

rules and regulations thereunder applicable to such organization.<sup>7</sup> Section 17A(b)(3)(F) of the Act requires that a clearing agency, among other things, have the capacity to facilitate the prompt and accurate clearance and settlement of securities transactions for which it is responsible.<sup>8</sup>

The Commission believes that the change is consistent with the purposes and requirements of Section 17A of the Act<sup>9</sup> and the rules and regulations thereunder applicable to OCC. In particular, the Commission believes that clarifying the applicability of OCC's By-Laws and Rules to security futures on index-linked securities should facilitate the clearance and settlement of such products and, thus, should help promote the prompt and accurate clearance and settlement of securities transactions for which OCC is responsible.

#### IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposal is consistent with the requirements of the Act and in particular with the requirements of Section 17A of the Act<sup>10</sup> and the rules and regulations thereunder.

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>11</sup> that the proposed rule change (File No. SR-OCC-2012-08) be, and hereby is, approved.<sup>12</sup>

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.<sup>13</sup>

**Kevin M. O'Neill,**

*Deputy Secretary.*

[FR Doc. 2012-17978 Filed 7-23-12; 8:45 am]

BILLING CODE 8011-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-67461; File No. SR-NYSEArca-2012-69]

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

July 18, 2012.

Pursuant to Section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934 (the "Act")<sup>2</sup> and Rule 19b-4 thereunder,<sup>3</sup> notice is hereby given that, on July 12, 2012, NYSE Arca, Inc. (the "Exchange" or "NYSE Arca") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange proposes to amend the NYSE Arca Equities Schedule of Fees and Charges for Exchange Services ("Fee Schedule"). The Exchange proposes to implement the fee changes on July 12, 2012. The text of the proposed rule change is available on the Exchange's Web site at [www.nyse.com](http://www.nyse.com), at the principal office of the Exchange, and at the Commission's Public Reference Room.

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

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

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

##### 1. Purpose

The Exchange proposes to amend the Fee Schedule, as described below, and implement the fee changes on July 12, 2012.

ETP Holders, including Market Makers, are currently eligible to qualify for the Tape C Step Up Tier and the corresponding reduced execution fee of \$0.0029 per share for orders that take liquidity from the Exchange in Tape C securities.

The Exchange proposes to introduce a Tape C Step Up Tier 2 for ETP Holders, including Market Makers, that, on a daily basis, measured monthly, directly execute providing volume in Tape C Securities ("Tape C Adding ADV") during the billing month that is at least 2 million shares greater than the ETP Holder's or Market Maker's Tape C Adding ADV during the second calendar quarter of 2012 ("Q2 2012"), subject to the ETP Holder's or Market Maker's combined providing ADV in Tape A, Tape B, and Tape C securities during the billing month as a percentage of CADV being no less than during Q2 2012.<sup>4</sup>

ETP Holders and Market Makers that satisfy the requirements for the Tape C Step Up Tier 2 will receive a \$0.0002 per share credit for orders that provide liquidity to the Exchange in Tape C Securities, which shall be in addition to the ETP Holder's or Market Maker's Tiered or Basic Rate credit(s).<sup>5</sup> As

<sup>4</sup> For purposes of determining whether a firm that becomes an ETP Holder after Q2 2012 qualifies for the Tape C Step Up Tier 2, the new ETP Holder's Tape C Adding ADV during Q2 2012 would be zero. Similarly, the ETP Holder's combined providing ADV in Tape A, Tape B, and Tape C securities during Q2 2012 would be zero. Additionally, the ADV of a firm that becomes an ETP Holder during Q2 2012 would be calculated based on the number of trading days during Q2 2012, not the number of trading days during which the firm was an ETP Holder.

<sup>5</sup> The Exchange notes that, for purposes of determining whether an ETP Holder or Market Maker qualifies for the Tape C Step Up Tier 2 for the month of July 2012, the ETP Holder's or Market Maker's Tape C Adding ADV during the billing month would be measured beginning on July 12, 2012, the effective and operative date of this proposed change, through the end of the month and would not take into account the activity or trading days prior to that date. Similarly, the ETP Holder's or Market Maker's combined providing ADV in Tape A, Tape B, and Tape C securities during the billing month as a percentage of CADV would be calculated using the period beginning on July 12, 2012 through the end of the month and would not take into account the activity or trading days prior to that date. For an ETP Holder or Market Maker that qualifies for the \$0.0002 per share credit for July 2012, the credit would not apply to the ETP Holder's or Market Maker's orders that provide

<sup>7</sup> 15 U.S.C. 78s(b)(2)(B).

<sup>8</sup> 15 U.S.C. 78q-1(b)(3)(F).

<sup>9</sup> 15 U.S.C. 78q-1.

<sup>10</sup> 15 U.S.C. 78q-1.

<sup>11</sup> 15 U.S.C. 78s(b)(2).

<sup>12</sup> In approving the proposed rule change, the Commission considered the proposal's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

<sup>13</sup> 17 CFR 200.30-3(a)(12).

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

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

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

proposed, Investor Tier 1 and Investor Tier 2 ETP Holders and Market Makers could not qualify for the Tape C Step Up Tier 2. However, Investor Tier 3 ETP Holders and Market Makers could qualify for the Tape C Step Up Tier 2 credit. For all other fees and credits, Tiered or Basic Rates would apply based on a firm's qualifying levels. The Exchange proposes prohibiting Investor Tier 1 and Investor Tier 2 ETP Holders from qualifying for the Tape C Step Up Tier 2 because the ETP Holders that qualify for Investor Tier 1 and Investor Tier 2 would already receive a higher credit for such executions. In contrast, the Exchange proposes permitting Investor Tier 3 ETP Holders to qualify for the Tape C Step Up Tier 2 credit because, even when combined with the \$0.0002 Tape C Step Up Tier 2 credit, the ETP Holders that qualify for Investor Tier 3 would not achieve an overall credit rate that is higher than that which is available under Investor Tiers 1 or 2.

For example, assume that a particular ETP Holder's Tape C Adding ADV during the billing month is 4 million shares and that its Tape C Adding ADV during Q2 2012 was 1.5 million shares. Additionally, assume that the ETP Holder's combined providing ADV in Tape A, Tape B, and Tape C securities during the billing month was 0.25% of CADV and that its combined providing ADV in Tape A, Tape B, and Tape C securities during Q2 2012 was 0.23% of CADV. In this example, the ETP Holder would qualify for the Tape C Step Up Tier 2 and would receive a credit of \$0.0002 per share for its orders that provide liquidity to the Exchange in Tape C securities, which would be in addition to the ETP Holder's Tiered or Basic Rate credit(s).<sup>6</sup> However, if the ETP Holder's Tape C Adding ADV during the billing month were 3 million shares, *i.e.*, less than 2 million shares greater than the Q2 2012 amount, then the ETP Holder would not qualify for the Tape C Step Up Tier 2. Similarly, if the ETP Holder's combined providing ADV in Tape A, Tape B, and Tape C securities during the billing month were 0.20% of CADV, *i.e.*, less than the Q2 2012 percentage, then the ETP Holder would not qualify for the Tape C Step Up Tier 2.

liquidity to the Exchange in Tape C Securities prior to July 12, 2012.

<sup>6</sup> For example, if the ETP Holder submits a Mid-Point Passive Liquidity Order that provides liquidity on the Exchange and the ETP Holder is billed according to Basic Rates, the ETP Holder would receive a total credit of \$0.0017 per share (*i.e.*, \$0.0015 per share pursuant to the Basic Rates plus \$0.0002 per share pursuant to the Tape C Step Up Tier 2).

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Securities Exchange Act of 1934 (the "Act"), in general, and furthers the objectives of Section 6(b)(4) of the Act, 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 Exchange believes that the proposed rule change is reasonable, equitable and not unfairly discriminatory because it would encourage ETP Holders to send additional orders in Tape C securities to the Exchange for execution in order to qualify for an incrementally higher credit for such executions that add liquidity on the Exchange. In this regard, the Exchange believes that this may incentivize ETP Holders to increase the orders sent directly to the Exchange and therefore provide liquidity that supports the quality of price discovery and promotes market transparency.

The Exchange believes that the rate proposed for the Tape C Step Up Tier 2 credit is reasonable because it is directly related to an ETP Holder's level of executions in Tape C securities during the month. The Exchange also believes that the proposed rate is reasonable because, when combined with other Tier or Basic Rate credits that are available to ETP Holders, it is consistent with certain other credits, such as the Investor Tier 2 credit of \$0.0032, which are available to ETP Holders that satisfy certain criteria related to the ETP Holder's level of trading activity on the Exchange. Additionally, the Exchange believes that the proposed Tape C Step Up Tier 2 credit is equitable and not unfairly discriminatory because it would incentivize ETP Holders to submit orders in Tape C securities to the Exchange and would result in a credit that is reasonably related to an exchange's market quality that is associated with higher volumes. Moreover, like existing pricing on the Exchange that is tied to ETP Holder volume levels, the Exchange believes that the proposed Tape C Step Up Tier 2 credit is equitable and not unfairly discriminatory because it would be available for all ETP Holders, including Market Makers, on an equal and non-discriminatory basis.

Additionally, the Exchange believes that prohibiting Investor Tier 1 and Investor Tier 2 ETP Holders from qualifying for the Tape C Step Up Tier

2 is reasonable, equitable and not unfairly discriminatory because the ETP Holders that qualify for Investor Tier 1 and Investor Tier 2 would already receive a higher credit for such executions. In contrast, the Exchange believes that permitting Investor Tier 3 ETP Holders to qualify for the Tape C Step Up Tier 2 credit is reasonable, equitable and not unfairly discriminatory because, even when combined with the \$0.0002 Tape C Step Up Tier 2 credit, the ETP Holders that qualify for Investor Tier 3 would not achieve an overall credit rate that is higher than that which is available under Investor Tiers 1 or 2.

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

### *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.

### *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)<sup>7</sup> of the Act and subparagraph (f)(2) of Rule 19b-4<sup>8</sup> thereunder, because it establishes a due, fee, or other charge imposed by NYSE Arca.

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.

<sup>7</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>8</sup> 17 CFR 240.19b-4(f)(2).

#### IV. Solicitation of Comments

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

##### *Electronic Comments*

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-NYSEARCA-2012-69 on the subject line.

##### *Paper Comments*

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

All submissions should refer to File Number SR-NYSEARCA-2012-69. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Section, 100 F Street NE., Washington, DC 20549-1090. Copies of the filing will also be available for inspection and copying at the NYSE's principal office and on its Internet Web site at [www.nyse.com](http://www.nyse.com). All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NYSEARCA-2012-69 and should be submitted on or before August 14, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>9</sup>

**Kevin M. O'Neill,**

*Deputy Secretary.*

[FR Doc. 2012-17979 Filed 7-23-12; 8:45 am]

**BILLING CODE 8011-01-P**

#### SMALL BUSINESS ADMINISTRATION

##### Data Collection Available for Public Comments and Recommendations

**ACTION:** 60-Day notice and request for comments. 8(a) Business Development Program.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, this notice announces the Small Business Administration's intentions to request approval on a new and/or currently approved information collection.

**DATES:** Submit comments on or before September 24, 2012.

**ADDRESSES:** Send all comments regarding whether these information collections are necessary for the proper performance of the function of the agency, whether the burden estimates are accurate, and if there are ways to minimize the estimated burden and enhance the quality of the collections, to Sandra Johnston, Program Analyst, Office of Financial Assistance, Small Business Administration, 409 3rd Street, 8th Floor, Washington, DC 20416.

**FOR FURTHER INFORMATION CONTACT:** Sandra Johnston, Program Analyst, 202-205-7528 [sandra.johnston@sba.gov](mailto:sandra.johnston@sba.gov); Curtis B. Rich, Management Analyst, 202-205-7030 [curtis.rich@sba.gov](mailto:curtis.rich@sba.gov).

**SUPPLEMENTARY INFORMATION:** Information necessary for Small Business Administration (SBA) to determine whether loan applicant meets SBA's credit and regulatory criteria. Respondents are small business concerns and Development Companies which are certified by SBA to package 504 loans.

*Title:* "U.S. Small Business Administration Application for Section 504 Loan".

*Description of Respondents:* Applicants applying for a SBA Loan.

*Form Number:* 1244.

*Annual Responses:* 6,800.

*Annual Burden:* 15,735.

**SUPPLEMENTARY INFORMATION:** The servicing agent agreement is executed by the borrower, certified development company and the loan servicing agent. The agreement is primarily used to certify use of loan proceeds, appoint a

servicing agent and acknowledge the imposition of various fees.

*Title:* "Servicing Agent Agreement".

*Description of Respondents:*

Applicants applying for a SBA Loan.

*Form Number:* 1506.

*Annual Responses:* 7,830.

*Annual Burden:* 7,830.

**SUPPLEMENTARY INFORMATION:** Small Business Administration SBA's Premier Certified Lenders Program (PCLP) transfers considerable authority and autonomy to Premier Certified Development Companies (Premier CDCs). The PCLP forms (Forms 2233 and 2234) collect loan information to assist the agency in carrying-out its lender, portfolio and program oversight responsibilities. Form 2233 will collect loan loss reserve information to ensure Premier CDC compliance with statutory requirements. SBA will use Form 2234 to approve loan eligibility and track portfolio performance.

*Title:* "PCLP Quarterly Loan Reserve Report and PCLP Guarantee Request".

*Description of Respondents:* CDC's applicants applying for a SBA Loan.

*Form Numbers:* 2333, 2334, Parts A, B, C.

*Annual Responses:* 1,700.

*Annual Burden:* 1,558.

**SUPPLEMENTARY INFORMATION:** Information collection is needed to ensure that Microloan Program activity meets the statutory goals of assisting mandated target market. The information is used by the reporting participants and the SBA to assist with portfolio management, risk management, loan servicing, oversight and compliance, data management and understanding of short and loan term trends and development of outcome measures.

*Title:* "Microloan Program Electronic Reporting System (MPERS) (MPERSystem)".

*Description of Respondents:*

Participants for the Microloan program.

*Form Number:* N/A.

*Annual Responses:* 2,500.

*Annual Burden:* 625.

**ADDRESSES:** Send all comments regarding whether this information collection is necessary for the proper performance of the function of the agency, whether the burden estimates are accurate, and if there are ways to minimize the estimated burden and enhance the quality of the collection, to Carol Fendler, Director, License & Program, Office of Investment, Small Business Administration, 409 3rd Street, 6th Floor, Washington, DC 20416.

**FOR FURTHER INFORMATION CONTACT:** Carol Fendler, License & Program, 202-205-7559 [carol.fendler@sba.gov](mailto:carol.fendler@sba.gov); Curtis

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