

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-75449; File No. SR-NYSEARCA-2015-55]

### 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 14, 2015.

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 June 24, 2015, 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”) to (i) raise the fee for Market and Auction-Only Orders executed in an Opening, Market Order or Trading Halt Auction; (ii) modify the credits the Exchange provides for routing certain orders to the New York Stock Exchange LLC (“NYSE”); and (iii) revise the Tape B Step Up Tier. The Exchange proposes to implement the changes on July 1, 2015.

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 to (i) raise the Tier 1 and Tier 2 fee for Market and Auction-Only Orders executed in an Opening, Market Order or Trading Halt Auction and make corresponding changes in the Basic Rate pricing; (ii) modify the Tier 1 and Tier 2 credits the Exchange provides for routing certain orders to the NYSE and make corresponding changes in the Basic Rate pricing; and (iii) revise the Tape B Step Up Tier. The Exchange proposes to implement the fee changes on July 1, 2015.

For Tier 1 and Tier 2, the Exchange currently charges \$0.0010 per share for Market and Auction-Only Orders executed in an Opening, Market Order or Trading Halt Auction with a cap of \$20,000 per month per Equity Trading Permit ID. The Exchange proposes to raise this fee from \$0.0010 to \$0.0015 per share. The Exchange is not proposing any change to the cap.

The Exchange proposes to make corresponding changes to the Basic Rate pricing section of the Fee Schedule. Specifically, in the Basic Rate pricing section, the current fee for Market and Auction-Only Orders executed in an Opening, Market Order or Trading Halt Auction is \$0.0010 per share, with a cap of \$20,000 per month per Equity Trading Permit ID. The Exchange proposes to raise this fee to \$0.0015 per share. The Exchange is not proposing any change to the cap.

In a recent rule filing, the NYSE has proposed to modify its fee structure for equities transaction, including changes to the rates for providing liquidity, to become effective July 1, 2015.<sup>4</sup> The Exchange’s current credits for routing orders to NYSE are closely related to the NYSE’s rates, including credits for providing liquidity, and the Exchange is proposing an adjustment to its routing credits to maintain the existing relationship to the rates proposed by the NYSE. Specifically, for Tier 1 and Tier 2 PO+ orders,<sup>5</sup> the current Exchange credit for orders that are routed to the NYSE that provide liquidity to the

NYSE is \$0.0015 per share, which is equal to the current NYSE rebate for execution of customer orders that add liquidity to the NYSE. The Exchange is proposing to lower the credits for routing Tier 1 and Tier 2 PO+ Orders to the NYSE by the same amount (\$0.0001) as the decrease in the corresponding NYSE credit. The proposed new credit for such orders routed to the NYSE that provide liquidity to the NYSE would be \$0.0014 per share. This proposed fee change would maintain the current relationship with NYSE rates.

The Exchange proposes to make corresponding changes to the Basic Rate pricing section of the Fee Schedule. Currently, the credit for PO+ Orders that provide liquidity to the NYSE is set at \$0.0015 per share. The Exchange proposes to lower this credit to \$0.0014 per share. Again, this proposed fee change would maintain the current relationship with NYSE rates.

Finally, the Exchange proposes to revise the Tape B Step Up Tier. Currently, ETP Holders and Market Makers, that, on a daily basis, measured monthly, directly execute providing volume in Tape B Securities during a billing month (“Tape B Adding ADV”) that is equal to at least 0.275% of the U.S. Tape B Consolidated Average Daily Volume (“Tape B CADV”) for the billing month over the ETP Holder’s or Market Maker’s May 2013 Tape B Adding ADV taken as a percentage of Tape B CADV (“Tape B Baseline % CADV”) receive a credit of \$0.0004 per share for orders that provide liquidity to the Exchange in Tape B Securities, which is in addition to the ETP Holder’s Tiered or Basic Rate credit(s). The Exchange proposes to specify in the Fee Schedule that ETP Holders that qualify for the Cross-Asset Tier would not be eligible to qualify for the Tape B Step Up Tier. The Exchange believes that the credit of \$0.0030 per share is sufficient that an ETP Holder that qualifies for the Cross-Asset Tier should not also receive the increased credits applicable to the Tape B Step Up Tier. Similar to Retail Order Tier ETP Holders and Market Makers, who are currently ineligible to qualify for the Tape B Step Up Tier, the Exchange proposes to exclude Cross-Asset Tier ETP Holders from also qualifying for the Tape B Step Up Tier.

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

##### 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with

<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.

<sup>4</sup> See SR-NYSE-2015-30.

<sup>5</sup> A PO+ Order is a Primary Only Order (*i.e.*, a market or limit order that is to be routed to the primary market) that is entered for participation in the primary market, other than for participation in the primary market opening or primary market re-opening. See NYSE Arca Equities Rule 7.31(f)(1)(C).

Section 6(b) of the Act,<sup>6</sup> in general, and furthers the objectives of Sections 6(b)(4) and (5) of the Act,<sup>7</sup> 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 fee increase for Market and Auction-Only Orders executed in an Opening, Market Order or Trading Halt Auction are reasonable because they are the same as the fees imposed by at least one other exchange.<sup>8</sup> In addition, the proposed fee changes are equitable and not unfairly discriminatory because they apply uniformly to all similarly situated ETP Holders.

The Exchange believes that the proposed changes to routing credits for PO+ Orders that provide liquidity to the NYSE are reasonable because the Exchange's credits for routing such orders are closely related to the NYSE's rebates for its members for providing liquidity, and the proposed change is consistent with the change proposed by the NYSE to lower its rebate for providing liquidity. The proposed change would result in maintaining the existing relationship between the two sets of fees. In addition, the Exchange believes that the proposed rule change, which would result in a decrease in the per share credit for PO+ Orders routed to the NYSE that provide liquidity to the NYSE, would thereby align the rate that the Exchange provides to ETP Holders with the rate that NYSE provides to its members for providing liquidity. Further, the proposed change is equitable and not unfairly discriminatory because the rebate reduction would apply uniformly across pricing tiers and all similarly situated ETP Holders would be subject to the same credit.

The Exchange believes that prohibiting Cross-Asset Tier ETP Holders from qualifying for the Tape B Step Up Tier is reasonable, equitable and not unfairly discriminatory because ETP Holders that qualify for the Cross-Asset Tier would already receive a higher credit of \$0.0030 before the Tape B Step Up Credit, which is higher than other tiers with the Tape B Step Up credit. For example, Tier 1 ETP Holders that qualify for Tape B Step Up Tier would receive a Tier 1 credit of \$0.0023

plus a Tape B Step Up credit of \$0.0004 for a total credit of \$0.0027, compared with the standalone Cross-Asset credit of \$0.0030. The Exchange notes that Cross-Asset Tier ETP Holders and Market Makers currently do not qualify for Tape C Step Up Tier 2 credit.

Finally, 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 these 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,<sup>9</sup> 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. In particular, the proposed routing credit changes would not place a burden on competition because the Exchange is seeking to align its credits with the credits provided by the NYSE.<sup>10</sup> In addition, the proposed change to the Exchange's fee for Market and Auction-Only Orders executed in an Opening, Market Order or Trading Halt Auction is consistent with the fee charged by at least one other exchange.<sup>11</sup>

The Exchange does not believe prohibiting Cross-Asset Tier ETP Holders from qualifying for increased credit(s) will impair ETP Holders' ability to compete. The Exchange already provides a credit for Cross-Asset Tier ETP Holders and ETP Holders impacted by the proposed change may readily adjust their trading behavior to maintain or increase their credits or decrease their fees in a favorable manner.

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 promotes a competitive environment.

#### *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>12</sup> of the Act and subparagraph (f)(2) of Rule 19b-4<sup>13</sup> 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)<sup>14</sup> 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](mailto:rule-comments@sec.gov). Please include File Number SR-NYSEARCA-2015-55 on the subject line.

##### *Paper Comments*

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549-1090. All submissions should refer to File Number SR-NYSEARCA-2015-55. 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

<sup>6</sup> 15 U.S.C. 78f(b).

<sup>7</sup> 15 U.S.C. 78f(b)(4) and (5).

<sup>8</sup> See NASDAQ Crossing Network Fees at <http://www.nasdaqtrader.com/Trader.aspx?id=PriceListTrading2>.

<sup>9</sup> 15 U.S.C. 78f(b)(8).

<sup>10</sup> See *supra* note 4.

<sup>11</sup> See *supra* note 8.

<sup>12</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>13</sup> 17 CFR 240.19b-4(f)(2).

<sup>14</sup> 15 U.S.C. 78s(b)(2)(B).

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-2015-55 and should be submitted on or before August 7, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>15</sup>

**Robert W. Errett,**  
*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-75446; File No. SR-Phlx-2015-58]

### Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the Exchange's Pricing Schedule under Section VIII With Respect to Execution and Routing of Orders in Securities Priced at \$1 or More per Share

July 14, 2015.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4<sup>2</sup> thereunder, notice is hereby given that, on June 30, 2015, NASDAQ OMX PHLX LLC ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The

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 Exchange's Pricing Schedule under Section VIII, entitled "NASDAQ OMX PSX FEES," with respect to execution and routing of orders in securities priced at \$1 or more per share.

While the changes proposed herein are effective upon filing, the Exchange has designated that the amendments be operative on July 1, 2015.

The text of the proposed rule change is available on the Exchange's Web site at <http://nasdaqomxphlx.cchwallstreet.com/>, at the principal office of the Exchange, and at the Commission's Public Reference Room.

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

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

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

###### 1. Purpose

The purpose of the proposed rule change is to amend certain credits for order execution and routing applicable to the use of the order execution and routing services of the NASDAQ OMX PSX System ("PSX") by member organizations for all securities traded at \$1 or more per share.

The Exchange will increase non-displayed order credits for all orders with midpoint pegging that provide liquidity through PSX. Specifically, the credit tiers for non-displayed orders of a \$0.0015 per share executed credit for orders with midpoint pegging that provide liquidity entered by a member organization that provides 1,000,000 shares or more average daily volume of non-displayed liquidity during the month and the credit tier for non-

executed will be replaced with a single credit tier of \$0.0020 per share executed for all orders with midpoint pegging<sup>3</sup> that provide liquidity to create further incentives to provide midpoint liquidity on PSX for the benefit of investors and other market participants.

###### 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,<sup>4</sup> in general, and with Section 6(b)(4) and 6(b)(5) of the Act,<sup>5</sup> in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system which the Exchange operates or controls, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The proposed increases to the credits in the fee schedule under the Exchange's Pricing Schedule under Section VIII are reflective of the Exchange's ongoing efforts to use pricing incentive programs to attract order flow to the Exchange and improve market quality. The goal of these pricing incentives is to provide meaningful incentives for members to increase their participation on the Exchange.

The Exchange is proposing to increase non-displayed order credits for all orders with midpoint pegging that provide liquidity through PSX by replacing the existing two such tiers with a single tier. Specifically, the credit tiers for non-displayed orders of a \$0.0015 per share executed credit for orders with midpoint pegging that provide liquidity entered by a member organization that provides 1,000,000 shares or more average daily volume of non-displayed liquidity during the month and the credit tier for non-displayed orders of \$0.0010 per share executed will be replaced with a single credit tier of \$0.0020 per share executed for all orders with midpoint pegging that provide liquidity.

The Exchange believes the proposed change is reasonable because the increase to the credit for all orders with midpoint pegging that provide liquidity provides member organizations with a uniform credit designed to incentivize increased midpoint liquidity on PSX. Additionally, the Exchange believes providing a greater credit will act as an incentive for members to increase their participation on the Exchange.

<sup>3</sup> Including the Midpoint Peg Post-Only Order recently filed with the Commission, once effective and operative. See SR-PHLX-2015-056 (as recently filed).

<sup>4</sup> 15 U.S.C. 78f.

<sup>5</sup> 15 U.S.C. 78f(b)(4) and (5).

<sup>15</sup> 17 CFR 200.30-3(a)(12).

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

<sup>2</sup> 17 CFR 240.19b-4.