

Section 6(c) of the Act permits the Commission to exempt any persons or transactions from any provision of the Act if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

**Eduardo A. Aleman,**

*Assistant Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-81767; File No. SR-NYSEARCA-2017-114]

### Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the NYSE Arca Options Fee Schedule

September 29, 2017.

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 September 26, 2017, 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 Options Fee Schedule (“Fee Schedule”). The Exchange proposes to implement the fee change effective October 1, 2017. 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.

<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.

#### 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 purpose of this filing is to amend the Fee Schedule effective October 1, 2017. Specifically, the Exchange proposes to place a cap on an incentive for Floor Brokers to execute Qualified Contingent Cross (“QCC”) transactions.

Currently, Floor Brokers earn a rebate for executed QCC orders of \$0.035 per contract side.<sup>4</sup> QCC executions in which a Customer or Professional Customer (collectively, “Customer”) is on both sides of the QCC trade are not eligible for the Floor Broker rebate.<sup>5</sup> The Exchange does not currently impose any monthly cap on the maximum to be paid under the QCC rebate program.

The Exchange proposes to limit the maximum Floor Broker rebate to \$375,000 per month per Floor Broker firm.<sup>6</sup> Although the proposal would limit the potential monthly rebate, the Exchange believes that OTP Holders acting as Floor Brokers would still be incented to achieve the highest rebate possible. The Exchange notes that other options exchanges have similar caps on rebates offers for QCC transactions.<sup>7</sup>

<sup>4</sup> See Fee Schedule, QUALIFIED CONTINGENT CROSS TRANSACTION FEES, available here, [https://www.nyse.com/publicdocs/nyse/markets/arca-options/NYSE\\_Arca\\_Options\\_Fee\\_Schedule.pdf](https://www.nyse.com/publicdocs/nyse/markets/arca-options/NYSE_Arca_Options_Fee_Schedule.pdf).

<sup>5</sup> See *id.*, Endnote 14.

<sup>6</sup> See proposed Fee Schedule, Endnote 13 (providing that “[t]he maximum Floor Broker Rebate paid shall not exceed \$375,000 per month per Floor Broker firm”).

<sup>7</sup> See NYSE American Options Fee Schedule, Section I.F., QCC Fees & Credits, n. 1, available here, [https://www.nyse.com/publicdocs/nyse/markets/american-options/NYSE\\_American\\_Options\\_Fee\\_Schedule.pdf](https://www.nyse.com/publicdocs/nyse/markets/american-options/NYSE_American_Options_Fee_Schedule.pdf) (providing that “[t]he maximum Floor Broker credit paid shall not exceed \$375,000 per month per Floor Broker firm”); Chicago Board Options Exchange (“CBOE”) fee schedule, QCC Rate Table, p. 5, available here, [http://www.cboe.com/publish/feeschedule/CBOE\\_FeeSchedule.pdf](http://www.cboe.com/publish/feeschedule/CBOE_FeeSchedule.pdf) (providing that QCC credits “will

###### 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,<sup>8</sup> in general, and furthers the objectives of Sections 6(b)(4) and (5) of the Act,<sup>9</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.

Specifically, the Exchange does not currently impose any monthly cap on the maximum to be paid to Floor Broker firms under the QCC rebate program. The Exchange believes the proposed cap is reasonable, equitable and not unfairly discriminatory because all OTP Holders would be uniformly capped at a potential rebate of \$370,000 per month per Floor Broker firm. In addition, the proposal is reasonable, equitable and not unfairly discriminatory because it is consistent with similar caps on rebates paid [sic] for QCC transactions on other exchanges.<sup>10</sup>

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

In accordance with Section 6(b)(8) of the Act,<sup>11</sup> 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. The proposed cap would not impose an unfair burden on competition because all OTP Holders would be uniformly capped at \$375,000 per month per Floor Broker firm and because the proposal is consistent with similar caps on rebates paid [sic] for QCC transactions on other exchanges.<sup>12</sup>

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.

be capped at \$350,000 per month”, per CBOE trading permit holder).

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

<sup>9</sup> 15 U.S.C. 78f(b)(4) and (5).

<sup>10</sup> See *supra* note 7.

<sup>11</sup> 15 U.S.C. 78f(b)(8).

<sup>12</sup> See *supra* note 7.

*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>13</sup> of the Act and subparagraph (f)(2) of Rule 19b-4<sup>14</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>15</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-2017-114 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-2017-114. 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-2017-114, and should be submitted on or before October 26, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>16</sup>

**Eduardo A. Aleman,**  
*Assistant Secretary.*

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**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-81773; File No. SR-NASDAQ-2017-101]

**Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Extend the Implementation Date for Certain Changes to the Rule 5700 Series and Rule 5810**

September 29, 2017.

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 September 27, 2017, The NASDAQ Stock Market LLC ("Nasdaq" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I and II

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 extend the date on which certain changes concerning the continued listing requirements for exchange-traded products ("ETPs") in the Nasdaq Rule 5700 Series, as well as a related amendment to Nasdaq Rule 5810 (Notification of Deficiency by the Listing Qualifications Department), are implemented.

The Exchange proposes to delay the implementation date of these changes until January 1, 2018. Given the scope of the proposed rule changes, the Exchange believes that this will ensure that ETP issuers have adequate time to finish developing and put into operation the new processes and systems necessitated by them.

**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

On September 30, 2016, the Exchange filed a proposed rule change, as subsequently amended by Amendments No. 1 and 2 thereto, and as supplemented by two clean-up filings<sup>3</sup> (as amended and supplemented, collectively, the "Proposed Rule Change"), to adopt certain changes to the Nasdaq Rule 5700 Series, as well as a related amendment to Nasdaq Rule

<sup>3</sup> See Securities Exchange Act Release No. 79081 (Oct. 11, 2016), 81 FR 71548 (Oct. 17, 2016) (SR-NASDAQ-2016-135); see also Securities Exchange Act Release No. 80708 (May 17, 2017), 82 FR 23690 (May 23, 2017) (SR-NASDAQ-2017-040); see also Securities Exchange Act Release No. 80810 (May 30, 2017), 82 FR 26205 (June 6, 2017) (SR-NASDAQ-2017-052).

<sup>13</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>14</sup> 17 CFR 240.19b-4(f)(2).

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

<sup>16</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.