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–PEARL–2019–28 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–PEARL–2019–28. 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 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 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–PEARL–2019–28 and should be submitted on or before November 7, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2019–22597 Filed 10–16–19; 8:45 am]

BILLING CODE 8011–01–P

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–87292; File No. SR–NYSEArca–2019–70]

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

October 11, 2019.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the ''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on October 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 (1) modify the requirements associated with the Step Up Tier 4, and (2) adopt a new pricing tier, Tape B Step Up Tier. The Exchange proposes to implement the fee changes effective October 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.

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

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

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 (1) modify the volume requirements applicable to ETP Holders (including Market Makers) to qualify for the per share credits for orders that provide displayed liquidity under the Step Up Tier 4,[4] and (2) adopt a new pricing tier, the Tape B Step Up Tier.

The proposed changes respond to the current competitive environment where order flow providers have a choice of where to direct liquidity-providing orders by offering further incentives for ETP Holders[5] to send additional displayed liquidity to the Exchange.

The Exchange proposes to implement the fee changes effective October 1, 2019.

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

[4] *See* Securities Exchange Act Release No. 85311 (March 14, 2019), 84 FR 10348 (March 20, 2019) (SR–NYSEArca–2019–10).

[5] All references to ETP Holders in connection with the Step Up Tier 4 and the Tape B Step Up Tier include Market Makers.

[6] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005).

[7] *See* Securities Exchange Act Release No. 51808, 84 FR 5202, 5253 (February 20, 2019) (File No. S7–05–18) (Final Rule).

[8] *See* Cboe U.S Equities Market Volume Summary, available at *https://markets.cboe.com/us/equities/market_share. See generally https://www.sec.gov/fast-answers/divisionsmarketregmrexchangesshtml.html.*

[9] *See* FINRA ATS Transparency Data, *available at https://otctransparency.finra.org/otctransparency/AtsIssueData.* A list of alternative trading systems registered with the Commission is *available at https://www.sec.gov/foia/docs/atslist.htm.*

August 2019, no single exchange has more than 19% 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 August 2019, the Exchange had 8.2% market share of executed volume of equity trades (excluding auction volume).[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 categories of 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. 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 displayed liquidity on an exchange.

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 opportunity to receive an enhanced rebate by executing more of their orders on the Exchange. The Exchange currently provides credits to ETP Holders who submit orders that provide displayed liquidity on the Exchange. The Exchange currently has multiple levels of credits for orders that provide displayed liquidity that are based on the amount of volume of such orders that ETP Holders send to the Exchange.

As described in greater detail below, the Exchange proposes the following change:

• Modify the volume requirements applicable to ETP Holders to qualify for the Step Up Tier 4 by lowering the percentage threshold that an ETP Holder must meet, and modify the baseline month over which the minimum threshold requirement must be met; and

• A new pricing tier that provides an incremental credit between $0.0002 per share and $0.0004 per share to ETP Holders that provide liquidity in Tape B Securities when such providing volume is at least 0.50% of the US Tape B CADV and such volume in Tape B Securities as a percentage of US Tape B CADV is an increase of 20% or more over the ETP Holder's providing ADV as a percentage of US Tape B CADV in the third quarter (''3Q'') of 2019.

Step Up Tier 4

In this competitive environment, the Exchange has already established Step Up Tiers 1–4, which are designed to encourage ETP Holders that provide displayed liquidity on the Exchange to increase that order flow, which would benefit all ETP Holders by providing greater execution opportunities on the Exchange. In order to provide an incentive for ETP Holders to direct providing displayed order flow to the Exchange, the credits increase in the various tiers based on increased levels of volume directed to the Exchange.

Currently, the following credits are available to ETP Holders that provide increased levels of displayed liquidity on the Exchange:

Tier	*Credit for providing displayed liquidity*
Step Up Tier	$0.0030 (Tape A). $0.0023 (Tape B). $0.0031 (Tape C).
Step Up Tier 2	$0.0028 (Tape A and C). $0.0022 (Tape B).
Step Up Tier 3	$0.0025 (Tape A and C). $0.0022 (Tape B).
Step Up Tier 4	$0.0033 (Tape A and C). $0.0034 (Tape B).

Under the Step Up Tier 4, if an ETP Holder increases its providing liquidity on the Exchange by a specified percentage over the level that such ETP Holder provided liquidity in January 2019, it is eligible to earn higher credits for providing displayed liquidity. Specifically, to qualify for the credits under the Step Up Tier 4, an ETP Holder must directly execute providing average daily volume (ADV) per month that is an increase of no less than 0.70% of US CADV [12] for that month over the ETP Holder's providing ADV in January 2019, taken as a percentage of US CADV.

Currently, if an ETP Holder meets these Step Up Tier 4 qualifications, such ETP Holder is eligible to earn a credit of:

• $0.0033 per share for orders that provide displayed liquidity to the Book in Tape A and Tape C Securities, and

• $0.0034 per share for orders that provide displayed liquidity to the Book in Tape B Securities.[13]

With this proposed rule change, the Exchange proposes to modify the volume requirements applicable to ETP Holders to qualify for the Step Up Tier 4 by lowering the percentage threshold that an ETP Holder must meet, from a minimum of 0.70% of US CADV for the billing month to a minimum of 0.55% of US CADV for the billing month. Additionally, the Exchange proposes to modify the baseline month over which the minimum threshold requirement must be met from January 2019 to September 2019.

The purpose of the proposed rule change is to increase the incentive for order flow providers to send liquidity-providing orders to the Exchange. As described above, ETP Holders with liquidity-providing orders have a choice of where to send those orders. The Exchange believes that, if it reduces the requirement to qualify for a tiered credit, more ETP Holders will choose to route their liquidity-providing orders to the Exchange to qualify for the credit.

The Exchange does not know how much order flow ETP Holders choose to route to other exchanges or to off-exchange venues. While the Step Up Tier 4 pricing tier is available to all ETP Holders, to date, not one ETP Holder has qualified for it.[14] 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 Step Up Tier 4 credit. The Exchange cannot predict with certainty how many ETP Holders would avail themselves of this opportunity but additional liquidity-providing orders would benefit all market participants because it would provide greater execution opportunities on the Exchange.

The Exchange is not proposing to amend any of the credits payable under the Step Up Tier 4.

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

[11] *See id.*

[12] US CADV means the 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. *See* Fee Schedule, footnote 3.

[13] *See* Securities Exchange Act Release No. 86122 (June 17, 2019), 84 FR 29258 (June 21, 2019) (SR–NYSEArca–2019–43).

[14] As of July 24, 2019, there are 165 ETP Holders on the Exchange that could qualify for the Exchange's Step Up pricing tiers.

Tape B Step Up Tier

The Exchange proposes to adopt a new pricing tier, Tape B Step Up Tier, that would offer an incremental credit to ETP Holders that qualify for the tier. As proposed, an ETP Holder that sends orders that add liquidity in Tape B Securities would receive the following:

- An incremental credit of $0.0002 per share when an ETP Holder's providing ADV in Tape B Securities during the billing month is at least 0.50% of the US Tape B CADV and the ETP Holder's providing ADV in Tape B Securities during the billing month as a percentage of US Tape B CADV is at least 20% more but less than 30% of the ETP Holder's providing ADV as a percentage of US Tape B CADV in 3Q 2019;
- An incremental credit of $0.0003 per share when an ETP Holder's providing ADV in Tape B Securities during the billing month is at least 0.50% of the US Tape B CADV and the ETP Holder's providing ADV in Tape B Securities during the billing month as a percentage of US Tape B CADV is at least 30% more but less than 40% of the ETP Holder's providing ADV as a percentage of US Tape B CADV in 3Q 2019; and
- An incremental credit of $0.0004 per share when an ETP Holder's providing ADV in Tape B Securities during the billing month is at least 0.50% of the US Tape B CADV and the ETP Holder's providing ADV in Tape B Securities during the billing month as a percentage of US Tape B CADV is at least 40% more than the ETP Holder's providing ADV as a percentage of US Tape B CADV in 3Q 2019.

The proposed incremental credit would be payable in addition to the ETP Holder's Tiered or Basic Rate credit(s); provided, however, that such combined credit(s) in Tape B Securities shall not exceed $0.0032 per share.

For example, assume an ETP Holder has providing ADV of 0.80% of Tape B CADV in Tape B securities in the baseline period of third quarter of 2019. Further assume that the same ETP Holder has providing ADV of 0.96% of Tape B in the billing month, which is at least 20% more but less than 30% of the ETP Holder's baseline ADV of 0.80% of Tape B CADV. Therefore, the ETP Holder in the above example would qualify to receive an incremental credit of $0.0002 per share. If instead, the same ETP Holder had providing ADV of Tape B CADV of 1.04% of Tape B in the billing month, then that ETP Holder would qualify for an incremental credit of $0.0003 per share, as 1.04% is at least 30% more but less than 40% of the ETP Holder's baseline ADV of 0.80% of Tape B CADV.[15] If instead, the same ETP Holder had providing ADV of Tape B CADV of 1.12% of Tape B in the billing month, then that ETP Holder would qualify for an incremental credit of $0.0004 per share, as 1.12% is at least 40% more than the ETP Holder's baseline ADV of 0.80% of Tape B CADV.[16]

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. Because, as proposed, the tier requires an ETP Holder to increase the volume of its liquidity-providing orders over that ETP Holder's 3Q 2019 baseline, the Exchange believes that the proposed incremental credit would provide an incentive for ETP Holders to route additional liquidity to the Exchange in order to qualify for it.

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 credits to the level of executed providing volume on the Exchange, the Exchange's fee structure would incentivize ETP Holders to submit more displayed, liquidity-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.

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,[17] in general, and furthers the objectives of Sections 6(b)(4) and (5) of the Act,[18] 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."[19]

As the Commission itself recognized, the market for trading services in NMS stocks has become "more fragmented and competitive."[20] Indeed, equity trading is currently dispersed across 13 exchanges,[21] 31 alternative trading systems,[22] and numerous broker-dealer internalizers and wholesalers, all competing for order flow. Based on publicly-available information, no single exchange has more than 19% market share (whether including or excluding auction volume).[23] 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 August 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

[15] The ETP Holder would also qualify for the existing Tape B Tier 2 credit of $0.0028 by meeting the 1.0% of the US Tape B CADV requirement, for a total credit of $0.0031 per share ($0.0028 per share Tape B Tier 2 credit plus the proposed $0.0003 per share Tape B Step Up Tier credit).

[16] The ETP Holder would also qualify for the existing Tape B Tier 2 credit of $0.0028 by meeting the 1.0% of the US Tape B CADV requirement, for a total credit of $0.0032 per share ($0.0028 per share Tape B Tier 2 credit plus the proposed $0.0004 per share Tape B Step Up Tier credit).

[17] 15 U.S.C. 78f(b).

[18] 15 U.S.C. 78f(b)(4) and (5).

[19] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005).

[20] *See* Securities Exchange Act Release No. 51808, 84 FR 5202, 5253 (February 20, 2019) (File No. S7–05–18) (Final rule).

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

[22] *See* FINRA ATS Transparency Data, *available at https://otctransparency.finra.org/otctransparency/AtsIssueData.* A list of alternative trading systems registered with the Commission is *available at https://www.sec.gov/foia/docs/atslist.htm.*

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

products, in response to fee changes. With respect to non-marketable order which provide liquidity on an Exchange, ETP Holders can choose from any one of the 13 currently operating registered exchanges to route such order flow. Accordingly, competitive forces reasonably constrain exchange transaction fees that relate to orders that would provide displayed liquidity on an exchange. Stated otherwise, changes to exchange transaction fees can have a direct effect on the ability of an exchange to compete for order flow.

Given this competitive environment, the proposal represents a reasonable attempt to attract additional order flow to the Exchange.

The Exchange believes the proposed change to lower the volume requirements under the Step Up Tier 4 is reasonable because it would allow ETP Holders an additional opportunity to meet the requirement of the pricing tier to receive per share credits payable under the Step Up Tier 4, thereby encouraging the submission of additional liquidity to a national securities exchange. Submission of additional liquidity to the Exchange would promote price discovery and transparency and enhance 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 that the proposed change to modify the baseline month from January 2019 to September 2019 is reasonable given the trend of recent trading on the Exchange. The Exchange's market share in January 2019, the original baseline month adopted under the Step Up Tier 4, was 9.0%, and has declined to 8.2% in August 2019.[24] The Exchange believes modifying the baseline month would allow ETP Holders to more easily qualify for the pricing tier as it would need to submit lesser number of orders to qualify for the tier.

Because no ETP Holder to date has qualified for the Step Up Tier 4, the Exchange believes the proposed lower volume requirements are reasonable as they would provide an additional incentive for ETP Holders to qualify for this established tier and direct their order flow to the Exchange and provide meaningful added levels of displayed liquidity, thereby contributing to the depth and market quality on the Exchange.

[24] *See id.*

The Exchange believes the proposed Tape B Step Up Tier would provide an incentive for ETP Holders to route additional liquidity-providing orders to the Exchange in Tape B Securities. As noted above, the Exchange operates in a highly competitive environment, particularly for attracting order flow that provides displayed liquidity on an exchange. The Exchange believes it is reasonable to provide a higher credit for orders that provide additional liquidity. Similarly, the Exchange believes that it is reasonable to provide an incremental credit to ETP Holders that meet the requirements of the Tape B Step Up Tier that add additional liquidity in Tape B Securities on the Exchange.

Since the proposed Tape B Step Up Tier would be new with a requirement for increased providing volume over the baseline month, no ETP Holder currently qualifies for the proposed pricing tier. The Exchange believes that a number of ETP Holders could qualify for the proposed higher credit but without a view of ETP Holder activity on other exchanges and off-exchange venues, the Exchange has no way of knowing whether the proposed rule change would result in any ETP Holder qualifying for the tier. The Exchange believes the proposed higher credit is reasonable as it would provide an additional incentive for ETP Holders to direct their order flow to the Exchange and provide meaningful added levels of liquidity in order to qualify for the higher credit, thereby contributing to depth and market quality on the Exchange.

The Exchange notes that volume-based incentives and discounts have been widely adopted by exchanges,[25] including the Exchange,[26] 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.

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.

[25] *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.

[26] *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.

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

The Exchange believes its proposal equitably allocates its fees among its market participants.

First, the Exchange is not proposing to adjust the amount of the Step Up Tier 4 credits, which will remain at the current level for all ETP Holders. Rather, the proposal would continue to encourage ETP Holders to send orders that add liquidity to the Exchange, thereby contributing to robust levels of liquidity, which benefits all market participants. The Exchange believes that, for the reasons discussed above, lowering the requirements would make it easier for liquidity providers to qualify for the Step Up Tier 4 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.

As noted above, no ETP Holder currently qualifies for the Step Up Tier 4 pricing tier. 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 this tier. However, the Exchange believes the proposed lower volume requirements would provide an incentive for ETP Holders to continue to submit liquidity-providing order flow, which would promote price discovery and increase execution opportunities for all ETP Holders. 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, which would benefit all market participants on the Exchange.

Finally, the Exchange believes that the proposed Tape B Step Up Tier is equitable because the magnitude of the additional credit is not unreasonably high relative to credits paid by other exchanges for orders that provide additional step up liquidity.[27] 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 and price discovery.

Since the proposed Tape B Step Up Tier would be new, no ETP Holder currently qualifies for it. The Exchange believes that at least seven ETP Holders could qualify for the proposed higher credit, but without a view of ETP Holder activity on other exchanges and off-exchange venues, the Exchange has no way of knowing whether this proposed rule change would result in any ETP Holder qualifying for the tier. The Exchange believes the proposed higher credit is reasonable as it would provide an additional incentive for ETP Holders to direct their order flow to the Exchange and provide meaningful added levels of liquidity in order to qualify for the higher credit, thereby contributing to depth and market quality on the Exchange.

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 Step Up pricing tiers on the Exchange will continue to receive credits when they provide liquidity to the Exchange. The Exchange believes that recalibrating the requirements for providing liquidity will continue to attract order flow and liquidity to the Exchange for the benefit of investors generally.

Since no ETP Holder presently qualifies for the credits associated with Step Up Tier 4, the proposal will not adversely impact their existing pricing or their ability to qualify for other credits provided by the Exchange. With the proposed new Tape B Step Up Tier, all ETP Holders would be eligible to qualify for the higher credit if they increase their Adding ADV over their own baseline of order flow. The Exchange believes that offering a higher step up credit for providing liquidity if the step up requirements for Tape B securities are met, will continue to attract order flow and liquidity to the Exchange, thereby providing additional price improvement opportunities on the Exchange and benefiting investors generally. As to those market participants that do not presently qualify for the adding liquidity credits, 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 that the proposal is not unfairly discriminatory. In the prevailing competitive environment, ETP Holders are free to disfavor the Exchange's pricing if they believe that alternatives offer them better value.

The proposal to lower the volume requirement under Step Up Tier 4 neither targets or will it have a disparate impact on any particular category of market participant. The proposal does not permit unfair discrimination because the lower threshold would be applied to all similarly situated ETP Holders, who would all be eligible for the same credit on an equal basis. Accordingly, no ETP Holder already operating on the Exchange would be disadvantaged by this allocation of fees.

The Exchange believes it is not unfairly discriminatory to adopt lower volume requirements for ETP Holders to qualify for the Step Up Tier 4 pricing tier as the proposed change would apply on an equal basis to all ETP Holders that add liquidity by meeting the lower volume requirements. Further, the Exchange believes the proposed lower volume requirements would incentivize ETP Holders to execute more of their liquidity-providers orders on the Exchange to qualify for the increased credits payable under Step Up Tier 4. 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 lower volume requirements 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 that is at least 0.55% of US CADV over its providing ADV in September 2019, taken as a percentage of US CADV, regardless of whether an ETP Holder currently meets the requirement of another pricing tier.

The Exchange believes it is not unfairly discriminatory to provide a higher per share step up credit, as the proposed credit would be provided on an equal basis to all ETP Holders that add liquidity by meeting the new proposed Tape B Step Up Tier's requirements. For the same reason, the Exchange believes it is not unfairly discriminatory to provide an additional incremental credit to ETP Holders that satisfy the Tape B Step Up Tier requirements and add liquidity in Tape B Securities. Further, the Exchange believes the proposed Tape B Step Up Tier credit would incentivize ETP Holders that meet the current tiered requirements to send more orders to the Exchange to qualify for higher credits. The Exchange also believes that the proposed change is not unfairly discriminatory because it is reasonably related to the value to the Exchange's market quality associated with higher volume.

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,[28] 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 changes 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.'' [29]

Intramarket Competition. The proposed change is designed to attract additional order flow to the Exchange. The Exchange believes that the proposed lower volume requirements would continue to incentivize market participants to direct providing displayed order flow to the Exchange. Greater liquidity benefits all market

[27] *See* note 25, *supra.*

[28] 15 U.S.C. 78f(b)(8).

[29] *See* Securities Exchange Act Release No. 51808, 70 FR 37495, 37498–99 (June 29, 2005) (S7–10–04) (Final Rule).

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. The proposed volume requirements would be applicable 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) was 8.2% in August 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.

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) [30] of the Act and subparagraph (f)(2) of Rule 19b–4 [31] 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) [32] of the Act to determine whether the proposed rule change should be approved or disapproved.

[30] 15 U.S.C. 78s(b)(3)(A).

[31] 17 CFR 240.19b-4(f)(2).

[32] 15 U.S.C. 78s(b)(2)(B).

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–2019–70 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-2019–70. 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 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–2019–70, and should be submitted on or before November 7, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[33]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2019–22700 Filed 10–16–19; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–87286; File No. SR–CboeBZX–2019–076]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing of a Proposed Rule Change, as Modified by Amendment No. 1, To List and Trade Shares of the Clearbridge Small Cap Value ETF Under Currently Proposed Rule 14.11(k)

October 10, 2019.

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 September 26, 2019, Cboe BZX Exchange, Inc. (''Exchange'' or ''BZX'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change, and on October 9, 2019, the Exchange filed Amendment No. 1 to the proposed rule change, which amended and replaced the proposed rule change in its entirety. The proposed rule change, as modified by Amendment No. 1, is 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, as modified by Amendment No. 1, from interested persons.

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

The Exchange proposes a rule change to list and trade shares of the Clearbridge Small Cap Value ETF under currently proposed Rule 14.11(k).

The text of the proposed rule change is also available on the Exchange's website (*http://markets.cboe.com/us/equities/regulation/rule_filings/bzx/*), at the Exchange's Office of the Secretary,

[33] 17 CFR 200.30–3(a)(12).

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

[2] 17 CFR 240.19b–4.