

The Exchange does not believe the proposed rule change will impose any burden on intramarket competition, as the proposed rule change will apply in the same manner to all orders submitted to a SAM Auction. With respect to the restriction on appointed market-makers being solicited, the Exchange believes market-makers will still have opportunities to provide liquidity to trade against Agency Orders by submitting quotes to rest on the EDGX Options Book or responses to a SAM Auction. With respect to the restriction on permitting a pair of Priority Customer orders to a SAM Auction, the Exchange believes this is appropriate given the immediate cross functionality available to pairs of Priority Customer orders. Options Members will continue to be able to immediately cross these pairs of orders via AIM.⁷²

The Exchange does not believe the proposed rule change will impose any burden on intermarket competition, because the proposed changes, as described above and below, are based on rules for similar price improvement auction mechanisms at other options exchanges.⁷³ The general framework and primary features of the proposed SAM Auction process (such as the eligibility requirements, auction response period, same-side stop price requirements, response requirements, and auction notification process),⁷⁴ are substantively the same as the framework for the AIM price improvement auction the Exchange's current price improvement auction.

The Exchange believes that the proposed rule change will relieve any burden on, or otherwise promote, competition. The Exchange believes this proposed rule change is necessary to permit fair competition among the options exchanges and to establish more uniform price improvement auction rules on the various options exchanges. The Exchange anticipates that this auction proposal will create new opportunities for the Exchange to attract new business and compete on equal footing with those options exchanges with auctions and for this reason the proposal does not create an undue burden on intermarket competition. Rather, the Exchange believes that the proposed rule would bolster intermarket competition by promoting fair competition among individual markets, while at the same time assuring that market participants receive the benefits of markets that are linked together,

through facilities and rules, in a unified system, which promotes interaction among the orders of buyers and sellers. The Exchange believes its proposal would help ensure intermarket competition across all exchanges and facilitate compliance with best execution practices. In addition, the Exchange believes that the proposed rule change would help promote fair and orderly markets by helping ensure compliance with Options Order Protection and Locked and Crossed Market Rules. Thus, the Exchange does not believe the proposal creates a significant impact on competition.

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

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

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

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

A. By order approve or disapprove such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

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

Electronic Comments

- Use the Commission's internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include File Number SR-CboeEDGX-2019-047 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-CboeEDGX-2019-047. 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 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 such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments 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-CboeEDGX-2019-047, and should be submitted on or before September 5, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁷⁵

Jill M. Peterson,

Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-86620; File No. SR-NYSEArca-2019-56]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the NYSE Arca Equities Fees and Charges To Adopt An Incremental Credit Under a Current Pricing Tier, Cross-Asset Tier 3

August 9, 2019.

Pursuant to Section 19(b)(1)¹ of the Securities Exchange Act of 1934 ("Act"),² and Rule 19b-4

⁷⁵ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C.78s(b)(1).

² 15 U.S.C. 78a.

⁷² See Rule 21.19(f).

⁷³ See, e.g., Cboe Options Rule 6.74B; ISE Rule 716(e); and MIAX Rule 515A(b).

⁷⁴ See Rule 21.19.

thereunder,³ notice is hereby given that on August 1, 2019, NYSE Arca, Inc. (“NYSE Arca” or the “Exchange”) filed with the Securities and Exchange Commission (“SEC” or “Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange proposes to amend the NYSE Arca Equities Fees and Charges (“Fee Schedule”) to adopt an incremental credit under a current pricing tier, Cross-Asset Tier 3. The Exchange proposes to implement the fee change effective August 1, 2019. The proposed rule change is available on the Exchange’s website at www.nyse.com, at the principal office of the Exchange, and at the Commission’s Public Reference Room.

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

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

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

1. Purpose

The Exchange proposes to amend the Fee Schedule to adopt an incremental credit under a current pricing tier, Cross-Asset Tier 3, that would provide an additional incentive for all ETP Holders (including Market Makers)⁴ to provide liquidity in Tapes A and B Securities. The Exchange proposes to implement the fee change effective August 1, 2019.

The purpose of this proposed rule change is to introduce a new incremental credit of \$0.0002 per share under Cross-Asset Tier 3 if an ETP

Holder meets both the existing Cross-Asset Tier 3 requirements⁵ and executes a designated percentage of volume of its US CADV, as described below.

Background

The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system “has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.”⁶

As the Commission itself recognized, the market for trading services in NMS stocks has become “more fragmented and competitive.”⁷ Indeed, equity trading is currently dispersed across 13 exchanges,⁸ 31 alternative trading systems,⁹ and numerous broker-dealer internalizers and wholesalers, all competing for order flow. Based on publicly-available information for June 2019, no single exchange has more than 18% market share (whether including or

excluding auction volume).¹⁰ Therefore, no exchange possesses significant pricing power in the execution of equity order flow. More specifically, in June 2019, the Exchange had 8.5% market share of executed volume of equity trades (excluding auction volume), down from 9.0% in March 2019.¹¹

The Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can move order flow, or discontinue or reduce use of certain products. While it is not possible to know a firm’s reason for shifting order flow, the Exchange believes that one such reason is because of fee changes at any of the registered exchanges or non-exchange venues to which a firm routes order flow. These fees vary month to month, and not all are publicly available. With respect to non-marketable order flow that would provide displayed liquidity on an Exchange against which market makers can quote, ETP Holders can choose from any one of the 13 currently operating registered exchanges to route such order flow. Accordingly, competitive forces constrain exchange transaction fees that relate to orders that would provide liquidity on an exchange.

The Exchange operates a “Maker-Taker” model whereby it pays credits to members that provide liquidity and assesses fees to those that remove liquidity. The Exchange’s Fee Schedule sets forth the rebates and fees applied on a per share basis for orders that provide and remove liquidity, respectively. In response to this competitive environment, the Exchange offers tiered pricing that provides ETP Holders opportunities to qualify for higher rebates or reduced fees where certain volume criteria and thresholds are met. Tiered pricing provides an incremental incentive for ETP Holders to strive for higher tier levels, which provides increasingly higher discounts for satisfying more stringent criteria.

More specifically, the Exchange currently has multiple levels of credits designed to incentivize ETP Holders to achieve certain levels of participation on both the Exchange’s equities and options platform (“NYSE Arca Options”). Under Cross-Asset Tier 1 and Cross-Asset Tier 3, ETP Holders can currently receive a credit of \$0.0030 per share for orders that provide liquidity, i.e., resting limit orders available for execution on the Exchange, in Tapes A,

⁵ To qualify for credits under Cross-Asset Tier 3, ETP Holders are required to (a) provide liquidity of 0.30% or more of the US CADV per month, and (b) have an affiliation with an OTP Holder or OTP Firm that provides an ADV of electronic posted Customer and Professional Customer executions in all issues on NYSE Arca Options (excluding mini options) of at least 0.80% of total Customer equity and ETF option ADV as reported by OCC, of which at least 0.20% of total Customer equity and ETF option ADV as reported by OCC is from Customer and Professional Customer executions in non-Penny Pilot issues on NYSE Arca Options. See Fee Schedule, Cross-Asset Tier 3. US CADV means United States Consolidated Average Daily Volume for transactions reported to the Consolidated Tape, excluding odd lots through January 31, 2014 (except for purposes of Lead Market Maker pricing), and excludes volume on days when the market closes early and on the date of the annual reconstitution of the Russell Investments Indexes. Transactions that are not reported to the Consolidated Tape are not included in US CADV.

⁶ See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37495, 37499 (June 29, 2005) (S7-10-04) (Final Rule) (“Regulation NMS”).

⁷ See Securities Exchange Act Release No. 51808, 84 FR 5202, 5253 (February 20, 2019) (File No. S7-05-18) (Transaction Fee Pilot for NMS Stocks Final Rule) (“Transaction Fee Pilot”).

⁸ See Cboe Global Markets, U.S. Equities Market Volume Summary, available at http://markets.cboe.com/us/equities/market_share/. See generally <https://www.sec.gov/fast-answers/divisionsmarketregmrexchangeshtml.html>.

⁹ See FINRA ATS Transparency Data, available at <https://otctransparency.finra.org/otctransparency/AtsIssueData>. Although 54 alternative trading systems were registered with the Commission as of July 29, 2019, only 31 are currently trading. A list of alternative trading systems registered with the Commission is available at <https://www.sec.gov/foia/docs/atstlist.htm>.

¹⁰ See Cboe Global Markets U.S. Equities Market Volume Summary, available at http://markets.cboe.com/us/equities/market_share/.

¹¹ See *id.*

³ 17 CFR 240.19b-4.

⁴ All references to ETP Holders in connection with Cross-Asset Tier 3 include Market Makers.

B and C Securities.¹² Additionally, under Cross-Asset Tier 2, ETP Holders can currently receive the following credits for orders that provide liquidity: \$0.0031 per share in Tape A Securities; \$0.0030 per share in Tape B Securities; and \$0.0032 per share in Tape C Securities.¹³

Proposed Fee Change for Cross-Asset Tier 3

The Exchange proposes to provide an increased incentive for ETP Holders that otherwise qualify for the current Cross-Asset Tier 3 to send liquidity-providing orders to the Exchange in Tapes A, B and C Securities. As proposed, if an ETP Holder (including Market Makers) meets the requirements of Cross-Asset Tier 3 and, for the billing month, executes orders that provide liquidity in Tapes A, B and C Securities that is at least 0.65% of US CADV, that ETP Holder would be eligible for an incremental credit of \$0.0002 per share for orders that provide liquidity to the Book in Tapes A and B Securities.

For example, assume an ETP Holder meets the options requirement of Cross-Asset Tier 3 by having an affiliation with an OTP Holder or OTP Firm that provides an ADV of electronic posted Customer and Professional Customer executions in all issues on NYSE Arca Options (excluding mini options) of at least 0.80% of total Customer equity and ETF option ADV as reported by OCC, of which at least 0.20% of total Customer equity and ETF option ADV as reported by OCC is from Customer and Professional Customer executions in non-Penny Pilot issues on NYSE Arca Options. Further assume that ETP Holder provides liquidity of 24.5 million shares in a month where US CADV is 7.0 billion shares, or 0.35% of US CADV, thereby meeting the current requirements and qualifying for the Cross-Asset Tier 3 credit of \$0.0030 per share. If that ETP Holder instead provides liquidity of at least 45.5 million shares, or 0.65% of US CADV, that ETP Holder would be eligible for the proposed incremental credit of \$0.0002 per share for orders that provide liquidity to the Book in Tapes A and B Securities, for a combined credit of \$0.0032 per share.

¹² See Fee Schedule, Cross-Asset Tier 1 and Cross-Asset Tier 3. Additionally, under Cross-Asset Tier 3, ETP Holders can also receive an incremental credit of \$0.0004 per share in Tape C Securities if they meet the current requirements of Cross-Asset Tier 3 and execute a designated percentage of volume of its Tape C CADV.

¹³ See Fee Schedule, Cross-Asset Tier 2.

Applicability of Proposed Rule Change

The proposed rule change is designed to be available to all ETP Holders on the Exchange and is intended to provide ETP Holders an additional opportunity to receive an enhanced rebate by executing more of their orders on the Exchange.

The Exchange proposes to increase the credits available under the Cross-Asset Tier 3 pricing tier to provide an incentive for ETP Holders to send increased order flow to qualify for these tiers. If an ETP Holder qualifies for Cross-Asset Tier 3 and meets the additional proposed volume requirement, that ETP Holder would be eligible for an incremental credit as compared to the current credit for qualifying for Cross-Asset Tier 3, which is \$0.0030 per share credit for orders that provide liquidity in Tapes A, B and C Securities.

The Exchange does not know how much order flow ETP Holders choose to route to other exchanges or to off-exchange venues. There are currently no firms that qualify for the credits under the current Cross-Asset Tier 1 pricing tier. There is currently one firm that qualifies for the credits under the current Cross-Asset Tier 2 pricing tier and one firm that qualifies for the credits under the current Cross-Asset Tier 3 pricing tier.¹⁴ However, without having a view of ETP Holders' activity on other markets and off-exchange venues, the Exchange has no way of knowing whether this proposed rule change would result in any ETP Holders qualifying for the incremental credit. The Exchange believes the proposed increased credit for Cross-Asset Tier 3 would provide an incentive for ETP Holders to submit additional liquidity-providing orders to the Exchange to qualify for the incremental credit.

As noted above, the Exchange operates in a competitive environment, particularly as it relates to attracting non-marketable, providing liquidity that would be displayed on the Exchange. The proposed rule change is designed to incentivize ETP Holders to increase the orders sent to the Exchange that would provide liquidity, which would support the quality of price discovery and transparency on the Exchange. The Exchange believes that by correlating the level of the credit to the level of executed providing volume on the Exchange, the Exchange's fee structure would incentivize ETP Holders to submit more displayed, liquidity-

¹⁴ As of July 24, 2019, there are 165 ETP Holders on the Exchange, of which 57 are affiliated with an OTP Holder or OTP Firm and could therefore, qualify for the Exchange's Cross-Asset pricing tiers.

providing orders to the Exchange that are likely to be executed (*i.e.*, are not orders that are intended to be displayed, but are priced such that they are not likely to be executed), thereby increasing the potential for incoming marketable orders submitted to the Exchange to receive an execution.

With respect to the proposed new incremental credit under Cross-Asset Tier 3 for orders that provide liquidity, while there is currently one ETP Holder that qualifies for Cross-Asset Tier 3, the Exchange believes that at least three other ETP Holders could qualify for the proposed new incremental credit if these firms were to direct more of their eligible order flow to the Exchange such that these firms would then meet both the existing Cross-Asset Tier 3 requirements and the proposed new volume requirement.

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

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,¹⁵ in general, and furthers the objectives of Sections 6(b)(4) and (5) of the Act,¹⁶ in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

The Proposed Fee Change is Reasonable

As discussed above, the Exchange operates in a highly fragmented and competitive market. The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Specifically, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system "has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies."¹⁷

As the Commission itself recognized, the market for trading services in NMS stocks has become "more fragmented

¹⁵ 15 U.S.C. 78f(b).

¹⁶ 15 U.S.C. 78f(b)(4) and (5).

¹⁷ See Regulation NMS, 70 FR at 37499.

and competitive.”¹⁸ Indeed, equity trading is currently dispersed across 13 exchanges,¹⁹ 31 alternative trading systems,²⁰ and numerous broker-dealer internalizers and wholesalers, all competing for order flow. Based on publicly-available information, no single exchange has more than 18% market share (whether including or excluding auction volume).²¹ Therefore, no exchange possesses significant pricing power in the execution of equity order flow. More specifically, as noted earlier, the Exchange averaged less than 9% market share of executed volume of equity trades (excluding auction volume) for June 2019. The Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can shift order flow, or discontinue to reduce use of certain categories of products, in response to fee changes. Accordingly, competitive forces reasonably constrain exchange transaction fees. Stated otherwise, changes to exchange transaction fees can have a direct effect on the ability of an exchange to compete for order flow.

The Exchange believes the proposed increased credit is reasonable as it would provide an additional incentive for ETP Holders to qualify for the new incremental credit and direct their order flow to the Exchange and provide meaningful added levels of liquidity, thereby contributing to the depth and market quality on the Exchange. As noted above, the Exchange operates in a highly competitive environment, particularly for attracting order flow that provides liquidity on an exchange. The Exchange believes it is reasonable to continue to provide a higher credit for orders that provide liquidity if an ETP Holder meets the heightened volume requirements to qualify for the new incremental credit.

Because the proposed amendment to the Cross-Asset Tier 3 pricing tier would be new with a requirement to increase liquidity providing orders, no ETP Holder currently qualifies for the proposed new incremental credit.

The Exchange notes that volume-based incentives and discounts have been widely adopted by exchanges,²² including the Exchange,²³ and are reasonable, equitable and non-discriminatory because they are open to all ETP Holders on an equal basis and provide additional credits that are reasonably related to the value to an exchange’s market quality and associated higher levels of market activity.

As noted previously, there are a small number of firms that currently qualify or could qualify for the credits under the current Cross-Asset Tier 1, Cross-Asset Tier 2, and Cross-Asset Tier 3 pricing tiers and if these firms were to submit more of their liquidity-providing orders to the Exchange, each could qualify for the proposed new incremental credit. However, without having a view of ETP Holders’ activity on other markets and off-exchange venues, the Exchange has no way of knowing whether this proposed rule change would result in any ETP Holders qualifying for the new incremental credit. The Exchange believes the proposed incremental credit would provide an incentive for ETP Holders to submit additional adding liquidity to qualify for the additional credit.

The Exchange believes that the proposed new credit for liquidity providing orders in Tapes A, B and C Securities under the current Cross-Asset Tier 3 pricing tier is reasonable because it provides an incentive for ETP Holders to route additional liquidity-providing order flow to the Exchange, which would promote price discovery and increase execution opportunities for all ETP Holders. The proposed pricing is structured similarly to the incremental credit the Exchange currently provides under current Cross-Asset Tier 3, which likewise provides ETP Holders an incremental credit of \$0.0004 per share (above the tiered rate of \$0.0030 per share) if the ETP Holder meets the qualifying requirements.²⁴ The

Exchange believes that the proposed change to the Cross-Asset Tier 3 pricing tier is reasonable because an ETP Holder that otherwise qualifies for the tier would still be eligible for the current per share credit of \$0.0030 per share for orders that provide liquidity. The proposed additional credit is designed to provide an incentive for such ETP Holder to route additional providing liquidity to the Exchange, which would be eligible for the higher credit.

On the backdrop of the competitive environment in which the Exchange currently operates, the proposed rule change is a reasonable attempt to increase liquidity on the Exchange and improve the Exchange’s market share relative to its competitors.

The Proposed Fee Change is an Equitable Allocation of Fees and Credits

The Exchange believes the proposed rule change is an equitable allocation of its fees and credits. The Exchange believes that the proposed increased credit under the Cross-Asset Tier 3 pricing tier is equitable because the magnitude of the additional credit is not unreasonably high in comparison to the credit paid with respect to other pricing tiers on the Exchange, and in comparison to the credits paid by other exchanges for orders that provide liquidity. For example, ETP Holders currently receive credits in Tape A, Tape B and Tape C Securities that range between \$0.0022 per share and \$0.0034 per share under Step Up Tier, Step Up Tier 2, Step Up Tier 3 and Step Up Tier 4.

With respect to credits paid by the Exchange’s competitors, BZX provides a credit that ranges between \$0.0028 and \$0.0030 per share in Tape A, Tape B and Tape C Securities under that market’s Cross-Asset pricing tiers.²⁵

The Exchange believes that the proposed new incremental credit for liquidity providing orders in Tapes A, B and C Securities under current Cross-Asset Tier 3 is also equitable because the proposal would continue to encourage ETP Holders to route liquidity-providing orders to the Exchange in Tapes A, B and C Securities, thereby contributing to robust levels of liquidity, which benefits all market participants.

As noted above, there are a small number of firms that currently qualify or could qualify for the credits under the current Cross-Asset Tier 1, Cross-Asset Tier 2, and Cross-Asset Tier 3 pricing tiers and if these firms were to submit

²² See e.g., Cboe BZX U.S. Equities Exchange (“BZX”) Fee Schedule, Footnote 1, Add Volume Tiers which provide enhanced rebates between \$0.0025 and \$0.0032 per share for displayed orders where BZX members meet certain volume thresholds.

²³ See e.g., Fee Schedule, Step Up Tier, Step Up Tier 2, Step Up Tier 3 and Step Up Tier 4, which provide enhanced rebates between \$0.0025 and \$0.0033 per share in Tape A Securities, between \$0.0022 and \$0.0034 per share in Tape B Securities, and between \$0.0025 and \$0.0033 per share in Tape C Securities for orders that provide displayed liquidity where ETP Holders meet certain volume thresholds.

²⁴ See Fee Schedule, Cross-Asset Tier 3. See also Securities and Exchange Act Release No. 80920 (June 14, 2017), 82 FR 28106 (June 20, 2017) (SR-NYSEArca-2017-64).

²⁵ See Cross-Asset Add Volume Tier 1–4, at https://markets.cboe.com/us/equities/membership/fee_schedule/bzx/.

¹⁸ See Transaction Fee Pilot, 84 FR at 5253.

¹⁹ See Cboe Global Markets, U.S. Equities Market Volume Summary, available at http://markets.cboe.com/us/equities/market_share/.

²⁰ See FINRA ATS Transparency Data, available at <https://otctransparency.finra.org/otctransparency/AtsIssueData>. Although 54 alternative trading systems were registered with the Commission as of July 29, 2019, only 31 are currently trading. A list of alternative trading systems registered with the Commission is available at <https://www.sec.gov/foia/docs/atlist.htm>.

²¹ See Cboe Global Markets U.S. Equities Market Volume Summary, available at http://markets.cboe.com/us/equities/market_share/.

more of their liquidity-providing orders to the Exchange, each could qualify for the proposed new incremental credit. However, without having a view of an ETP Holder's activity on other markets and off-exchange venues, the Exchange believes the proposed new incremental credit would provide an incentive for market participants to increase liquidity in order to qualify for the proposed new incremental credit, thereby encouraging submission of additional liquidity to the Exchange. The proposed change will thereby encourage the submission of additional liquidity to a national securities exchange, thus promoting price discovery and transparency and enhancing order execution opportunities for ETP Holders from the substantial amounts of liquidity present on the Exchange. All ETP Holders would benefit from the greater amounts of liquidity that will be present on the Exchange, which would provide greater execution opportunities.

The Exchange believes the proposed rule change would improve market quality for all market participants on the Exchange and, as a consequence, attract more liquidity to the Exchange thereby improving market-wide quality. The proposal neither targets nor will it have a disparate impact on any particular category of market participant. ETP Holders that currently qualify for credits associated with Cross-Asset pricing tiers on the Exchange will continue to receive credits when they provide liquidity to the Exchange. The Exchange believes that recalibrating the credits for providing liquidity will continue to attract order flow and liquidity to the Exchange for the benefit of investors generally. As to those market participants that do not presently qualify for the credits associated with Cross-Asset Tier 3, the proposal will not adversely impact their existing pricing or their ability to qualify for other credits provided by the Exchange.

The Proposed Fee Change is not Unfairly Discriminatory

The Exchange believes it is not unfairly discriminatory to provide an incremental per share credit as the proposed increased credit would be provided on an equal basis to all ETP Holders that add liquidity by meeting the increased volume requirements under the Cross-Asset Tier 3 pricing tier. Further, the Exchange believes the proposed incremental per share credit would incentivize ETP Holders that meet the current Cross-Asset Tier 3 pricing tier requirements to execute more of their liquidity-providers orders on the Exchange to qualify for the proposed incremental credit. The

Exchange also believes that the proposed change is not unfairly discriminatory because it is reasonably related to the value of the Exchange's market quality associated with higher volume. The proposed incremental per share credit would apply equally to all ETP Holders as each would be required to execute providing volume in Tapes A, B and C Securities during the billing month equal to at least 0.65% of US CADV regardless of whether an ETP Holder currently meets the requirement of another pricing tier.

Similarly, the Exchange believes it is not unfairly discriminatory to provide an incremental credit for liquidity providing orders in Tapes A and B Securities under the current Cross-Asset Tier 3 pricing tier because the proposed credit would be provided on an equal basis to all ETP Holders that add liquidity by meeting the proposed new volume requirements. Further, the Exchange believes the proposed incremental credit would incentivize ETP Holders to send more orders to the Exchange to qualify for the higher credit.

Finally, the submission of orders to the Exchange is optional for ETP Holders in that they could choose whether to submit orders to the Exchange and, if they do, the extent of its activity in this regard. The Exchange believes that it is subject to significant competitive forces, as described below in the Exchange's statement regarding the burden on competition.

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

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

In accordance with Section 6(b)(8) of the Act,²⁶ the Exchange believes that the proposed rule change would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Instead, as discussed above, the Exchange believes that the proposed rule change would encourage the submission of additional liquidity to a public exchange, thereby promoting market depth, price discovery and transparency and enhancing order execution opportunities for ETP Holders. As a result, the Exchange believes that the proposed change furthers the Commission's goal in adopting Regulation NMS of fostering integrated competition among orders, which promotes "more efficient pricing of

individual stocks for all types of orders, large and small."²⁷

Intramarket Competition. The proposed change is designed to attract additional order flow to the Exchange. The Exchange believes that the proposed incremental credit would continue to incentivize market participants to direct and execute more orders to the Exchange. Greater liquidity benefits all market participants on the Exchange by providing more trading opportunities and encourages ETP Holders to send orders, thereby contributing to robust levels of liquidity, which benefits all market participants on the Exchange. The proposed incremental credit would be available to all similarly-situated market participants, and, as such, the proposed change would not impose a disparate burden on competition among market participants on the Exchange.

Intermarket Competition. The Exchange operates in a highly competitive market in which market participants can readily choose to send their orders to other exchange and off-exchange venues if they deem fee levels at those other venues to be more favorable. As noted, the Exchange's market share of intraday trading (*i.e.*, excluding auctions) declined from March 2019 to June 2019. In such an environment, the Exchange must continually adjust its fees and rebates to remain competitive with other exchanges and with off-exchange venues. Because competitors are free to modify their own fees and credits in response, and because market participants may readily adjust their order routing practices, the Exchange does not believe its proposed fee change can impose any burden on intermarket competition.

The Exchange believes that the proposed change could promote competition between the Exchange and other execution venues, including those that currently offer similar order types and comparable transaction pricing, by encouraging additional orders to be sent to the Exchange for execution.

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.

²⁶ 15 U.S.C. 78f(b)(8).

²⁷ Regulation NMS, 70 FR at 37498-99.

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

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A)²⁸ of the Act and subparagraph (f)(2) of Rule 19b-4²⁹ thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)³⁰ of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

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

Electronic Comments

- Use the Commission's internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include File Number SR-NYSEArca-2019-56 on the subject line.

Paper Comments

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

All submissions should refer to File Number SR-NYSEArca-2019-56. 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 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 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal offices of the Exchange. All comments received will be posted without change. Persons submitting comments 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-NYSEArca-2019-56, and should be submitted on or before September 5, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.³¹

Jill M. Peterson,
Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-86626; File No. SR-IEX-2019-07]

Self-Regulatory Organizations: Investors Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Modify the IEX Fee Schedule, Pursuant to IEX Rules 15.110(a) and (c), To Charge a Fee of \$100 Per Month for Each Logical Order Entry Port in Excess of Five Per User

August 9, 2019.

Pursuant to Section 19(b)(1)¹ of the Securities Exchange Act of 1934 ("Act"),² and Rule 19b-4 thereunder,³ notice is hereby given that on August 8, 2019, the Investors Exchange LLC ("IEX" or the "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. 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

Pursuant to the provisions of Section 19(b)(1) under the Act,⁴ and Rule 19b-4 thereunder,⁵ IEX is filing with the Commission a proposed rule change to modify its Fee Schedule, pursuant to IEX Rules 15.110(a) and (c), to charge a fee of \$100 per month for each logical order entry port ("Order Entry Ports")⁶ in excess of five per User.⁷ As described below, although changes to the Fee Schedule pursuant to this proposal are effective upon filing, IEX is choosing to defer implementation of the proposed fee until October 1, 2019 to provide an opportunity for IEX to receive and consider any comments before the fee is assessed, as well as an opportunity for Users to reduce the number of their assigned Order Entry Ports and corresponding fees before the fee is applicable.

The text of the proposed rule change is available at the Exchange's website at www.iextrading.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 the Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statement may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

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

1. Purpose

IEX has not previously imposed any fees for Order Entry Ports used to access its market. In general, IEX believes that exchanges, in setting fees of all types, should meet very high standards of transparency to demonstrate why each new fee or fee increase meets the Exchange Act requirements that fees be reasonable, equitably allocated, not unfairly discriminatory, and not create an undue burden on competition among

⁴ 15 U.S.C. 78s(b)(1).

⁵ 17 CFR 240.19b-4.

⁶ Order Entry Ports are used for sending and receiving order messages.

⁷ See Rule 1.160(qq).

²⁸ 15 U.S.C. 78s(b)(3)(A).

²⁹ 17 CFR 240.19b-4(f)(2).

³⁰ 15 U.S.C. 78s(b)(2)(B).

³¹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.