange. The Exchange proposes that on the Pillar trading platform, it would have Early and Core Trading Sessions. Accordingly, proposed Rule 7.34 is based in part on NYSE Arca Rule 7.34– E and NYSE American Rule 7.34E, with the following substantive differences. First, similar to NYSE American, the Exchange proposes that the Early Trading Session would begin at 7:00 a.m. Eastern Time. Similar to NYSE Arca and NYSE American, the Exchange would begin accepting orders 30 minutes before the Early Trading Session begins, which means order entry acceptance would begin at 6:30 a.m. Eastern Time. These differences would be reflected in proposed Rule 7.34(a)(1).

Second, proposed Rule 7.34(b) would be new and is not based on NYSE Arca Rule 7.34–E(b) or NYSE American Rule

7.34E(b). Rather than require member organizations to include a designation for which trading session the order would be in effect, the Exchange proposes to specify in Rule 7.34(b) and (c) which trading sessions an order would be deemed designated. Proposed Rule 7.34(b)(1) would provide that unless otherwise specified in Rule 7.34(c), an order entered before or during the Early or Core Trading Session would be deemed designated for the Early Trading Session and the Core Trading Session. Proposed Rule 7.34(b)(2) would provide that an order without a time-in-force designation would be deemed designated with a day time-in-force modifier.

Proposed Rule 7.34(c) would specify which orders would be permitted in each session. Proposed Rule 7.34(c)(1) would provide that unless otherwise specified in paragraphs (c)(1)(A)–(C), orders and modifiers defined in Rule 7.31 would be eligible to participate in the Early Trading Session. This proposed rule text is based on NYSE Arca Rule 7.34–E(c)(1) and NYSE American Rule 7.34E(c)(1) with a substantive difference not to refer to orders ''designated'' for the Early Trading Session. In addition, because the Exchange would not be offering a Retail Liquidity Program, the Exchange would not reference Rule 7.44.

• Proposed Rule 7.34(c)(1)(A) would provide that Pegged Orders would not be eligible to participate in the Early Trading Session. This rule text is based in part on NYSE Arca Rule 7.34– E(c)(1)(A) and NYSE American Rule 7.34E(c)(1)(A) in the Pegged Orders would not be eligible to participate in the Early Trading Session. The Exchange proposes a substantive difference from the NYSE Arca and NYSE American rules because proposed Rule 7.34(c)(1)(A) would not refer to Market Orders. Market Orders entered during the Early Trading Session would be addressed in proposed Rule 7.34(c)(1)(C), described below. The proposed rule would further provide that Non-Displayed Primary Pegged Orders entered before the Core Trading Session would be rejected and Primary Pegged Orders entered before the Core Trading Session would be accepted but would not be eligible to trade until the Core Trading Session begins. This rule text is based in part on both NYSE Arca Rule 7.34–E(c)(1)(A) and NYSE American Rule 7.34E(c)(1)(A), but uses terminology consistent with the Exchange's proposed order types.

• Proposed Rule 7.34(c)(1)(B) would provide that Limit Orders designated IOC would be rejected if entered before the Early Trading Session begins. This

proposed rule is based on NYSE Arca Rule 7.34–E(c)(1)(B) and NYSE American Rule 7.34E(c)(1)(B) with two substantive differences. First, because the Exchange would not be conducting auctions, the Exchange proposes to specify that the rejection period would begin ''before the Early Trading Session begins'' rather than state ''before the Early Open Auction concludes.'' Second, the Exchange would not refer to Cross Orders, which would not be offered on the Exchange.

• Proposed Rule 7.34(c)(1)(C) would provide that Market Orders and Auction-Only Orders in UTP Securities entered before the Core Trading Session begins would be routed to the primary listing market on arrival and any order routed directly to the primary listing market on arrival would be cancelled if that market is not accepting orders. This proposed rule is based on NYSE Arca Rule 7.34–E(c)(1)(D) and NYSE American Rule 7.34E(c)(1)(D) with a non-substantive difference to specify that such orders would be routed until the Core Trading Session begins.

Proposed Rule 7.34(c)(2) would provide that unless otherwise specified in Rule 7.34(c)(2)(A)–(B), all orders and modifiers defined in Rule 7.31 would be eligible to participate in the Core Trading Session. This proposed rule text is based on NYSE Arca Rule 7.34– E(c)(2) and NYSE American Rule 7.34E(c)(2) with a substantive difference not to refer to orders ''designated'' for the Core Trading Session. In addition, because the Exchange would not be offering a Retail Liquidity Program, the Exchange would not reference Rule 7.44.

• Proposed Rule 7.34(c)(2)(A) would provide that Market Orders in UTP Securities would be routed to the primary listing market until the first opening print of any size on the primary listing market or 10:00 a.m. Eastern Time, whichever is earlier. This proposed rule is based on NYSE Arca Rule 7.34–E(c)(2)(A) and NYSE American Rule 7.34E(c)(2)(A) with a non-substantive difference to use the term ''UTP Securities'' instead of referencing orders that ''are not eligible for the Core Open Auction.''

• Proposed Rule 7.34(c)(2)(B) would provide that Auction-Only Orders in UTP Securities would be accepted and routed directly to the primary listing market. This proposed rule is based on NYSE Arca Rule 7.34–E(c)(2)(B) and NYSE American Rule 7.34E(c)(2)(B) with a non-substantive difference to use the term ''UTP Securities'' instead of referencing orders that ''are not eligible for an auction on the Exchange.''

Proposed Rule 7.34(d) would establish requirements for member organizations to provide customer disclosure when accepting orders for execution in the Early Trading Session. The proposed rule is based on NYSE Arca Rule 7.34–E(d) and NYSE American Rule 7.34E(d) without any substantive differences.

Proposed Rule 7.34(e) would provide that trades on the Exchange executed and reported outside of the Core Trading Session would be designated as .T trades. This proposed rule is based on NYSE Arca Rule 7.34–E(e) and NYSE American Rule 7.34E(e) without any substantive differences.

Proposed Rule 7.38

Proposed Rule 7.38 (Odd and Mixed Lot) would establish requirements relating to odd lot and mixed lot trading on the Exchange. The proposed rule is based on NYSE Arca Rule 7.38–E and NYSE American Rule 7.38E with one substantive difference. Because orders ranked Priority 2—Display Orders, including odd-lot sized orders, are on an allocation wheel at their display price, the Exchange proposes that if the display price of an odd-lot order to buy (sell) is above (below) its working price (*i.e.,* the PBBO, which is the price at which the odd-lot order is eligible to trade, has crossed the display price of that odd-lot order), the odd-lot order would be ranked and allocated based on its display price. In such case, the order would execute at its working price, but if there is more than one odd-lot order at the different display price, they would be allocated on parity.

For example, if at 10.02, the Exchange has an order "A" to buy 50 shares ranked Priority 2—Display Orders, and at 10.01, the Exchange has an order "B" to buy 10 shares ranked Priority 2 –Display Orders, an order "C" to buy 10 shares ranked Priority 2—Display Orders, and an order "D" to buy 10 shares ranked Priority 2 –Display Orders, and the parity pointer is on order "C," if the Away Market PBO becomes 10.00, which crosses the display price of "A," "B," "C," and "D," those orders would trade at 10.00. If the Exchange were to receive a Market Order to sell 70 shares, it would trade at 10.00 and be allocated 50 shares to "A," 10 shares to "C," and 10 shares to "D." "B" would not receive an allocation based on its position on the allocation wheel.

The Exchange proposes that Rule 61 (Recognized Quotations) would not be applicable to trading UTP Securities on the Pillar trading platform.

Proposed Rule 7.46

Section 5 of Rule 7P would establish requirements relating to the Plan to Implement a Tick Size Pilot Program. Proposed Rule 7.46 (Tick Size Pilot Plan) would specify such requirements. The proposed rule is based on NYSE American Rule 7.46E with the following substantive differences for proposed Rule 7.46(f). First, because the Exchange would not offer Market Pegged Orders, the Exchange proposes that paragraph (f)(3) of the Rule would be designated as "Reserved." Second, the Exchange proposes to set forth the priority of resting orders both for ranking and for allocation. For Pilot Securities in Test Group Three, proposed Rule 7.46(f)(5)(A) would govern ranking instead of proposed Rule 7.36(e), described above, as follows:

• Priority 2—Display Orders. Non-marketable Limit Orders with a displayed working price would have first priority.
• Protected Quotations of Away Markets. Protected quotations of Away Markets would have second priority.
• Priority 1—Market Orders. Unexecuted Market Orders would have third priority.
• Priority 3—Non-Display Orders. Non-marketable Limit Orders for which the working price is not displayed, including reserve interest of Reserve Orders, would have fourth priority.

For Pilot Securities in Test Group Three, proposed Rule 7.46(f)(5)(B) would set forth how an Aggressing Order would be allocated against contra-side orders, instead of proposed Rule 7.37(b)(1), described above, as follows:

• First, an order with Setter Priority that has a display price and working price equal to the BBO would receive 15% of the remaining quantity of the Aggressing Order, rounded up to the next round lot size or the remaining displayed quantity of the order with Setter Priority, whichever is lower. An order with Setter Priority would be eligible for Setter Priority allocation if the BBO is no longer the same as the NBBO.

• Next, orders ranked Priority 2—Displayed Orders would be allocated on parity by Participant. The remaining quantity of the order with Setting Priority would be eligible to participate in this parity allocation, consistent with the allocation wheel position of the Participant that entered the order with Setter Priority.

• Next, subject to proposed Rule 7.46(f)(5)(F) (describing orders with instructions not to route), the Exchange would route the Aggressing Order to protected quotations of Away Markets.

• Next, orders ranked Priority 1—Market Orders would trade based on time.
• Next, orders ranked Priority 3—Non-Display Orders, other than MPL Orders with an MTS, would be allocated on parity by Participant.
• Next, MPL Orders with an MTS would be allocated based on MTS size (smallest to largest) and time.

Third, the Exchange would not include rule text based on NYSE American Rule 7.46E(f)(G), relating to Limit IOC Cross Orders, which would not be offered on the Exchange. Finally, proposed Rules 7.46(f)(5)(F)(i)(a) and (b) are based on NYSE Arca Rules 7.46–E(f)(5)(F)(i)(a) and (b) and not the NYSE American version of the rule because NYSE American does not offer Day ISO orders.

The Exchange proposes that Rule 67 (Tick Size Pilot Plan) would not be applicable to trading UTP Securities on the Pillar trading platform.

Amendments to Rule 103B and 107B

As described above, the Exchange would not assign UTP Securities to DMMs. Accordingly, the Exchange proposes to amend Rule 103B(I) (Security Allocation and Reallocation) to specify that UTP Securities would not be allocated to a DMM unit.

In addition, because UTP Securities would be eligible to be assigned to Supplemental Liquidity Providers, the Exchange proposes to amend Rule 107B (Supplemental Liquidity Providers) to replace the term "NYSE-listed securities" with the term "NYSE-traded securities," which would include UTP Securities.

Current Rules That Would Not Be Applicable To Trading UTP Securities on Pillar

As described in more detail above, in connection with the proposed rules to support trading of UTP Securities on the Pillar trading platform, the Exchange has identified current Exchange rules that would not be applicable because they would be superseded by a proposed rule. The Exchange has identified additional current rules that would not be applicable to trading on Pillar. These rules do not have a counterpart in the proposed Pillar rules, described above, but would be obsolete when trading UTP Securities on Pillar.

The main category of rules that would not be applicable to trading on the Pillar trading platform are those rules that are specific to auctions and Floor-based point-of-sale trading other than crossing transactions pursuant to Rule 76. For this reason, the Exchange proposes that the following Floor-specific rules would

not be applicable to trading on the Pillar trading platform:

• Rule 15 (Pre-Opening Indication and Opening Order Imbalance Information).

• Rule 77 (Prohibited Dealings and Activities).

• Rule 79A (Miscellaneous Requirements on Stock Market Procedures).

• Rule 108 (Limitation on Members' Bids and Offers).

• Rule 111 (Reports of Executions).

• Rule 115A (Orders at Opening).

• Rule 116 ('Stop' Constitutes Guarantee).

• Rule 123A (Miscellaneous Requirements).

• Rule 123B (Exchange Automated Order Routing System).

• Rule 123C (The Closing Procedures).

• Rule 123D (Openings and Halts in Trading)

• Rule 127 (Block Crosses Outside the Prevailing NYSE Quotation).

In addition, as noted above, the Exchange would not offer a Retail Liquidity Program when it trades on the Pillar trading platform. Proposed rules that are based on NYSE Arca rules that include a cross reference to NYSE Arca Rule 7.44–E would not include that rule reference. The Exchange also proposes that Rule 107C would not be applicable to trading UTP Securities on the Pillar trading platform.

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As discussed above, because of the technology changes associated with the migration to the Pillar trading platform, the Exchange will announce by Trader Update when the Pillar rules for trading UTP Securities will become operative.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Securities Exchange Act of 1934 (the ''Act''),[47] in general, and furthers the objectives of Section 6(b)(5),[48] in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to, and perfect the mechanism of, a free and open market and a national market system and, in general, to protect investors and the public interest. The Exchange believes that the proposed rules to support Pillar on the Exchange would remove impediments to and perfect the

mechanism of a free and open market because they provide for rules to support the Exchange's introduction of trading UTP Securities on the Pillar trading platform.

Generally, the Exchange believes that the proposed rules would remove impediments to and perfect the mechanism of a free and open market and a national market system because they would support the Exchange's introduction of trading UTP Securities in a manner that would use Pillar terminology to describe how the Exchange's current Floor-based parity allocation model with Setter Priority would operate, with specified substantive differences from current rules, and introduce Pillar rules for the Exchange that are based on the rules of its affiliated markets, NYSE Arca and NYSE American.

With respect to how UTP Securities would be ranked, displayed, executed, and routed on Pillar, the Exchange believes that proposed Rules 7.36(a)–(g) and proposed Rules 7.37(a) and (c)–(g) would remove impediments to and perfect the mechanism of a free and open market and a national market system because these rules would use Pillar terminology that is based on the approved rules of NYSE Arca and NYSE American. The Exchange believes that proposed Rule 7.36(h), which would establish Setter Priority, would remove impediments to and perfect the mechanism of a free and open market and a national market system because the proposed rule is based on current Rule 72(a), with substantive differences designed to encourage the display of aggressively-priced orders by requiring that an order not only establish the BBO, but also establish or join the NBBO to be eligible for Setter Priority.

The Exchange similarly believes that proposed Rule 7.37(b), which would use Pillar terminology to describe how an Aggressing Order would be allocated, would remove impediments to and perfect the mechanism of a free and open market and a national market system because it is based on current Rule 72(b) and (c). The Exchange believes that the proposed substantive difference to maintain separate allocation wheels for displayed and non-displayed orders at each price would promote just and equitable principles of trade because it would allow for Exchange member organizations to establish their position on an allocation wheel at each price point, rather than rely on their position on a single allocation wheel that would be applicable to trades at multiple price points.

The Exchange believes that extending its parity allocation model to UTP Securities, including extending parity allocation for orders entered by Floor brokers, is not designed to permit unfair discrimination between customers, issuers, brokers or dealers. First, although the Exchange would not have DMMs assigned to UTP Securities, the Exchange proposes to maintain Floor trading for UTP Securities. Similar to trading in Exchange-listed securities, Floor brokers, would be able to effect crossing transactions in UTP Securities on the Floor, but with Exchange employees rather than DMMs staffing where such trading would occur.

Second, to be eligible to be included in the Floor Broker Participant, and thus be eligible for a parity allocation, the Floor broker that entered the order must be engaged in a Floor broker business in Exchange-listed securities. The Exchange believes that this requirement provides a nexus between Exchange Floor trading in Exchange-listed securities and the extension of that model to trading in UTP Securities.

Third, because member organizations operating as Floor brokers would be trading on the floor of an exchange, they would be subject to restrictions on trading for their own account set forth in Section 11(a)(1) of the Act and rules thereunder. Moreover, the Exchange proposes to specify in proposed Rule 7.36 that for an order to be eligible to be included in the Floor Broker Participant, it cannot be for the account of the Floor broker or any associated persons (unless entered via an error account pursuant to Rule 134).

Because Floor brokers trading in UTP Securities would not be permitted to trade for their own accounts, they would not be permitted to engage in the type of customer-based principal trading activities of a member organization that enters orders from off the Floor of the Exchange. Therefore, an allocation to an individual Floor broker under the Exchange's proposed allocation model would *always* accrue to the customer of that Floor broker (or customers if multiple orders are represented by a Floor broker). Conversely, because a member organization operating a Floor broker may trade on behalf of customers only, it would *never* receive a Floor broker parity allocation for proprietary trading. As such, the Exchange does not consider the proposed parity allocation model for UTP Securities as a Floor broker ''benefit,'' but rather as an allocation model choice for customers.

This choice remains relevant in today's more electronic market. As broker-dealers and institutional investors have reduced the number of

natural persons on their own off-Floor trading desks, Floor brokers have come to serve as an extension of the more thinly staffed trading desks of other broker-dealers or institutional investors, but at a variable cost. This is an important function that the Floor brokers play as an agency broker without conflicts and fills a void for firms that have chosen to allocate resources away from trading desks. In addition to this role, Floor brokers provide services for more illiquid securities, which upstairs trading desks may not be staffed to manage. Importantly, when providing such agency trading services, a Floor broker is unconflicted because he or she is not trading for his own account and does not sell research to customers. Floor brokers therefore can focus on price discovery and volume discovery on behalf of their customers, while at the same time managing their customers' order flow to ensure that it does not impact pricing on the market (*e.g.,* executing large positions on behalf of a customer). As discussed above, when managing such customer order flow, Floor brokers trading in UTP Securities would continue to be subject to Exchange rules that are unique to Floor brokers, including Rules 95, 122, 123, and paragraphs (d)–(j) of Rule 134.

Fourth, any member organization can choose to have a Floor broker operation and thus have direct access to Floor broker parity allocations on behalf of its customers. The Exchange does not charge member organizations for the use of booth space on the Floor, and therefore there would be minimal to no extra cost for a member organization to have a Floor business. Indeed, a smaller firm that moves its entire operation to the NYSE Floor could have reduced costs as compared to a firm that needs to pay for office space. Because there is fair access to any member organization to engage in a Floor broker operation, the differences between how an order is allocated to a Floor Broker Participant and Book Participant would not unfairly discriminate among Exchange member organizations.

Finally, customers relying on agency broker-dealers to represent their orders on the Exchange can choose whether to use a Floor broker or a member organization that only uses off-exchange order entry methods.[49] In some cases, customers choose to use a member organization that offers both order entry methods. But the different allocation models are available to all customers that use a member organization to enter orders on the Exchange; having such choice would not unfairly discriminate among customers.

The Exchange also believes that its proposal to make its existing parity allocation model, as modified for the Pillar trading platform, available for UTP Securities would remove impediments to and perfect the mechanism of a free and open market because it would extend the Exchange's choice-based allocation model to all securities that would trade on the Exchange in a manner that is consistent with its Trading Floor model. For market participants other than DMMs, the Exchange does not believe that there is an inherent benefit of one method of allocation on the Exchange over another. Market participants that are latency sensitive—whether for proprietary or agency-based trading— may choose to use the off-exchange order entry method because of the relative speed of that order entry path as compared to Floor broker order entry and availability of Setter Priority allocation. By contrast, market participants that are not as latency sensitive or are seeking an unconflicted agent to manage their order flow and potentially negotiate a large crossing transaction may choose to use a Floor broker.

The Exchange believes that intra-day trading volume entered by Floor brokers in NYSE-listed securities, which are subject to the Exchange's existing parity allocation model, demonstrates how customers have already exercised this choice. In October 2017, orders from Floor brokers represented approximately 5.5% of the intra-day liquidity-providing volume on the Exchange in NYSE-listed securities (the parity allocation model is only applicable to provide volume).[50] The Exchange believes that this volume demonstrates that there is still a value to the end customer—who has a choice—to use a Floor broker. As discussed above, Floor brokers can be distinguished from off-Floor agency member organizations because they operate a pure agency business and do not trade for their own accounts. There are customers that value that conflict-free model. In addition, Floor brokers distinguish themselves by providing high-touch service to their customers. Floor brokers that attract liquidity-providing orders promote the display of liquidity on the Exchange.

That volume of Floor broker intra-day trading also demonstrates that customers have similarly exercised their choice not to use Floor brokers. If there were an inherent benefit to the Floor broker parity allocation that distinguishes it as superior to the Book Participant allocation, it would likely follow that there would be greater proportion of intra-day order flow directed to Floor brokers in NYSE-listed securities. But that is not the case. In sum, the current NYSE-listed intra-day Floor broker provide volume demonstrates that using a Floor broker has value to certain customers, but also demonstrates that the parity allocation to a Floor broker is not the only component of a customer's decision about how to send its orders to the Exchange. With this filing, the Exchange proposes to extend that choice to UTP Securities, thereby benefiting the ultimate customer of the Floor broker.

The Exchange further believes that its proposed parity allocation model for UTP Securities would remove impediments to and perfect the mechanism of a free and open market and a national market system because it is a competitive offering vis-à-vis other exchange competitors, which offer variations on a price-time priority models, and over-the-counter trading. The Exchange is currently the only registered exchange that does not trade non-Exchange listed securities on a UTP basis. Additionally, the Exchange currently is the only registered exchange that makes available Floor-based trading for cash equity securities. The Exchange proposes to extend the availability of this feature by maintaining Floor-based crossing transactions when it launches trading in UTP Securities. The Exchange believes that trading UTP Securities is a natural extension of its current offering of trading Exchange-listed securities, which also trade on a parity allocation model. The Exchange believes it would promote competition to offer this allocation model for all securities that would trade on the Exchange, thereby providing an alternative allocation model for UTP Securities. Conversely, Floor brokers on the Exchange would be able to expand the services they provide to customers by being able to manage order flow in UTP Securities in addition to Exchange-listed securities. The Exchange also believes that this proposed allocation model would promote intra-market competition by offering a menu of choices to market participants of how their orders in UTP Securities would be allocated on the Exchange.

[49] Floor broker customers are generally other broker-dealers or institutional investors. Retail investors generally do not interact directly with either Floor brokers or the trade desks of member organizations that route orders to the Exchange.

[50] Over 75% of Floor broker traded volume in NYSE-listed securities is for auctions. However, because the Exchange would not be conducting auctions in UTP Securities, the relative benefits of a parity allocation to a Floor broker in an auction would not be applicable.

While the parity allocation model is a competitive offering, its origins are derived from the Floor-based trading model of the Exchange. Accordingly, the Exchange believes that it would remove impediments to and perfect the mechanism of a free and open market and a national market system to provide for Floor-based crossing transactions and to extend existing requirements relating to Floor brokers for orders in UTP Securities that seek to be eligible to be included in the Floor Broker Participant. First, as noted above, the Floor broker must trade on an agency-only basis and would continue to be subject to rules that are unique to a Floor broker, including requirements specified in Rules 95, 122, 123, and 134(d)–(j). Second, consistent with current Rule 70 requirements, for orders in UTP Securities to be eligible to be included in the Floor Broker Participant, such orders must be entered by a Floor broker while on the Trading Floor.

In addition, because the parity allocation model is based on the history of the Exchange as a Floor-based model, the Exchange believes that for orders in UTP Securities to be eligible to be included in the Floor Broker Participant, the Floor broker representing such orders must also be engaged in a Floor broker business in Exchange-listed securities. Trading in UTP Securities on the Trading Floor is designed to complement a Floor broker's existing role in representing orders in Exchange-listed securities because it would enable such Floor brokers to trade additional securities on behalf of their customers. For example, a Floor broker would be better positioned to process baskets of securities that include Tape A, B, and C securities and enter all such orders on the Exchange. By offering the parity allocation model for UTP Securities, a Floor broker would not need to segregate its orders in UTP Securities into different trading strategies than what would be offered for Exchange-listed securities. Because Floor broker trading in UTP Securities is designed to function in tandem with trading in Exchange-listed securities, the Exchange believes that it would remove impediments to and perfect the mechanism of a free and open market and a national market system to require such nexus because it would ensure that member organizations would not seek to conduct a stand-alone Floor broker business in only UTP Securities.

The Exchange believes that proposed Rules 7.10, 7.11, 7.16, 7.18, 7.31, 7.34, 7.38, and 7.46 would remove impediments to and perfect the

mechanism of a free and open market and a national market system because they are based on the rules of NYSE Arca and NYSE American. The proposed substantive differences to the Exchange's rules would be because the Exchange would not be offering the full suite of orders and modifiers available on NYSE Arca and NYSE American. In addition, the Exchange proposes substantive differences to these rules consistent with the Exchange's proposed parity allocation model. The Exchange believes that the proposed substantive differences for these rules would remove impediments to and perfect the mechanism of a free and open market and a national market system because they would provide transparency of which orders, modifiers and instructions would be available on the Exchange when it begins trading UTP Securities on the Pillar trading platform, and how the Pillar rules would function with a parity allocation model.

The Exchange believes that the proposed substantive differences to Rule 7.34 to offer Early and Core Trading Sessions, but not a Late Trading Session, would remove impediments to and perfect the mechanism of a free and open market and a national market system because it is consistent with the Exchange's current hours, described in Rule 51, that the Exchange is not open for business after 4:00 p.m. Eastern Time. The Exchange further believes that adding a trading session before 9:30 a.m. Eastern Time would provide additional time for Exchange member organizations to trade UTP Securities on the Exchange consistent with the trading hours of other exchanges, including NYSE American, which also will begin trading at 7:00 a.m. Eastern Time.

The Exchange believes that the proposed amendments to Rules 103B and 107B would remove impediments to and perfect the mechanism of a free and open market and a national market system because they would provide transparency that the Exchange would not be assigning UTP Securities to DMMs and that member organizations would be eligible to register as a Supplemental Liquidity Providers in UTP Securities. The Exchange further believes that not assigning DMMs to UTP Securities is consistent with just and equitable principles of trade because the Exchange would not be conducting auctions in UTP Securities and therefore the Exchange would not need DMMs assigned to such securities to facilitate auctions. Not having DMMs registered in UTP Securities is also consistent with how NYSE Arca and

NYSE American function on Pillar, in that neither lead market makers (on NYSE Arca) nor electronic designated market makers (on NYSE American) are assigned securities not listed on those exchanges. The Exchange further believes that it would remove impediments to and perfect the mechanism of a free and open market and a national market system for member organizations to be eligible to register as Supplemental Liquidity Providers in UTP Securities as this would provide an incentive for displayed liquidity in UTP Securities.

The Exchange further believes that it would remove impediments to and perfect the mechanism of a free and open market and a national market system to specify which current rules would not be applicable to trading UTP Securities on the Pillar trading platform. The Exchange believes that the following legend, which would be added to existing rules, "This Rule is not applicable to trading UTP Securities on the Pillar trading platform," would promote transparency regarding which rules would govern trading UTP Securities on the Exchange on Pillar. The Exchange has proposed to add this legend to rules that would be superseded by proposed rules or rules that would not be applicable because they relate to auctions or Floor-based point-of-sale trading.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed change is designed to propose rules to support trading of UTP Securities on the Exchange's new Pillar trading platform. The Exchange operates in a highly competitive environment in which its unaffiliated exchange competitors operate multiple affiliated exchanges that operate under common rules. By adding trading of UTP Securities on the Exchange, the Exchange believes that it will be able to compete on a more level playing field with its exchange competitors that similarly trade all NMS Stocks. In addition, by basing certain rules on those of NYSE Arca and NYSE American, the Exchange will provide its members with consistency across affiliated exchanges, thereby enabling the Exchange to compete with unaffiliated exchange competitors that similarly operate multiple exchanges on the same trading platforms.

More specifically, the Exchange does not believe that the proposal to extend

the Exchange's existing parity allocation model, as modified for Pillar, to UTP Securities would impose a burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. To the contrary, the Exchange believes that the proposal would promote inter-market competition by providing market participants with the choice of a parity allocation model together with Floor crossing transactions for trading UTP Securities, which is not available on any other exchange. For the Exchange's listed securities, its competitive offering includes not only its parity allocation model, but also its auctions. Designed as a complement to existing Floor broker operations in Exchange-listed securities and consistent with the Exchange's current trading model, the Floor Broker Participant parity allocation for UTP Securities would be available only to Floor brokers that engage in Floor trading of Exchange-listed securities, and such Floor brokers would be eligible to engage in manual transactions under Rule 76 for UTP Securities. In addition, to be eligible for a parity allocation, Floor brokers must enter such orders on the Trading Floor and could only trade on an agency basis. Moreover, any trading in UTP Securities by Floor brokers would be subject to existing rules that apply only to Floor brokers, such as Rules 95, 122, 123, and 134(d)–(j).

The Exchange further believes that the proposal would promote intra-market competition because it would provide a choice to customers of how their orders in UTP Securities would be allocated on the Exchange. For certain customers, entering orders via the Book Participant may serve their trading strategies. For other customers, using a Floor broker for intra-day trading may serve their trading strategies. Importantly, the results of a Floor broker allocation would always accrue to the customer, and whether to use a Floor broker is the customer's choice. Accordingly, this proposed market structure is not about providing a "benefit" to a Floor broker, but rather providing customers with a choice of how an order would be allocated.

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. Summary of Comments Received

The Commission received one comment letter, which opposes NYSE's proposal to provide floor brokers with

parity allocation and the exclusive use of certain order types (*i.e.,* pegged orders).[51] The commenter asserts that providing floor brokers with preferential treatment in a fully electronic trading environment, the market for UTP Securities, unfairly discriminates against market participants who do not submit orders through a Floor Broker.[52] According to the commenter, parity provides floor brokers with a distinct unfair competitive advantage over other market participants, such as customers and broker-dealers.[53]

The commenter states that floor brokers do not have the restrictions of time priority when they receive parity and can "skip the line." [54] According to the commentor, floor brokers can insert themselves into the parity wheel and buy and sell during price disparities to liquidate or acquire positions at beneficial prices.[55] The commentor asserts that this would disadvantage customers and broker-dealers, even though, like the floor brokers, they add liquidity to the market.[56] The commenter further assert that this would also disadvantages other members and their orders, including orders routed from other trading centers, which are aggregated into one participant and receive one slot on the parity wheel.[57]

According to the commenter, many entities cannot, as a practical matter, take advantage of the floor brokers' parity allocations, and that those that can use the services of floor brokers may route more orders through them to get the advantage of parity.[58] The commenter believes that floor brokers could take advantage of this by charging higher transaction fees to customers.[59] The commenter asserts that orders submitted by the floor broker do not represent manual interest, but are the byproduct of the floor broker reselling algorithms or other electronic access to their privileged position on the parity wheel.[60]

The commenter also states that providing floor brokers with the exclusive use of pegged orders provides them an unjustified competitive advantage over customers and broker-dealers when trading securities electronically.[61] The commenter

explains that pegged orders automatically repriced to a new price level and that, therefore, pegged orders have a time advantage over all other orders that seek to be entered at the revised price.[62]

IV. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule change, as modified by Amendment No. 1, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[63] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act [64]—which requires, among other things, that the rules of a national securities exchange 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 facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest, and that the rules not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers—and with Section 6(b)(8) of the Act,[65] which requires that the rules of a national securities exchange not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Commission further finds that the proposed rule change is consistent with Section 12(f) of the Act,[66] which permits a national securities exchange to trade securities it does not list, pursuant to unlisted trading privileges, as long as the securities are listed on another national securities exchange.

The Exchange proposes to trade, for the first time, securities that it does not list, and it proposes to do so using a new technology platform—the Pillar platform that has been deployed to date on the Exchange's affiliated exchanges NYSE Arca and NYSE American. The proposed rules for UTP trading would govern clearly erroneous executions, limit-up-limit-down plan compliance, short sales, trading halts, orders and

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[51] *See* Cboe Letter, *supra* note 9.

[52] *See id.* at 1–2.

[53] *Id.* at 2.

[54] *Id.*

[55] *Id.*

[56] *Id.*

[57] *Id.*

[58] *Id.*

[59] *Id.*

[60] *Id.* at 2–3.

[61] *Id.* at 3.

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[62] *Id.*

[63] In approving this proposed rule change, as modified by Amendment No. 1, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[64] 15 U.S.C. 78f(b)(5).

[65] 15 U.S.C. 78f(b)(8).

[66] 15 U.S.C. 78l(f).

modifiers, order ranking and display, order execution and routing, odd and mixed lots trading, and tick-size pilot plan compliance, and the proposal would also designate the current Exchange rules that are not applicable to UTP Securities.

Trading of UTP Securities on the Exchange would differ in two significant respects from trading in NYSE-listed securities.[67] First, the Exchange would not conduct auctions in UTP Securities. And second, the Exchange would not assign UTP securities to DMMs, which have affirmative obligations to support a fair and orderly market, and to facilitate auctions, in their assigned securities.[68] The Commission believes that these distinctions between NYSE-listed securities and UTP Securities are consistent with UTP trading of securities generally, and that these distinctions are consistent with the requirements of the Act.

The Commission also notes that, while the proposed trading rules are similar in most respects to previously approved rules of NYSE Arca and NYSE American—which also use the Pillar trading platform[69]—they differ in certain material ways. Most notably, the Exchange will extend its current parity allocation model to the execution of trades in UTP Securities, rather than using the strict price-time priority allocation of NYSE Arca and NYSE American, and this parity allocation model would allow each floor broker's orders to trade on parity with orders on the Exchange book. Only floor brokers engaged in a floor-broker business for NYSE-listed securities would be eligible for parity allocation. Additionally, Exchange floor brokers would only be able to enter orders for parity allocation while physically on the floor of the Exchange, and they could not engage in proprietary trading using parity allocation. Finally, there would also be a floor-based point of sale, supervised by Exchange employees, where floor brokers would be able cross trades in UTP securities.

When instituting proceedings to determine whether the Exchange's proposal was consistent with Section

6(b)(5) and Section 6(b)(8) of the Act,[70] the Commission specifically requested comments concerning the role of floor brokers in trading UTP Securities on the Exchange;[71] on the benefits and costs of floor-broker activities with respect to trading of UTP Securities;[72] and on whether providing floor brokers with parity allocation in UTP Securities, or providing floor brokers with exclusive use of certain order instructions, would unfairly discriminate or impose an unfair burden on competition that is not necessary or appropriate.[73] The one comment letter received opposes the proposal, arguing that parity allocation in a fully electronic market would provide floor brokers, by allowing them to ''skip the line,'' with an unfair advantage vis-à-vis other market participants that also add liquidity to the market, and that floor brokers might take advantage of their preferential treatment on the parity wheel by charging higher transaction fees. The commenter also argues that the exclusive use of pegged orders by floor brokers would similarly provide them with an unfair competitive advantage.

The Commission notes that, in Amendment No. 1 to its proposal, the Exchange has responded to the questions raised by the Commission, and the concerns expressed by the commenter, by modifying its proposal to require that floor brokers be engaged in a floor-broker business in NYSE-listed securities in order to be eligible for parity allocation in UTP Securities; to expressly require that orders in UTP Securities be entered from the Exchange floor in order to be eligible for parity[74]; and to provide for a floor-based point of sale for crossing transactions.[75] Additionally, the Exchange has added substantial further explaination of the role that floor brokers play as agency brokers on behalf of their customers.

The Exchange argues that the parity allocation model for UTP Securities is based on the historically floor-based model of the Exchange and that trading in UTP Securities is designed to complement the floor broker's existing role in NYSE-listed securities, which includes both parity allocation and the use of pegging orders. The Exchange argues that the proposed parity allocation model in UTP Securities would benefit competition by providing

market participants with a choice as to how their orders are executed, asserting that market participants who do not wish to invest in speed-related technology, who have a thinly staff trading desk, or who would like to execute a large crossing transaction could utilize the services of a floor broker. According to the Exchange, trading UTP Securities using a parity model would also benefit competition by providing an alternative trading model for trading those securities. The Exchange asserts that floor brokers serve an important role as an agency broker without conflicts, especially for illiquid securities. The Exchange also notes that any member organization can choose to become a floor broker and that the Exchange does not charge member organizations for the use of space on the trading floor.

The Commission believes that the changes to the proposal in Amendment No. 1 have sufficiently addressed the Commission's and the commenter's concerns regarding the proposal's consistency with the Act. The proposal, as amended, represents a measured extension of the Exchange's existing market model (including the potential for floor-based trading added by Amendment No. 1) to trading in UTP Securities, while ensuring that the ability of floor brokers to obtain parity allocation is limited to those floor brokers who are engaged in a bona fide agency business while physically on the trading floor of the Exchange, with the benefit of parity allocations flowing to the customers of the floor brokers. Floor brokers, as agency-only market participants, would not be able to use either parity allocations or pegging orders to liquidate or acquire their own proprietary positions. Finally, with respect to concerns regarding competition, the Exchange has represented that, in October 2017, floor-broker orders receiving parity executions (all of which are liquidity-providing orders) represented only about 5.5% of the intraday liquidity-providing volume on the Exchange in NYSE-listed securities.[76] Given that parity allocation and the exclusive use of pegging orders do not appear to have burdened competition in NYSE-listed securities, the Commission does not have a reason to believe that permitting the Exchange to trade UTP Securities with a similar intraday role for floor brokers will provide those floor brokers with an unfair competitive advantage.

The Commission also finds that the proposed rule change is consistent with Section 12(f) of the Act. Section 12(a) of

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[67] NYSE represents that it will continue to trade NYSE-listed securities on its current trading platform. The Exchange intends to migrate trading in NYSE-listed securities to Pillar at a later date. *See supra* note 17.

[68] *See* NYSE Rule 104(a) (stating that ''DMMs registered in one or more securities trading on the Exchange must engage in a course of dealings for their own account to assist in the maintenance of a fair and orderly market insofar as reasonably practicable.'').

[69] *See* supra notes 12 and 13.

[70] *See* Order Instituting Proceedings, *supra* note 7, at 52761.

[71] *Id.*

[72] *Id.*

[73] *Id.*

[74] *See* Proposed NYSE Rule 7.36(a)(5).

[75] As explained above, NYSE proposes to permit floor brokers to enter into crossing transactions pursuant to NYSE Rule 76.

[76] *See supra* note 50 and accompanying text.

the Act [77] generally prohibits trading on an exchange of any security that is not registered (listed) on that exchange. Section 12(f) of the Act,[78] however, allows a national securities exchange to extend unlisted trading privileges—*i.e.,* to allow trading in a security that is not listed and registered on that exchange— to securities that are registered on another national securities exchange. When an exchange extends unlisted trading privileges to a security, the exchange allows its members to trade the security as if the security were listed on that exchange.[79]

The UTP Act of 1994 [80] substantially amended Section 12(f) of the Act. Before 1994, national securities exchanges had to apply to the Commission for approval before extending unlisted trading privileges to a particular security. The UTP Act removed the application, notice, and Commission approval process from Section 12(f) of the Act, except in cases of Commission suspension of unlisted trading privileges in a particular security on an exchange. Accordingly, under Section 12(f) of the Act, exchanges may immediately extend unlisted trading privileges to a security listed on another exchange. Pursuant to Rule 12f–5 under the Act,[81] a national securities exchange shall not extend unlisted trading privileges to any security, unless the national securities exchange has in effect a rule or rules providing for transactions in the class or type of security to which the exchange extends unlisted trading privileges.

The proposal would establish Exchange rules providing for transactions on securities that are listed on other national securities exchanges. As a national securities exchange, the Exchange is permitted under Section 12(f) of the Act [82] to extend unlisted trading privileges to securities listed and registered on other national securities exchanges, subject to Rule 12f–5 under the Act. The Commission notes that the Exchange's current rules would allow the Exchange to extend unlisted trading privileges to any security that is an NMS Stock listed on another national securities exchange.[83]

[77] 15 U.S.C. 78l(a).

[78] 15 U.S.C. 78l(f).

[79] Over-the-counter (''OTC'') dealers are not subject to the Section 12(a) registration requirement because they do not transact business on an exchange.

[80] Pub. L. 103–389, 108 Stat. 4081 (1994).

[81] 17 CFR 240.12f–5.

[82] 15 U.S.C. 78l.

[83] *See* NYSE Rule 5.1 (''Notwithstanding the requirements for listing set forth in these Rules, the Exchange may extend unlisted trading privileges (''UTP'') to any security that is an NMS Stock (as defined in Rule 600 of Regulation NMS under the

The proposed rules provide for transactions in the class or type of security to which the Exchange intends to extend unlisted trading privileges. Together with the existing Exchange rules for trading on Pillar—NYSE Rules 1P to 13P—the Exchange would have rules providing for transactions in the class or type of security to which the exchange proposes to extend unlisted trading privileges, and, therefore, the proposal is consistent with Section 12(f) of the Act.

Because the proposal, as amended, is consistent with Sections 6(b)(5), 6(b)(8), and 12(f) of the Act, the Commission finds good cause, pursuant to Section 19(b)(2) of the Act,[84] to approve the proposed rule change on an accelerated basis.

V. Solicitation of Comments on Amendment No. 1

Interested persons are invited to submit written data, views, and arguments concerning whether Amendment No. 1 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–2017–36 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–NYSE–2017–36. 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 website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than

Act) that is listed on another national securities exchange or with respect to which unlisted trading privileges may otherwise be extended in accordance with Section 12(f) of the Act. Any such security will be subject to all Exchange trading rules applicable to securities trading on the Pillar trading platform, unless otherwise noted.'').

[84] 15 U.S.C. 78s(b)(2).

those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comment are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSE–2017–36, and should be submitted on or before April 19, 2018.

VI. Accelerated Approval of the Proposed Rule Change, as Modified by Amendment No. 1

The Commission finds good cause to approve the proposed rule change, as modified by Amendment No. 1, prior to the thirtieth day after the date of publication of Amendment No. 1 in the **Federal Register.** In Amendment No. 1, among other changes, the Exchange: (i) Responds to the Commission's concerns in the Order Instituting Proceedings relating to the extension of parity to floor brokers in UTP Securities by (a) proposing additional requirements for floor broker orders to be eligible for parity, (b) proposing to permit floor brokers to engage in floor-based point-of-sale trading and crossing transactions in UTP Securities, and (c) providing additional justification for providing floor brokers with parity in UTP Securities; (ii) amends the definition of Aggressing Order to include that a resting order may become an Aggressing Order if its working price change, the PBBO or NBBO is updated, when there are changes to other orders on the Exchange Book, or when processing inbound messages; (iii) amends the rules relating to the MPL Order and MTS Modifier to reflect those of NYSE Arca and NYSE American and sets forth additional rules relating setting forth how orders with an MTS Modifier would trade in a parity-based model; (iv) makes changes to the list of rules that are not applicable for parity; (v) makes changes to proposed NYSE Rules 7.37 and 7.46 to refer to an order with an MTS as an order with an ''MTS Modifier''; (vi) changes cross-references to NYSE Arca's rules to reflect the merger of NYSE Arca and NYSE Arca Equities, and (vii) makes changes to

reflect the renaming of NYSE MKT to NYSE American.

As discussed above, Amendment No.1 addresses the Commission's concerns and the comment letter received. The definitions of Aggressing Order, the MPL Order, and the MTS Modifier are similar to the rules of NYSE Arca, which have been approved by the Commission previously, with adaptions for the Exchange's parity allocation model. The remaining changes are non-substantive. Accordingly, the Commission finds good cause, pursuant to Section 19(b)(2) of the Act,[85] to approve the proposed rule change, as modified by Amendment No. 1, on an accelerated basis.

VII. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[86] that the proposed rule change (SR–NYSE–2017–36), as modified by Amendment No. 1, be, and hereby is, approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[87]

Jill M. Peterson,

Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82943; File No. SR–CboeEDGX–2018–008]

Self-Regulatory Organizations; Cboe EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Paragraph (h) of Exchange Rule 11.6 Describing the Operation of Orders With a Minimum Execution Quantity Instruction

March 23, 2018.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 16, 2018, Cboe EDGX Exchange, Inc. (the "Exchange" or "EDGX") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Exchange has designated this proposal as a "non-controversial" proposed rule

change pursuant to Section 19(b)(3)(A) of the Act [3] and Rule 19b–4(f)(6)(iii) thereunder,[4] which renders it effective upon filing with the Commission. 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 filed a proposal to amend paragraph (h) of Exchange Rule 11.6 describing the operation of orders with a Minimum Execution Quantity [5] instruction.

The text of the proposed rule change is available at the Exchange's website at *www.markets.cboe.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 Exchange 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 Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

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

1. Purpose

The Exchange proposes to amend paragraph (h) of Exchange Rule 11.6 describing the operation of orders with a Minimum Execution Quantity instruction by removing language that provided for the re-pricing of incoming orders with a Minimum Execution Quantity instruction to avoid an internally crossed book. As a result of this change, the Exchange proposes to specify within the rule when an order with a Minimum Execution Quantity instruction would not be eligible to trade to prevent executions from occurring that may be inconsistent with intra-market price priority or that would

cause a Non-Displayed [6] order to trade ahead of a Displayed [7] order.

In sum, a Minimum Execution Quantity is a non-displayed order that enables a User [8] to specify a minimum share amount at which the order will execute.[9] An order with a Minimum Execution Quantity will not execute unless the volume of contra-side liquidity available to execute against the order meets or exceeds the designated minimum size. By default, an order with a Minimum Execution Quantity instruction will execute upon entry against a single order or multiple aggregated orders simultaneously. The Exchange recently amended the operation of the Minimum Execution Quantity instruction to permit a User to alternatively specify the order not execute against multiple aggregated orders simultaneously and that the minimum quantity condition be satisfied by each individual order resting on the EDGX Book.[10]

The Exchange also recently amended the operation of the Minimum Execution Quantity instruction to re-price incoming orders with the Minimum Execution Quantity instruction where that order may cross an order posted on the EDGX Book.[11] Specifically, where there is insufficient size to satisfy an incoming order's minimum quantity condition and that incoming order, if posted at its limit price, would cross an order(s), whether displayed or non-displayed, resting on the EDGX Book, the order with the minimum quantity condition would be re-priced to and ranked at the Locking Price.[12] This functionality has not yet been implemented [13] and the Exchange

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[6] *See also* Exchange Rule 11.6(c)(2) for a definition of the Non-Displayed instruction.

[7] *See* Exchange Rule 11.6(c)(1) for a definition of the Displayed instruction.

[8] The term "User" is defined as "any Member or Sponsored Participant who is authorized to obtain access to the System pursuant to Rule 11.3." *See* Exchange Rule 1.5(ee).

[9] A Minimum Execution Quantity instruction may only be added to an order with a Non-Displayed instruction or a Time-in-Force of Immediate-or-Cancel. *See* Exchange Rule 11.6(h).

[10] *See* Securities Exchange Act Release No. 81457 (August 22, 2017), 82 FR 40812 (August 28, 2017) (SR–BatsEDGX–2017–34). This functionality is pending deployment and the implementation date will be announced via a trading notice.

[11] *Id.*

[12] "Locking Price" is defined as "[t]he price at which an order to buy (sell), that if displayed by the System on the EDGX Book, either upon entry into the System, or upon return to the System after being routed away, would be a Locking Quotation." *See* Exchange Rule 11.6(f).

[13] *See supra* note 10. Exchange Rule 11.6(h) does not require re-pricing where the order with a Minimum Execution Quantity is resting on the EDGX Book. As such, an internally crossed book may occur where the incoming order is of insufficient size to satisfy the resting order's

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[85] 15 U.S.C. 78s(b)(2).

[86] *Id.*

[87] 17 CFR 200.30–3(a)(12).

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

[2] 17 CFR 240.19b–4.

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

[4] 17 CFR 240.19b–4(f)(6)(iii).

[5] *See* Exchange Rule 11.6(h) for a complete description of the operation of the Minimum Execution Quantity order instruction.