waives the 30-day operative delay and designates the proposed rule change to be operative as of November 30, 2016. 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 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);
- Send an email to rule-comments@sec.gov. Please include File Number SR–NYSEArca–2016–113 on the subject line.

Paper Comments
- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090. All submissions should refer to File Number SR–NYSEArca–2016–113 on the subject line.
- All submissions should refer to File Number SR–NYSEArca–2016–113 on the subject line.

Reference Room
- Inspections and copies of the proposed rule change are available for inspection and copying at the principal office of the Commission, 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–2016–113 and should be submitted on or before January 3, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority. Eduardo A. Aleman, Assistant Secretary.

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Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Rule 7.46 to Modify the Web Site Date Publication Requirements Relating To the Regulation NMS Plan To Implement a Tick Size Pilot Program

December 6, 2016.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”) and Rule 19b–4 thereunder, notice is hereby given that, on November 30, 2016, 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 amend Rule 7.46 to modify the Web site data publication requirements relating to the Regulation NMS Plan to Implement a Tick Size Pilot Program (“Plan”). The proposed rule change is available on the Exchange’s Web site at www.nyse.com, at the principal office of the Exchange, and at the Commission’s Public Reference Room.

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

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

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

1. Purpose


22 For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule’s impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).
8 17 CFR 242.606.
10 See Approval Order at 27533 and 27545.
The Exchange is proposing amendments to Rule 7.46(b)(2) (regarding Appendix BJ and B.II data) and Rule 7.46(b)(3)(C) (regarding Appendix B.IV data), to provide that data required to be made available on the Exchange’s Web site pursuant to Appendix B and C to the Plan by February 28, 2017.13

The purpose of delaying the publication of the Web site data is to address confidence concerns by providing for the passage of additional time between the market information reflected in the data and the public availability of such information.14

The proposed rule change also will provide that, with respect to Appendix C data, The Corporation, as DEA, shall collect the data required by Item I of Appendix C to the Plan for those ETP Holders that are Market Makers for which the Corporation is DEA, and on a monthly basis transmit such data, categorized by the Control Group and each Test Group, to the SEC in a pipe delimited format. The Corporation, as DEA, shall also make the data collected pursuant to subparagraph (4) of Rule 7.46(b) available to FINRA for aggregation and publication, categorized by the Control Group and each Test Group, on the FINRA Web site pursuant to FINRA Rules.15 The Corporation is proposing such an amendment in order to add a provision in its rules to comply with such requirement and provision in the Plan.16

Finally, the Corporation is proposing an amendment to Rule 7.46(b)(5) (regarding data described in Item III of Appendix B) to add a provision identical to Rule 7.46(b)(2) (as amended above pursuant to the proposed changes described above to such Rule), which shall require the Corporation to make the data described in Item III of Appendix B publicly available on the Corporation Web site within 120 calendar days following month end at no charge and shall not identify the ETP Holder that generated the data. The Corporation is proposing such an amendment in order to add a provision in its rules to comply with such requirement and provision in the Plan.17

As noted in Item 2 of this filing, the Exchange has filed the proposed rule change for immediate effectiveness and has requested that the Commission waive the 30-day operative delay. If the Commission waives the 30-day operative delay, the operative date of the proposed rule change will be the date of filing.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,18 in general, and furthers the objectives of Section 6(b)(5) of the Act,19 in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, 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.

The Exchange believes that this proposal is consistent with the Act because it is designed to assist the Participants in meeting their regulatory obligations pursuant to the Plan and is in furtherance of the objectives of the Plan, as identified by the SEC. The Exchange believes that the instant proposal is consistent with the Act in that it is designed to address confidentiality concerns by permitting the Exchange to delay Web site publication to provide for passage of additional time between the market information reflected in the data and the public availability of such information.

15 FINRA will make this data publicly available on the FINRA Web site at no charge and shall not identify the ETP Holders that generated the data or the individual securities. FINRA Rule 6191(b)(4).

16 See Section VII of the Plan.

17 See supra note 14.


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. The Exchange notes that the proposed rule change implements the provisions of the Plan, and is designed to assist the Participants in meeting their regulatory obligations pursuant to the Plan. The proposal is intended to address confidentiality concerns by permitting the Exchange to delay Web site publication to provide for passage of additional time between the market information reflected in the data and the public availability of such information. The proposal also does not alter the information required to be submitted to the SEC.

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 on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)20 of the Act and Rule 19b–4(f)(6) thereunder.21

A proposed rule change filed under Rule 19b–4(f)(6)22 normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),23 the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has filed the proposed rule change for immediate effectiveness and has requested that the Commission waive the requirement that the proposed rule change not become operative for 30 days after the date of the filing so that it may become operative immediately.

The Exchange notes that the proposed rule change implements the provisions of the Plan, and is designed to assist the Participants in meeting their regulatory obligations pursuant to the Plan. The proposal is intended to address confidentiality concerns by permitting the Exchange to delay Web site publication to provide for passage of additional time between the market information reflected in the data and the public availability of such information. The proposal also does not alter the information required to be submitted to the SEC.

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because it will allow the Exchange to implement proposed changes that are intended to address confidentiality concerns. The Commission notes that some Pilot data was scheduled to be published on November 30, 2016. Therefore, the Commission hereby waives the 30-day operative delay and designs the proposed rule change to be operative as of November 30, 2016.24

At any time within 60 days of the filing of the proposed rule change, the Commission 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.25 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 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);

• Send an email to rule-comments@sec.gov. Please include File Number SR–NYSEArca–2016–159 on the subject line.

For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule’s impact on efficiency, competition, and capital formation. See 15 U.S.C. 78s(f).

24 For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule’s impact on competition.