

and Markets, pursuant to delegated authority.<sup>11</sup>

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Deputy Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-71166; File No. SR-NYSEArca-2013-142]

### Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Offer Risk Management Tools Designed To Allow ETP Holders To Monitor and Address Exposure to Risk

December 20, 2013.

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 December 12, 2013, 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 and II 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 offer risk management tools designed to allow ETP Holders to monitor and address exposure to risk. 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 Statutory Basis for, the Proposed Rule Change

##### 1. Purpose

In order to assist ETP Holders' efforts to manage their risk level, the Exchange proposes to offer risk management tools designed to allow ETP Holders to monitor and address exposure to risk.

On October 2, 2012, the Commission conducted a roundtable entitled "Technology and Trading: Promoting Stability in Today's Markets" (the "Roundtable").<sup>4</sup> While a number of issues were discussed at the Roundtable, a large amount of time was devoted to discussing "kill-switches," a mechanism that would deactivate trading when certain thresholds were met. Panelists and commenters on the Roundtable's topics generally supported a kill-switch mechanism that would permit market centers to terminate a firm's trading activity if such activity was posing a threat to market integrity. But there was concern that firms would "be reluctant to systemically cut themselves off from the market"<sup>5</sup> and therefore, any kill-switch-triggering threshold would be set by the firm at a conservative level such that the automated disconnect would not occur when actually needed. At the same time though, the ability to detect unusual behavior would be invaluable to a firm in assessing whether an error was causing an unwanted buildup in risk.

To address the concerns raised during the Roundtable, the Exchange proposes to offer optional risk management tools for its ETP Holders that would facilitate, among other things, blocking of an ETP Holder's orders if certain thresholds were met. As proposed, the risk management tools seek to balance the conflicting viewpoints raised during the Roundtable by providing risk monitoring services that grant discretion to the ETP Holder to define pre-set risk thresholds. The tools are designed to act as a backstop for ETP Holders' risk controls by providing them with the ability to take action to more effectively manage their risk levels with respect to orders at the Exchange.

<sup>4</sup> See Securities Exchange Act Release No. 67802 (Sept. 7, 2012), 77 FR 56697 (Sept. 13, 2012) (File No. 4-652). A webcast of the Roundtable is available at [www.sec.gov/news/otherwebcasts/2012/ttr100212.shtml](http://www.sec.gov/news/otherwebcasts/2012/ttr100212.shtml).

<sup>5</sup> See Transcript of Roundtable, Sections 0151-0152 (Oct. 2, 2012) (remarks of Lou Steinberg, TD Ameritrade).

The risk management tools will provide ETP Holders with the ability to segment activity into risk groups and to monitor exposure in real time as trades execute. ETP Holders may also take certain actions in response to an unwanted buildup in risk levels, such as bulk blocking or bulk cancelling orders by risk group. Additionally, ETP Holders may define risk limits that may be adjusted intraday and elect to have the Exchange take action based on these pre-set limits, such as sending alerts as exposure limits are approached and breached or automatically blocking orders upon a breach. The tools are meant to be supplemental, acting as a backstop for an ETP Holder's internal monitoring and procedures related to risk management. The Exchange does not guarantee that the tools will be sufficiently comprehensive to meet all of an ETP Holder's needs, and the tools are not designed to be the sole means of risk control. Moreover, the use of the Exchange's risk management tools will not automatically constitute compliance with Exchange or federal rules.

As noted above, the proposed risk management tools will be optional for ETP Holders. The Exchange will not provide preferential treatment to ETP Holders using the Exchange-offered risk management tools and will not charge a fee for use of the risk management tools. Should the Exchange determine to charge a fee for use of the risk management tools, such fee will be proposed through a subsequent rule filing.

The Exchange will be phasing in its risk management tools as the technology supporting the functionality is being implemented and will announce by Trader Update when specific risk management tools will be available. The Exchange intends to make available the ability to segment activity into risk groups, define risk limits, and enter bulk block and bulk cancel messages during the first rollout.<sup>6</sup> Additional functionality, such as allowing ETP Holders to elect to have the Exchange take automated action based on pre-set limits, will be phased in over subsequent months.

##### 2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the requirements of Section 6(b) of the Act,<sup>7</sup> in general, and Section 6(b)(5) of the Act,<sup>8</sup> in particular, in that it is designed to foster cooperation and coordination

<sup>6</sup> The Exchange expects the first rollout to begin in the first quarter of 2014.

<sup>7</sup> 15 U.S.C. 78f(b).

<sup>8</sup> 15 U.S.C. 78f(b)(5).

<sup>11</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.

with persons facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest and not to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that the proposed rule change will foster cooperation and coordination with persons facilitating transactions in securities because the Exchange will provide alerts to ETP Holders when their trading reaches certain thresholds. As such, the Exchange will help ETP Holders monitor their risk levels and provide tools for the firms to take action. Additionally, the Exchange believes that the proposed rule change will remove impediments to and perfect the mechanism of a free and open market and a national market system because the tools will provide ETP Holders with the ability to self-manage their levels of risk while providing an alert system that will help to ensure that ETP Holders are aware of developing issues. As such, the Exchange believes that the tools will provide a means to address potentially market-impacting events, helping to ensure the proper functioning of the market.

Further, the Exchange believes that the proposed rule change is designed to protect investors and the public interest because the tools are a form of impact mitigation that will aid ETP Holders in minimizing their risk exposure and reduce the potential for disruptive, market-wide events. The Exchange understands that firms test their trading systems in order to identify and mitigate latent defects. The proposed tools will serve as a back stop for ETP Holders to assist them in identifying any such issues. The Exchange believes the risk management tools will assist ETP Holders in managing their financial exposure which, in turn, could enhance the integrity of trading on the securities markets and help to assure the stability of the financial system.

Finally, the Exchange believes that the proposed rule change does not unfairly discriminate among the Exchange's ETP Holders because use of the risk management tools is optional and is not a prerequisite for participation on the Exchange.

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

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. In fact, the Exchange believes that the proposal will

have a positive effect on competition because, by providing ETP Holders with additional means to monitor and control risk, the proposal will increase confidence in the proper functioning of the markets. The Exchange believes the risk management tools will assist ETP Holders in managing their financial exposure which, in turn, could enhance the integrity of trading on the securities markets and help to assure the stability of the financial system. As a result, the level of competition should increase as public confidence in the markets is solidified.

#### *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**

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate, it has become effective pursuant to 19(b)(3)(A) of the Act<sup>9</sup> and Rule 19b-4(f)(6)<sup>10</sup> thereunder.

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

#### **IV. Solicitation of Comment**

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:

<sup>9</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>10</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

#### *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-2013-142 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-2013-142. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NYSEArca-2013-142 and should be submitted on or before January 17, 2014.

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

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<sup>11</sup> 17 CFR 200.30-3(a)(12).