

### III. Proceedings To Determine Whether To Approve or Disapprove SR–NYSEArca–2018–04 and Grounds for Disapproval Under Consideration

The Commission is instituting proceedings pursuant to Section 19(b)(2)(B) of the Exchange Act<sup>38</sup> to determine whether the proposed rule change should be approved or disapproved. Institution of such proceedings is appropriate at this time in view of the legal and policy issues raised by the proposed rule change. Institution of proceedings does not indicate that the Commission has reached any conclusions with respect to any of the issues involved. Rather, as described below, the Commission seeks and encourages interested persons to provide comments on the proposed rule change.

Pursuant to Section 19(b)(2)(B) of the Exchange Act,<sup>39</sup> the Commission is providing notice of the grounds for disapproval under consideration. The Commission is instituting proceedings to allow for additional analysis of the proposed rule change's consistency with Section 6(b)(5) of the Exchange Act, which requires, among other things, that the rules of a national securities exchange be "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."<sup>40</sup>

### IV. Procedure: Request for Written Comments

The Commission requests that interested persons provide written submissions of their views, data, and arguments with respect to the issues identified above, as well as any other concerns they may have with the proposal. In particular, the Commission invites the written views of interested persons concerning whether the proposal is consistent with Section 6(b)(5) or any other provision of the Exchange Act, or the rules and regulations thereunder. Although there do not appear to be any issues relevant to approval or disapproval that would be facilitated by an oral presentation of views, data, and arguments, the Commission will consider, pursuant to Rule 19b–4, any request for an

opportunity to make an oral presentation.<sup>41</sup>

Interested persons are invited to submit written data, views, and arguments regarding whether the proposal should be approved or disapproved by May 23, 2018. Any person who wishes to file a rebuttal to any other person's submission must file that rebuttal by June 6, 2018.

The Commission asks that commenters address the sufficiency of the Exchange's statements in support of the proposal, which are set forth in the Notice,<sup>42</sup> the issues raised by the commenters, and any other issues raised by the proposed rule change under the Exchange Act. In particular, the Commission seeks commenters' views regarding the concerns raised with respect to selective disclosure of confidential portfolio information, namely, whether such disclosure is consistent with the requirement of Section 6(b)(5) that the rules of the exchange be designed to prevent fraudulent and manipulative acts and practices. The Commission also seeks commenters' views regarding the various concerns raised about how the Shares may trade in the secondary market, including the potential for frequent trading halts and poor trading performance during times of market volatility and stress. In this regard, the Commission specifically seeks commenters' views on whether the proposal is consistent with the maintenance of a fair and orderly market.

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–2018–04 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 Numbers SR–NYSEArca–2018–04. This

<sup>41</sup> Section 19(b)(2) of the Exchange Act, as amended by the Securities Act Amendments of 1975, Public Law 94–29 (June 4, 1975), grants the Commission flexibility to determine what type of proceeding—either oral or notice and opportunity for written comments—is appropriate for consideration of a particular proposal by a self-regulatory organization. See Securities Act Amendments of 1975, Senate Comm. on Banking, Housing & Urban Affairs, S. Rep. No. 75, 94th Cong., 1st Sess. 30 (1975).

<sup>42</sup> See *supra* note 3.

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 website (<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 website 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 these filings also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEArca–2018–04 and should be submitted on or before May 23, 2018. Rebuttal comments should be submitted by June 6, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>43</sup>

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

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–83113; File No. SR–NYSE–2018–15]

### Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Adopt Transaction Fees In Connection with the Exchange's Trading of UTP Securities on Pillar

April 26, 2018.

Pursuant to Section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934 (the

<sup>43</sup> 17 CFR 200.30–3(a)(57).

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

<sup>38</sup> 15 U.S.C. 78s(b)(2)(B).

<sup>39</sup> *Id.*

<sup>40</sup> 15 U.S.C. 78f(b)(5).

“Act”)<sup>2</sup> and Rule 19b-4 thereunder,<sup>3</sup> notice is hereby given that, on April 17, 2018, New York Stock Exchange LLC (“NYSE” or the “Exchange”) 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 adopt transaction fees in connection with the Exchange’s trading of UTP Securities on Pillar, the Exchange’s new trading technology platform. The Exchange proposes to implement these changes to its Price List effective April 17, 2018.<sup>4</sup> The proposed rule change is available on the Exchange’s website 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**

On April 9, 2018, the Exchange will introduce trading of UTP Securities on the Exchange on the Pillar trading platform.<sup>5</sup> As described in the UTP Trading Rules Filing, with Pillar, the

Exchange will continue to trade NYSE-listed securities on its current trading platform without any changes.<sup>6</sup>

In connection with the offering of trading in UTP Securities, the Exchange proposes to amend its Price List to adopt a new pricing for trading UTP Securities on the Pillar platform.

The proposed changes would apply to transactions executed in securities priced at or above and below \$1.00.

The Exchange proposes to implement these changes effective April 17, 2018.

#### **Proposed Rule Change**

The Exchange proposes the following transaction fees for UTP trading on its Pillar trading platform.

The Exchange proposes to add the following heading immediately after the crossing session fees and credits in the current fee schedule: “Transaction Fees and Credits For Securities Traded Pursuant to Unlisted Trading Privileges (Tapes B and C) on the Pillar Trading Platform.” The Exchange believes that the proposed legend would clarify which fees and credits in the current fee schedule would be applicable to trading UTP Securities on the Pillar platform, and thus add clarity and promote transparency.

Immediately below this proposed heading, the Exchange proposes a second heading titled “Fees and Credits applicable to Market Participants.”

#### **General Information Applicable to the Price List**

The Exchange proposes to summarize general information applicable to fees for trading UTP Securities on the Pillar trading platform in two bullets under the second heading in the proposed Price List.

The first bullet would provide that rebates are indicated by parentheses.

The second bullet would provide that, for purposes of determining transaction fees and credits based on requirements based on quoting levels, average daily volume (“ADV”), and consolidated ADV (“CADV”), the Exchange may exclude shares traded any day that (1) the Exchange is not open for the entire trading day and/or (2) a disruption affects an Exchange system that lasts for more than 60 minutes during regular trading hours. The second proposed bullet would reproduce the language in footnote 6 of the current Price List.

#### **Transaction Fees**

The Exchange proposes the following fees and credits for all transactions in UTP Securities:

#### **Liquidity Adding Non-Displayed Order Fees**

The Exchange does not propose to charge a fee for UTP executions on the Exchange of non-displayed orders<sup>7</sup> that add liquidity to the Exchange in securities priced at or above \$1.00.

The Exchange also does not propose to charge a fee for UTP executions on the Exchange of non-displayed orders that add liquidity to the Exchange in securities priced below \$1.00.

#### **Liquidity Adding Displayed Order Credits and Fees**

For securities priced at or above \$1.00, the Exchange proposes a rebate of \$0.0020 per share for UTP executions on the Exchange of displayed orders that add liquidity to the Exchange.

For UTP executions on the Exchange of displayed orders that add liquidity to the Exchange by Floor brokers, the Exchange proposes a rebate of \$0.0026 per share.

The Exchange does not propose to charge a fee for UTP executions on the Exchange of displayed orders that add liquidity to the Exchange in securities priced below \$1.00.

For securities priced at or above \$1.00, the Exchange proposes a credit of \$0.0010 per share for UTP executions in each tape for MPL orders that add liquidity to the Exchange, unless a specific credit for SLP Provide Tiers or Adding Tiers applies.

For securities priced at or above \$1.00, the Exchange proposes a rebate of \$0.0006 per share for cross trades<sup>8</sup> in UTP Securities that add liquidity to the Exchange.

#### **Liquidity Removing Order Fees**

For UTP executions on the Exchange that remove liquidity from the Exchange, the Exchange proposes to charge \$0.0030 per share for securities priced at or above \$1.00, including MPL Orders, unless the Floor broker fee applies, and to charge 0.3% of the total dollar value of the transaction for securities priced below \$1.00.

For Floor broker UTP executions that remove liquidity from the Exchange, the Exchange proposes a fee \$0.0026 per share for securities priced at or above \$1.00.

<sup>7</sup> These rates are client rates. The Exchange proposes separate provide rates for non-displayed orders by SLPs, discussed below.

<sup>8</sup> For purposes of the Price List, cross trades are trades where a Floor broker executes customer orders to buy and sell an equivalent amount of the same security pursuant to Rule 76.

<sup>2</sup> 15 U.S.C. 78a.

<sup>3</sup> 17 CFR 240.19b-4.

<sup>4</sup> The Exchange originally filed to amend the Price List on April 9, 2018 (SR-NYSE-2018-13) and withdrew such filing on April 17, 2018.

<sup>5</sup> See Securities Exchange Act Release No. 82945 (March 26, 2018), 83 FR 13553 (March 29, 2018) (SR-NYSE-2017-36) (the “UTP Trading Rules Filing”). The term “UTP Security” means a security that is listed on a national securities exchange other than the Exchange and that trades on the Exchange pursuant to unlisted trading privileges. See Rule 1.1(ii).

<sup>6</sup> See UTP Trading Rules Filing, 83 FR at 13554, n.17.

### Adding and Remove Tiers for Securities at or Above \$1.00

The Exchange proposes tiered adding requirements for displayed orders in securities priced at or above \$1.00, as follows.

Under the proposed Tier 1 Adding Credit, the Exchange would offer a per tape credit of \$0.0026 per share (\$0.0025 if an MPL order) on a per tape basis for transactions in stocks with a per share price of \$1.00 or more when adding liquidity to the Exchange if the member organization has at least 0.05% of Adding CADV in Tape B or C. For purposes of qualifying for this tier, the 0.05% of Adding CADV could include shares of both an SLP-Prop and an SLMM<sup>9</sup> of the same or an affiliated member organization. The Exchange also proposes to waive the Tier 1 *add and remove tier* requirements until June 1, 2018, which would be reflected in footnote \*.

Under the proposed Tier 2 Adding Credit, the Exchange would offer a per tape credit of \$0.0023 per share for transactions in stocks with a per share price of \$1.00 or more when adding liquidity to the Exchange if the member organization has at least 0.01% of Adding CADV in Tape B or C. For purposes of qualifying for this tier, the 0.01% of Adding CADV could include shares of both an SLP-Prop and an SLMM of the same or an affiliated member organization.

Finally, for UTP Securities, the Exchange proposes to charge a per tape fee of \$0.0028 per share to remove liquidity from the Exchange for member organizations with an Adding ADV<sup>10</sup> of at least 50,000 shares for that respective tape.

### SLP Provide Tiers

The Exchange proposes tiered and non-tiered rates for displayed and non-displayed orders by SLPs that add liquidity to the Exchange in UTP Securities priced at or above \$1.00, as follows:

<sup>9</sup> Under Rule 107B, a Supplemental Liquidity Provider (“SLP”) can be either a proprietary trading unit of a member organization (“SLP-Prop”) or a registered market maker at the Exchange (“SLMM”). For purposes of the 10% average or more quoting requirement in assigned securities pursuant to Rule 107B, quotes of an SLP-Prop and an SLMM of the same member organization are not aggregated. However, for purposes of adding liquidity for assigned SLP securities in the aggregate, shares of both an SLP-Prop and an SLMM of the same member organization are included.

<sup>10</sup> The phrase “Adding ADV” in the proposed tier would have a citation to footnote 4 in the current Price List, which provides “For purposes of transaction fees and Supplemental Liquidity Provider liquidity credits, ADV calculations exclude early closing days.” The text of current footnote 4 would remain unchanged.

### Non-Tiered Rates

For displayed orders in UTP Securities that add liquidity to the Exchange, the Exchange proposes a non-tiered credit of \$0.0026 per share per tape in an assigned UTP Security where the SLP meets the 10% average or more quoting requirement in an assigned security pursuant to Rule 107B.<sup>11</sup> For non-displayed orders in UTP Securities that add liquidity to the Exchange, the Exchange proposes a non-tiered credit of \$0.0008 per share per tape in an assigned UTP Security if the SLP meets the 10% average or more quoting requirement in an assigned security pursuant to Rule 107B.

### Tier 2

Proposed Tier 2 would provide a \$0.0029 per share credit per tape in an assigned UTP Security for SLPs adding displayed liquidity to the Exchange if the SLP (1) adds liquidity for all assigned UTP Securities in the aggregate of an CADV of at least 0.01% per tape, and meets the 10% average or more quoting requirement in 250 or more assigned UTP Securities in Tapes B and C combined pursuant to Rule 107B, and (2) meets the 10% average or more quoting requirement in an assigned UTP Security pursuant to Rule 107B.

Proposed Tier 2 would provide a \$0.0011 per share credit per tape in an assigned UTP Security for SLPs adding non-displayed liquidity to the Exchange if the SLP meets the 10% average or more quoting requirement in an assigned UTP Security pursuant to Rule 107B.

### Tier 1

Proposed Tier 1 would provide a \$0.0032 per share credit per tape in an assigned UTP Security for SLPs adding displayed liquidity to the Exchange if the SLP (1) adds liquidity for all assigned UTP Securities in the aggregate of an CADV of at least 0.05% per tape, and (2) meets the 10% average or more quoting requirement in 500 or more assigned UTP Securities in Tapes B and C combined pursuant to Rule 107B, and (2) meets the 10% average or more quoting requirement in an assigned UTP Security pursuant to Rule 107B.

Proposed Tier 1 would provide a \$0.0014 per share credit per tape for SLPs adding non-displayed liquidity to the Exchange, and a \$0.0025 per share credit for MPL Orders adding liquidity, in an assigned UTP Security if the SLP meets the 10% average or more quoting requirement in an assigned UTP Security pursuant to Rule 107B.

<sup>11</sup> See note 9, *supra*.

### Tape A Tier

The proposed Tape A Tier would provide a \$0.00005 per share in an assigned UTP Security in addition to the Tape A SLP credit in Tape A assigned securities for SLPs adding displayed liquidity to the Exchange if the SLP (1) qualifies for the SLP Tier 1 provide rate in both Tape B and C or quotes in excess of the 10% average quoting requirement in 300 or more assigned securities separately in Tapes B and Tape C pursuant to Rule 107B, and (2) where the SLP meets the 10% average quoting requirement pursuant to Rule 107B.

Finally, the Exchange proposes to waive the provide volume component of the SLP Tier requirements until June 1, 2018, which would be reflected in footnote \*\*.

### Routing Fees

Under a new heading titled “Routing Fees,” the Exchange proposes the following fees for routing, which would be applicable to all orders in UTP Securities that are routed.

For executions in securities with a price at or above \$1.00 that route to and execute in an auction on the Exchange’s affiliate NYSE American, the Exchange proposes to charge a fee of \$0.0005 per share. For executions in securities with a price at or above \$1.00 that route to and execute in an auction on an Away Market<sup>12</sup> other than NYSE American, the Exchange proposes to charge a fee of \$0.0010 per share, and a fee of \$0.0030 per share for all other executions.

For securities priced below \$1.00 that route to and execute on an Away Market, the Exchange proposes to charge a fee of 0.30% of the total dollar value of the transaction for executions in an Away Market auction as well as all other executions.

\* \* \* \* \*

The proposed changes are not otherwise intended to address any other issues, and the Exchange is not aware of any problems that member organizations 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 provides for the

<sup>12</sup> The term “Away Market” is defined in Rule 1.1(ff) to mean any exchange, alternative trading system (“ATS”) or other broker-dealer (1) with which the Exchange maintains an electronic linkage, and (2) that provides instantaneous responses to orders routed from the Exchange.

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

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

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.

#### Adding Liquidity Credits and Fees

##### Liquidity Adding Non-Displayed Order Fees

The Exchange believes that not charging a fee for liquidity adding non-displayed orders in UTP Securities is reasonable, equitable and not unfairly discriminatory because it is designed to facilitate execution of, and enhance trading opportunities for, non-displayable orders, thereby further incentivizing entry of non-displayed orders on the Exchange. The Exchange notes that other markets charge fees for non-displayed orders.<sup>15</sup>

##### Liquidity Adding Displayed Order Credits and Fees

The Exchange believes that rebates of \$0.0020 per share for UTP executions on the Exchange of displayed orders that add liquidity to the Exchange (unless another credit applies) and \$0.0026 per share for UTP executions on the Exchange of displayed orders that add liquidity to the Exchange by Floor brokers are reasonable, equitable and not unfairly discriminatory because it will encourage submission of additional displayed liquidity to a public exchange, thereby promoting price discovery and transparency.

The Exchange further believes the proposed rebate for Floor brokers is equitable and not unfairly discriminatory because it would continue to encourage member organizations to send orders to the trading Floor for execution, thereby contributing to robust levels of liquidity on the trading Floor, which benefits all market participants. Further, the proposed Floor broker credit is also equitable and not unfairly discriminatory because those member organizations that make significant contributions to market quality and that contribute to price discovery by providing higher volumes of liquidity would be allocated a higher credit. The Exchange believes that any member organizations that would qualify for the proposed \$0.0020 per share for UTP executions that add liquidity could

<sup>15</sup> IEX, for instance, charges a fee of \$0.0009 per share for providing non-displayed liquidity for securities priced at or above \$1.00 and 0.30% of TDVT (i.e., the total dollar value of the transaction calculated as the execution price) for securities below \$1.00. See Investors Exchange Fee Schedule 2017, available at <https://www.iextrading.com/trading/fees/>.

qualify for the higher rate based on the levels of activity sent to Floor brokers. For the same reasons, the Exchange believes the proposed credits for MPL orders and cross trades in UTP Securities that add liquidity to the Exchange are reasonable and not unfairly discriminatory.

The Exchange believes that not charging UTP executions on the Exchange of displayed orders that add liquidity to the Exchange in securities priced below \$1.00 would encourage price discovery and enhance market quality by encouraging more competitive pricing of displayed orders in low-priced UTP Securities. The Exchange believes that not charging a fee for liquidity adding displayed orders is equitable and not unfairly discriminatory because it is designed to facilitate execution of, and enhance trading opportunities for, displayable orders, thereby further incentivizing entry of displayed orders on the Exchange.

##### Liquidity Removing Fees

The Exchange believes that charging \$0.0030 per share for securities priced at or above \$1.00, including MPL Orders unless the Floor broker fee applies, and 0.3% of the total dollar value of the transaction for securities priced below \$1.00 for executions on the Exchange in UTP Securities that remove liquidity is reasonable and consistent with the Act. The Exchange notes that the proposed fees are in line with the fees the Exchange currently charges for removing liquidity from the Exchange in Tape A securities.<sup>16</sup>

##### Adding Tier Credits and Remove Tier Fees

The Exchange believes that that the proposed tiered adding requirements for displayed orders in securities priced at or above \$1.00 are reasonable, equitable and not unfairly discriminatory, as follows.

The proposed Tier 1 (\$0.0026 per share, \$0.0025 if an MPL order) and Tier 2 (\$0.0023 per share) Adding Credits per share for transactions in UTP Securities with a per share stock price of \$1.00 or more when adding liquidity are reasonable because it would further contribute to incenting member organizations to provide additional amounts of liquidity on the Exchange. The Exchange believes that the proposed Tier 1 and Tier 2 Adding Credits are reasonable, equitable and not unfairly discriminatory because all

<sup>16</sup> See page 5 of the current NYSE Price List, available at [https://www.nyse.com/publicdocs/nyse/markets/nyse/NYSE\\_Price\\_List.pdf](https://www.nyse.com/publicdocs/nyse/markets/nyse/NYSE_Price_List.pdf).

member organizations would benefit from such increased levels of liquidity. In addition, the Tier 1 and Tier 2 Adding Credits would provide a higher credit to member organizations that is reasonably related to the value to the Exchange's market quality associated with higher volumes of liquidity. In addition, the Exchange believes that the proposed Tier 1 and Tier 2 Adding Credits are equitable and not unfairly discriminatory as all similarly situated market participants will be subject to the same credits on an equal and non-discriminatory basis.

Further, the Exchange believes that proposed Tier 1 charge of \$0.0028 per share in UTP Securities for member organizations with an Adding ADV of at least 50,000 shares that removes liquidity from the Exchange is reasonable, equitable and not unfairly discriminatory because the proposed fees are in line with the fees the Exchange currently charges for removing liquidity from the Exchange in Tape A securities.<sup>17</sup>

Finally, the Exchange believes it is reasonable and not unfairly discriminatory to waive the Tier 1 requirements until June 1, 2018, because the proposed credits and fees will apply to all similarly situated member organizations.

##### SLP Provide Tiers

The Exchange believes that higher rebates for SLPs discussed below are reasonable, equitable and not unfairly discriminatory because SLPs have monthly quoting requirements that non-SLP market participants do not have. As discussed below, the Exchange believes that the proposed rebates for SLPs are commensurate with the SLP's quoting requirement, are consistent with rebates charged on other markets, and will encourage the SLPs to add liquidity to the market in UTP Securities, thereby providing customers with a higher quality venue for price discovery, liquidity, competitive quotes and price improvement.

##### Non-Tiered Credits

The Exchange believes that the proposed non-tiered credit of \$0.0026 per share for displayed orders, and the proposed non-tiered credit of \$0.0008 per share for non-displayed orders, for SLPs that add liquidity to the Exchange are reasonable, equitable and not unfairly discriminatory because, although slightly higher than the non-tiered SLP rates applicable to Tape A securities, would encourage submission of additional liquidity to a public

<sup>17</sup> See *id.*

exchange, thereby promoting price discovery and transparency and enhancing order execution opportunities for member organizations.

#### Tiers 1 and 2

The Exchange believes the proposed credits for SLPs adding displayed liquidity to the Exchange (proposed Tier 2 credit of \$0.0029 per share and Tier 1 credit of \$0.0032 per share) and non-displayed liquidity to the Exchange (proposed Tier 2 credit of \$0.0011 per share, Tier 1 credit of \$0.0014 per share credit, and \$0.0025 per share credit for MPL Orders), are reasonable, equitable and not unfairly discriminatory because the proposed credits are in line with the fees the Exchange currently charges SLPs for adding displayed and non-displayed liquidity in Tape A securities.<sup>18</sup>

#### Tape A Tier

The Exchange believes that proposed SLP Tier A Tier is reasonable because it would provide SLPs with an additional way to qualify for a rebate, thereby providing SLPs with greater flexibility and creating an added incentive for SLPs to bring additional order flow to a public market in UTP Securities.

Finally, the Exchange believes it is reasonable and not unfairly discriminatory to waive the provide volume component of the SLP Tier requirements until June 1, 2018, because the proposed credits and fees will apply to all similarly situated SLPs.

#### Routing Fees

The Exchange believes that its proposed routing fees are a reasonable, equitable and not an unfairly discriminatory allocation of fees because the fee would be applicable to all member organizations in an equivalent manner. Moreover, the proposed fees for routing shares are also reasonable, equitable and not unfairly discriminatory because they are consistent with fees charged on other exchanges. In particular, the Exchange's proposal to charge a fee of \$0.0005 per share for executions that route to and execute on an NYSE American auction in securities priced at or above \$1.00 is the same as the fee charged by the Exchange's affiliate NYSE Arca, Inc. ("NYSE Arca"), to route orders to NYSE American auctions.<sup>19</sup> Moreover, the Exchange believes that the proposed

\$0.0005 per share routing fee is reasonable and not unfairly discriminatory because it is the same as NYSE American's fee for executions in the opening and closing auctions.<sup>20</sup> The Exchange notes that the proposed \$0.0005 routing fee is at least half the base rate charged for auction orders on most other markets, including the NYSE.<sup>21</sup>

The proposal to charge \$0.0010 per share for executions that route to and execute on Away Market auctions other than NYSE American in securities priced at or above \$1.00 is reasonable and not unfairly discriminatory because it is consistent with fees charged on other exchanges. The Exchange notes that the proposed fee is the same, and in some cases lower than, the fees charged on other exchanges.<sup>22</sup>

The proposal to charge \$0.0030 for all other executions in securities priced at or above \$1.00 that route to and execute on Away Market auctions is reasonable, equitable and not unfairly discriminatory because it is consistent with fees charged on other exchanges.<sup>23</sup>

Further, the proposal to charge a fee of 0.30% of total dollar value for transactions in securities with a price under \$1.00 are reasonable, equitable and not unfairly discriminatory because it is consistent with fees charged on other exchanges.<sup>24</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 or rebate opportunities available at other venues to be more favorable. In such an environment, the Exchange must continually adjust its fees and rebates to remain competitive with other exchanges and with alternative trading systems that have been exempted from compliance with the statutory standards applicable to exchanges. Because competitors are free

to modify their own fees and credits in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited. As a result of all of these considerations, the Exchange does not believe that the proposed changes will impair the ability of member organizations or competing order execution venues to maintain their competitive standing in the financial markets.

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

In accordance with Section 6(b)(8) of the Act,<sup>25</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. Instead, the Exchange believes that the proposed changes would encourage the submission of additional liquidity to a public exchange, thereby promoting price discovery and transparency and enhancing order execution opportunities for member organizations. The Exchange believes that this could promote competition between the Exchange and other execution venues, including those that currently offer similar order types and comparable transaction pricing, by encouraging additional orders to be sent to the Exchange for execution. The Exchange believes that providing higher rebates and credits to SLPs and Floor brokers could similarly promote competition because the higher rates would encourage submission of additional liquidity by member organizations with enhanced quoting obligations (SLPs) and those that make significant contributions to market quality and contribute to price discovery by providing higher volumes of liquidity (Floor brokers).

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 or rebate opportunities available at other venues to be more favorable. In such an environment, the Exchange must continually adjust its fees and rebates to remain competitive with other exchanges and with alternative trading systems that have been exempted from compliance with the statutory standards applicable to exchanges. Because competitors are free to modify their own fees and credits in

<sup>18</sup> See page 5 of the current NYSE Price List, available at <https://www.nyse.com/publicdocs/nyse/markets/nyse-price-list.pdf>.

<sup>19</sup> See page 4 of the NYSE Arca, Inc., Schedule of Fees and Charges, available at [https://www.nyse.com/publicdocs/nyse/markets/nyse-arca/NYSE\\_Arca\\_Marketplace\\_Fees.pdf](https://www.nyse.com/publicdocs/nyse/markets/nyse-arca/NYSE_Arca_Marketplace_Fees.pdf).

<sup>20</sup> See page 1 of NYSE American's Price List, available at [https://www.nyse.com/publicdocs/nyse/markets/nyse-american/NYSE\\_America\\_Equities\\_Price\\_List.pdf](https://www.nyse.com/publicdocs/nyse/markets/nyse-american/NYSE_America_Equities_Price_List.pdf).

<sup>21</sup> The NYSE's base rate is \$0.0010. See note 18, *supra*. The NASDAQ Stock Market's ("NASDAQ") base rate, in contrast, is \$0.0016. See note 22, *infra*.

<sup>22</sup> For example, NASDAQ charges a rate of \$0.0016 per executed share for Tier F. See NASDAQ Fee Schedule at <http://www.nasdaqtrader.com/Trader.aspx?id=PriceListTrading2>.

<sup>23</sup> For example, NASDAQ charges a rate of \$0.0030 to remove liquidity for shares executed at or above \$1.00. See NASDAQ Fee Schedule at <http://www.nasdaqtrader.com/Trader.aspx?id=PriceListTrading2>.

<sup>24</sup> NASDAQ, for example, charges a fee of 0.30% (i.e. 30 basis points) of total dollar volume to remove liquidity for shares executed below \$1.00. See NASDAQ Fee Schedule at <http://www.nasdaqtrader.com/Trader.aspx?id=PriceListTrading2>.

<sup>25</sup> 15 U.S.C. 78f(b)(8).

response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited. As a result of all of these considerations, the Exchange does not believe that the proposed changes will impair the ability of member organizations or competing order execution venues to maintain their competitive standing in the financial markets.

*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>26</sup> of the Act and subparagraph (f)(2) of Rule 19b-4<sup>27</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>28</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-NYSE-2018-15 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-NYSE-2018-15. 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 website (<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 website 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. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NYSE-2018-15 and should be submitted on or before May 23, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>29</sup>

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

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**BILLING CODE 8011-01-P**

**SECURITIES AND EXCHANGE COMMISSION**

**Proposed Collection; Comment Request**

*Upon Written Request, Copies Available From:* Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549-2736

*Extension:*

<sup>29</sup> 17 CFR 200.30-3(a)(12).

Rule 17a-5(c), SEC File No. 270-199, OMB Control No. 3235-0199

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 ("PRA") (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission ("Commission") is soliciting comments on the existing collection of information provided for in Rule 17a-5(c) (17 CFR 240.17a-5(c)), under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*). The Commission plans to submit this existing collection of information to the Office of Management and Budget ("OMB") for extension and approval.

Rule 17a-5(c) generally requires broker-dealers who carry customer accounts to provide statements of the broker-dealer's financial condition to their customers. Paragraph (c)(5) of Rule 17a-5 provides a conditional exemption from this requirement. A broker-dealer that elects to take advantage of the exemption must publish its statements on its website in a prescribed manner, and must maintain a toll-free number that customers can call to request a copy of the statements.

The purpose of the Rule is to ensure that customers of broker-dealers are provided with information concerning the financial condition of the firm that may be holding the customers' cash and securities. The Commission, when adopting the Rule in 1972, stated that the goal was to "directly" send a customer essential information so that the customer could "judge whether his broker or dealer is financially sound." The Commission adopted the Rule in response to the failure of several broker-dealers holding customer funds and securities in the period between 1968 and 1971.

The Commission estimates that approximately 162 broker-dealer respondents carrying approximately 132 million public customer accounts incur a burden of approximately 161,037 hours per year to comply with the Rule.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's estimates of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in

<sup>26</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>27</sup> 17 CFR 240.19b-4(f)(2).

<sup>28</sup> 15 U.S.C. 78s(b)(2)(B).