

symbol shall automatically be reserved for such Party for 24 months, as further described in the Plan. The proposed amendments further clarify that, if the Party does not place the symbol on List A or use the symbol within 24 months, the symbol shall be released for use pursuant to subparagraph (b)(5).

The amendment also proposes a new requirement. Specifically, that where a symbol has become available for reuse by a new Party (e.g., where a Party releases a symbol), such symbol may not be reused to identify a new security (other than the security that has been trading under such symbol) within 90 calendar days from the last day of its use to identify the old security, without the consent of the Party that released the symbol pursuant to paragraph (b)(5) of Section IV. Thus, even where a symbol is not reserved for the Party most recently using the symbol, the amended Plan would continue to provide for a fair and orderly approach with regard to the reuse of the symbol.

For example, the amendment would address situations where a Party had been using symbol WXYZ for a period of years to identify the security of a particular company and, following the dissolution of the company, symbol WXYZ is released by the Party that had been using it. Under the current Plan, the Party using WXYZ to identify the security of the dissolved company would have that symbol reserved for a period of 24 months, and, at any time within this 24-month period, pursuant to Section IV(b)(6) (Request for Release of a Symbol), any other Party may have requested the voluntary release of the symbol for reuse. The amendment to the Plan retains this same basic framework, but also explicitly addresses circumstances in which a Party does not reserve the symbol but elects to release the symbol pursuant to paragraph (b)(5), in which case the symbol becomes immediately available to be reused by another Party to identify a different security. Under the amendment to the Plan, at any time within 90 calendar days from the last day of its use to identify the old security, such symbol may not be reused to identify a new security unless the Party seeking to reuse the symbol obtains the consent of the Party that most recently released the symbol. The Party most recently releasing the symbol must reasonably determine that reuse would not cause investor confusion prior to providing its consent.

As is the case today, at no time may a Party reuse a symbol unless the Party seeking the reuse also reasonably determines that such use would not cause investor confusion. In making a

reasonable determination as to whether the reuse of a symbol would cause investor confusion, Parties would consider factors such as the level of recent activity in the old security, including trading frequency, volume and the number of market maker quotes.

The Amendment also contains several technical and ministerial amendments. First, the Plan is being amended to update NSX's principal place of business from its former address of 440 South LaSalle Street, Suite 2600, Chicago, IL 60605 to its new address of 101 Hudson Street, Suite 1200, Jersey City, NJ 07302. This Amendment also reflects a name change by one of the Parties. Specifically, the "NYSE Alternext US LLC" is now called "NYSE MKT LLC." Finally, the Parties also are amending the Plan to update the principal place of business for both EDGA and EDGX from its former address at 545 Washington Blvd., Jersey City, NJ 07310 to 8050 Marshall Drive, Lenexa, KS 66214.

The Parties believe that the Amendment provides for a fair and orderly approach that would be applied consistently by all Parties to facilitate investor protection, does not disparately affect any single Party, and thus, does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

## II. Implementation of Plan Amendment

The Parties will implement the Amendment upon Commission approval.

## III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the Amendment 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 4-533 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 4-533. 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 Plan that are filed with the Commission, and all written communications relating to the Plan 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 such filing also will be available for inspection and copying at the Parties' principal offices. 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 4-533, and should be submitted on or before March 10, 2016.

By the Commission.

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

[FR Doc. 2016-03275 Filed 2-17-16; 8:45 am]

BILLING CODE 8011-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-77118; File No. SR-NYSEARCA-2016-04]

### Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to the Co-Location Services Offered by the Exchange To Include a Means for Co-Located Users To Receive the NASDAQ TotalView Ultra Market Data Feed Through a Wireless Connection and Reflect Changes to the NYSE Arca Equities Schedule of Fees and Charges for Exchange Services and the Options Fee Schedule

February 11, 2016.

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 February 2, 2016, NYSE Arca, Inc. (the "Exchange" or "NYSE Arca") filed with the Securities and Exchange

<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.

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 the Substance of the Proposed Rule Change**

The Exchange proposes to change the co-location services offered by the Exchange to include a means for co-located Users to receive the NASDAQ TotalView Ultra (FGPA) market data feed through a wireless connection. In addition, the proposed rule change reflects changes to the NYSE Arca Options Fee Schedule (the “Options Fee Schedule”) and, through its wholly owned subsidiary NYSE Arca Equities, Inc. (“NYSE Arca Equities”), the NYSE Arca Equities Schedule of Fees and Charges for Exchange Services (the “Equities Fee Schedule” and, together with the Options Fee Schedule, the “Fee Schedules”) related to the proposed service. 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**

The Exchange proposes to change the co-location<sup>4</sup> services—offered by the

<sup>4</sup> The Exchange initially filed rule changes relating to its co-location services with the Securities and Exchange Commission (“Commission”) in 2010. See Securities Exchange Act Release No. 63275 (November 8, 2010), 75 FR 70048 (November 16, 2010) (SR–NYSEArca–2010–100). The Exchange operates a data center in Mahwah, New Jersey (the “data center”) from which it provides co-location services to Users.

Exchange to include a means for Users<sup>5</sup> to receive the NASDAQ TotalView Ultra (FGPA) market data feed through a wireless connection. In addition, the proposed rule change reflects changes to the Fee Schedules related to the proposed service.

The Commission has approved the Exchange’s proposed rule change to provide a wireless connection to five market data feeds from third party markets.<sup>6</sup> The Exchange now proposes to add to the Fee Schedules a sixth market data feed, NASDAQ TotalView Ultra (FGPA) (“TotalView Ultra” and, together with the previously filed five market data feeds, the “Third Party Data”).

As with the previously approved connectivity to Third Party Data through the wireless connection, the Exchange would utilize a network vendor to provide a wireless connection to TotalView Ultra through wireless connections from an Exchange access center to its data center in Mahwah, New Jersey, through a series of towers equipped with wireless equipment. To receive TotalView Ultra, the User would enter into a contract with NASDAQ, which would charge the User the applicable market data fees for TotalView Ultra. The Exchange would charge the User fees for the wireless connection to TotalView Ultra.<sup>7</sup>

For each wireless connection to TotalView Ultra, a User would be charged a \$5,000 non-recurring initial charge and a monthly recurring charge (“MRC”) of \$11,000. The Exchange proposes to revise the Fee Schedules to reflect fees related to the connection to TotalView Ultra.

As with the previously approved wireless connections to Third Party Data, if a User purchased two wireless connections, it would pay two non-recurring initial charges, and the wireless connection would include the use of one port for connectivity to Third

<sup>5</sup> For purposes of the Exchange’s co-location services, a “User” means any market participant that requests to receive co-location services directly from the Exchange. See Securities Exchange Act Release No. 76010 (September 29, 2015), 80 FR 60197 (October 5, 2015) (SR–NYSEArca–2015–82). As specified in the Fee Schedules, a User that incurs co-location fees for a particular co-location service pursuant thereto would not be subject to co-location fees for the same co-location service charged by the Exchange’s affiliates New York Stock Exchange LLC and NYSE MKT LLC. See Securities Exchange Act Release No. 70173 (August 13, 2013), 78 FR 50459 (August 19, 2013) (SR–NYSEArca–2013–80).

<sup>6</sup> See Securities Exchange Act Release No. 76749 (December 23, 2015), 80 FR 81640 (December 30, 2015) (SR–NYSEArca–2015–99) (“Wireless Approval Release”).

<sup>7</sup> A User would only receive TotalView Ultra if it had entered into a contract with NASDAQ.

Party Data.<sup>8</sup> Also as with the previously approved wireless connections to Third Party Data, the Exchange proposes to waive the first month’s MRC, to allow Users to test the receipt of TotalView Ultra for a month before incurring any MRCs.

The Exchange proposes to offer the wireless connection to provide Users with an alternative means of connectivity to TotalView Ultra. Currently, Users can receive TotalView Ultra from wireless networks offered by third party vendors.<sup>9</sup> Users may also receive connections to TotalView Ultra through other methods, including, for example, from another User, through a telecommunications provider, or over the internet protocol (“IP”) network.<sup>10</sup>

The wireless connection to the Third Party Data is expected to be available in January 2016, and no later than March 1, 2016. The Exchange will announce the date that the wireless connection to the Third Party Data will be available through a customer notice.

As is the case with all Exchange co-location arrangements, (i) neither a User nor any of the User’s customers would be permitted to submit orders directly to the Exchange unless such User or customer is a member organization, a Sponsored Participant or an agent thereof (e.g., a service bureau providing order entry services); (ii) use of the co-location services proposed herein would be completely voluntary and available to all Users on a non-discriminatory basis;<sup>11</sup> and (iii) a User would only incur one charge for the particular co-location service described herein, regardless of whether the User connects

<sup>8</sup> A User only requires one port to connect to the Third Party Data, irrespective of how many of the wireless connections it orders. It may, however, purchase additional ports. See Wireless Approval Release, at 81641.

<sup>9</sup> Currently, at least four third party vendors offer Users wireless network connections using wireless equipment installed on towers and buildings near the data center.

<sup>10</sup> The IP network is a local area network available in the data center. See Securities Exchange Act Release No. 74219 (February 6, 2015), 80 FR 7899 (February 12, 2015) (SR–NYSEArca–2015–03) (notice of filing and immediate effectiveness of proposed rule change to include IP network connections).

<sup>11</sup> As is currently the case, Users that receive co-location services from the Exchange will not receive any means of access to the Exchange’s trading and execution systems that is separate from, or superior to, that of other Users. In this regard, all orders sent to the Exchange enter the Exchange’s trading and execution systems through the same order gateway, regardless of whether the sender is co-located in the data center or not. In addition, co-located Users do not receive any market data or data service product that is not available to all Users, although Users that receive co-location services normally would expect reduced latencies in sending orders to, and receiving market data from, the Exchange.

only to the Exchange or to the Exchange and one or both of its affiliates.<sup>12</sup>

The proposed change is not otherwise intended to address any other issues relating to co-location services and/or related fees, and the Exchange is not aware of any problems that Users would have in complying with the proposed change.

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,<sup>13</sup> in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,<sup>14</sup> in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to, and perfect the mechanisms of, a free and open market and a national market system and, in general, to protect investors and the public interest and because it is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that the proposed service is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers because the wireless connection to TotalView Ultra would provide Users with an alternative means of connectivity to TotalView Ultra. Users that do not opt to utilize the Exchange's proposed wireless connections would still be able to obtain TotalView Ultra through other methods, including, for example, from wireless networks offered by third party vendors, another User, through a telecommunications provider, or over the IP network. Users that opt to use wireless connections to TotalView Ultra would receive the TotalView Ultra that is available to all Users, as all market participants that contract with NASDAQ for TotalView Ultra may receive it.

The Exchange believes that this removes impediments to, and perfects the mechanisms of, a free and open market and a national market system and, in general, protects investors and the public interest because it would provide Users with choices with respect

to the form and optimal latency of the connectivity they use to receive TotalView Ultra, allowing a User that opts to receive TotalView Ultra to select the connectivity and number of ports that better suit its needs, helping it tailor its data center operations to the requirements of its business operations.

The Exchange also believes that the proposed rule change is consistent with Section 6(b)(4) of the Act,<sup>15</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 change is equitable and not unfairly discriminatory because it will result in fees being charged only to Users that voluntarily select to receive the corresponding services and because those services will be available to all Users. Furthermore, the Exchange believes that the services and fees proposed herein are not unfairly discriminatory and are equitably allocated because, in addition to the services being completely voluntary, they are available to all Users on an equal basis (*i.e.*, the same products and services are available to all Users). All Users that voluntarily select wireless connections to TotalView Ultra would be charged the same amount for the same services and would have their first month MRC for wireless connections waived.

Overall, the Exchange believes that the proposed change is reasonable because the Exchange proposes to offer wireless connection to TotalView Ultra described herein as a convenience to Users, but in doing so would incur certain costs, including costs related to the data center facility, hardware and equipment and costs related to personnel required for initial installation and monitoring, support and maintenance of such services. The costs associated with the wireless connections are incrementally higher than fiber optics-based solutions due to the expense of the wireless equipment, cost of installation and testing and ongoing maintenance of the network. The Exchange believes that it is reasonable that a User that has already purchased wireless connections to other Third Party Data would be charged a non-recurring charge when it purchases a wireless connection to TotalView Ultra, because the Exchange would incur certain costs in installing the wireless connection to TotalView Ultra

irrespective of whether the User had existing wireless connections to Third Party Data. Such costs related to initial installation include, in particular, costs related to personnel required for initial installation and testing. The costs associated with installing wireless connections are incrementally higher than those associated with installing fiber optics-based solutions.

The Exchange believes that the proposed pricing for the wireless connection to TotalView Ultra is reasonable because it allows Users to select the TotalView Ultra connectivity option that better suits their needs. The fees also reflect the benefit received by Users in terms of lower latency over the fiber optics option. The Exchange believes that the proposed waiver of the first month's MRC is reasonable as it would allow Users to test the receipt of the feed for a month before incurring any monthly recurring fees and may act as an incentive to Users to connect to TotalView Ultra.

Moreover, the fees are equity [sic] allocated and not unfairly discriminatory because the wireless connection to TotalView Ultra would provide Users with an alternative means of connectivity to TotalView Ultra. Users that do not opt to utilize the Exchange's proposed wireless connections would still be able to obtain TotalView Ultra through other methods, including, for example, from wireless networks offered by third party vendors, another User, through a telecommunications provider, or over the IP network. Users that opt to use wireless connections to TotalView Ultra would receive the TotalView Ultra that is available to all Users, as all market participants that contract with NASDAQ for TotalView Ultra may receive it.

For the reasons above, the proposed changes do not unfairly discriminate between or among market participants that are otherwise capable of satisfying any applicable co-location fees, requirements, terms and conditions established from time to time by the Exchange.

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 proposed fees are reasonable, equitable, and not unfairly discriminatory.

<sup>12</sup> See SR-NYSEArca-2013-80, *supra* note 5 at 50459. The Exchange's affiliates have also submitted substantially the same proposed rule change to propose the changes described herein. See SR-NYSE-2015-01 and SR-NYSEMKT-2015-02.

<sup>13</sup> 15 U.S.C. 78f(b).

<sup>14</sup> 15 U.S.C. 78f(b)(4), (5).

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

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

In accordance with Section 6(b)(8) of the Act,<sup>16</sup> the Exchange believes that the proposed rule change will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act because, in addition to the proposed services being completely voluntary, they are available to all Users on an equal basis (*i.e.* the same products and services are available to all Users).

The Exchange believes that allowing Users to receive TotalView Ultra through a wireless connection will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act because such access will satisfy User demand for additional options for connectivity to TotalView Ultra. Currently, Users can receive TotalView Ultra from wireless networks offered by third party vendors. Based on the information available to it, the Exchange believes that its proposed wireless connection would provide data at the same or similar speed and at the same or similar cost as the other wireless networks. Accordingly, the proposed wireless connection to TotalView Ultra would provide Users with an additional wireless connectivity option, thereby enhancing competition.

The Exchange notes that the proposed wireless connection to TotalView Ultra would compete not just with other wireless connections to TotalView Ultra, but also with fiber optic network connections to TotalView Ultra, which may be more attractive to some Users as they are more reliable and less susceptible to weather conditions. Users that do not opt to utilize wireless connections would be able to obtain TotalView Ultra through other methods, including, for example, from another User, through a telecommunications provider, or over the IP network. In this way, the proposed changes would enhance competition by helping Users tailor their connectivity to TotalView Ultra to the needs of their business operations by allowing them to select the form and optimal latency of the connectivity they use to receive TotalView Ultra that best suits their needs, helping them tailor their data center operations to the requirements of their business operations.

The proposed wireless connection to TotalView Ultra would traverse wireless connections through a series of towers equipped with wireless equipment, including a pole on the grounds of the

data center. The proposed wireless network would have exclusive rights to operate wireless equipment on the data center pole. The Exchange will not sell rights to third parties to operate wireless equipment on the pole, due to space limitations, security concerns, and the interference that would arise between equipment placed too closely together. In addition to space issues, there are contractual restrictions on the use of the roof that the Exchange has determined would not be met if it offered space on the roof for third party wireless equipment. Moreover, access to the pole or roof is not required for third parties to establish wireless networks that can compete with the Exchange's proposed service, as witnessed by the existing wireless networks currently serving Users. Based on the information available to it, the Exchange believes that its proposed wireless connection to TotalView Ultra would provide data at the same or similar speed, and at the same or similar cost, as its proposed wireless connection [*sic*], thereby enhancing competition.<sup>17</sup>

Finally, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive. In such an environment, the Exchange must continually review, and consider adjusting, its services and related 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.

### *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 Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>18</sup> and Rule 19b-4(f)(6) thereunder.<sup>19</sup> Because the proposed rule change does not: (i) Significantly affect the protection of

<sup>17</sup> The Exchange notes that the distance of a wireless network provider's wireless equipment from the User is only one factor in determining overall latency. Other factors include the number of repeaters in the route, the number of switches the data has to travel through, and the millimeter wave and switch technology used.

<sup>18</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>19</sup> 17 CFR 240.19b-4(f)(6).

investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b-4(f)(6)(iii) thereunder.

A proposed rule change filed under Rule 19b-4(f)(6)<sup>20</sup> normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),<sup>21</sup> the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest.

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>22</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 No. SR-NYSEARCA-2016-04 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 No. SR-NYSEARCA-2016-04. 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

<sup>20</sup> 17 CFR 240.19b-4(f)(6).

<sup>21</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>22</sup> 15 U.S.C. 78s(b)(2)(B).

<sup>16</sup> 15 U.S.C. 78f(b)(8).

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 such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; 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 No. SR-NYSEARCA-2016-04, and should be submitted on or before March 10, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>23</sup>

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

[FR Doc. 2016-03270 Filed 2-17-16; 8:45 am]

BILLING CODE 8011-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-77117; File No. SR-NYSEArca-2016-08]

### Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Proposed Rule Change To Adopt NYSE Arca Equities Rule 8.900 To Permit Listing and Trading of Managed Portfolio Shares and To Permit Listing and Trading of Shares of Fifteen Issues of the Precidian ETFs Trust

February 11, 2016.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that, on January 27, 2016, NYSE Arca, Inc. ("Exchange" or "NYSE Arca") 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 adopt a new NYSE Arca Equities Rule 8.900 to permit it to list and trade Managed Portfolio Shares, which are shares of actively managed exchange-traded funds ("ETFs") for which the portfolio is disclosed in accordance with standard mutual fund disclosure rules. In addition, the Exchange proposes to list and trade shares of the following under proposed NYSE Arca Equities Rule 8.900: Precidian U.S. Managed Volatility Fund; Precidian Strategic Value; Precidian Large Cap Value; Precidian Focused Dividend Strategy; Precidian U.S. Large Cap Growth; Precidian U.S. Core Equity; Precidian U.S. Mid Cap Growth; Precidian Total Return; Precidian High Dividend Yield; Precidian Small Cap Dividend Value; Precidian Multi-factor Small Cap Core; Precidian Multi-factor Small Cap Growth; Precidian Large Cap Core Plus 130/30; Precidian Mid Cap Core Plus 130/30; and Precidian Small Cap Core Plus 130/30. 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 add new NYSE Arca Equities Rule 8.900 for the purpose of permitting the listing and trading, or trading pursuant to unlisted trading privileges ("UTP"), of Managed

Portfolio Shares, which are securities issued by an actively managed open-end investment management company.<sup>3</sup> The Exchange also proposes to amend NYSE Arca Equities Rule 7.34 (Trading Sessions) to reference securities described in proposed NYSE Arca Equities Rule 8.900 in Rule 7.34(a)(3)(A) relating to securities traded in the Core Trading Session.

In addition to the above-mentioned proposed rule changes, the Exchange proposes to list and trade shares ("Shares") of the following under proposed NYSE Arca Equities Rule 8.900: Precidian U.S. Managed Volatility Fund; Precidian Strategic Value; Precidian Large Cap Value; Precidian Focused Dividend Strategy; Precidian U.S. Large Cap Growth; Precidian U.S. Core Equity; Precidian U.S. Mid Cap Growth; Precidian Total Return; Precidian High Dividend Yield; Precidian Small Cap Dividend Value; Precidian Multi-factor Small Cap Core; Precidian Multi-factor Small Cap Growth; Precidian Large Cap Core Plus 130/30; Precidian Mid Cap Core Plus 130/30; and Precidian Small Cap Core Plus 130/30 (each, a "Fund" and, collectively, the "Funds").

##### Proposed Listing Rules

Proposed Rule 8.900 (a) provides that the Corporation will consider for trading, whether by listing or pursuant to UTP, Managed Portfolio Shares that meet the criteria of Rule 8.900.

Proposed Rule 8.900 (b) provides that Rule 8.900 is applicable only to Managed Portfolio Shares and that, except to the extent inconsistent with Rule 8.900, or unless the context otherwise requires, the rules and procedures of the Corporation's Board of Directors shall be applicable to the trading on the Corporation of such securities. Proposed Rule 8.900 (b) provides further that Managed Portfolio Shares are included within the definition of "security" or "securities" as such terms are used in the Rules of the Corporation.

Proposed Definitions. Proposed Rule 8.900(c)(1) defines the term "Managed

<sup>3</sup> A Managed Portfolio Share is a security that represents an interest in an investment company registered under the Investment Company Act of 1940 (15 U.S.C. 80a-1) ("1940 Act") organized as an open-end investment company or similar entity that invests in a portfolio of securities selected by its investment adviser consistent with its investment objectives and policies. In contrast, an open-end investment company that issues Investment Company Units, listed and traded on the Exchange under NYSE Arca Equities Rule 5.2(j)(3) ("Index ETFs"), seeks to provide investment results that correspond generally to the price and yield performance of a specific foreign or domestic stock index, fixed income securities index or combination thereof.

<sup>23</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.