believes that a waiver of the operative delay is consistent with the protection of investors and the public interest because the proposal was published previously for a substantial period time for public comment and no comments were received on the proposal, and because a waiver will allow the proposed rules to become effective in time for the Exchange to implement its related technological changes. Accordingly, the Commission hereby waives the 30-day operative delay and designates the proposal operative upon filing.[19]

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) [20] 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.* Please include File Number SR–NYSE–2021–13 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–NYSE–2021–13. 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–2021–13 and should be submitted on or before March 16, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[21]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–03545 Filed 2–22–21; 8:45 am]

BILLING CODE 8011–01–P

Exchange Act Release No. 90363 (Nov. 5, 2020), 85 FR 71964 (Nov. 12, 2020). The comment period for SR–NYSE–2020–89 was extended to February 10, 2021. *See* Securities Exchange Act Release No. 90726 (Dec. 18, 2020), 85 FR 84431 (Dec. 28, 2020). The Exchange amended SR–NYSE–2020–89 on February 5, 2021 to remove the proposal from that filing, *see* Securities Exchange Act Release No. 91095 (Feb. 10, 2021), 86 FR 9978 (Feb. 17, 2021), and then subsequently filed the proposal as SR–NYSE–2021–13 on February 13, 2021. The Commission notes that it received no comments on the proposal under SR–NYSE–2020–89.

[19] For purposes only of accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[20] 15 U.S.C. 78s(b)(2)(B).

[21] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–91147; File No. SR–NYSEARCA–2021–12]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the NYSE Arca Equities Fees and Charges

February 17, 2021.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (''Act'') [2] and Rule 19b 4 thereunder,[3] notice is hereby given that, on February 10, 2021, NYSE Arca, Inc. (''NYSE Arca'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the NYSE Arca Equities Fees and Charges (''Fee Schedule'') to adopt a new pricing tier, Tape B Tier 3, and make non-substantive changes to the Fee Schedule. The Exchange proposes to implement the fee changes effective February 10, 2021. The proposed rule change is available on the Exchange's website 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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to adopt a new pricing tier, Tape B Tier 3, and make non-substantive changes to the Fee Schedule.

The proposed change to adopt a new pricing tier responds to the current competitive environment where order flow providers have a choice of where to direct liquidity-providing orders by offering further incentives for ETP

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

Holders[4] to send additional liquidity to the Exchange.

The Exchange proposes to implement the fee changes effective February 10, 2021.[5]

Background

The Exchange operates in a highly competitive market. The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.''[6]

While Regulation NMS has enhanced competition, it has also fostered a ''fragmented'' market structure where trading in a single stock can occur across multiple trading centers. When multiple trading centers compete for order flow in the same stock, the Commission has recognized that ''such competition can lead to the fragmentation of order flow in that stock.''[7] Indeed, equity trading is currently dispersed across 16 exchanges,[8] numerous alternative trading systems,[9] and broker-dealer internalizers and wholesalers, all competing for order flow. Based on publicly-available information, no single exchange currently has more than 18% market share.[10] Therefore, no exchange possesses significant pricing power in the execution of equity order flow. More specifically, the Exchange currently has less than 10% market share of executed volume of equities trading.[11]

The Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can move order flow, or discontinue or reduce use of certain categories of products. While it is not possible to know a firm's reason for shifting order flow, the Exchange believes that one such reason is because of fee changes at any of the registered exchanges or non-exchange venues to which a firm routes order flow. With respect to non-marketable order flow that would provide liquidity on an Exchange against which market makers can quote, ETP Holders can choose from any one of the 16 currently operating registered exchanges to route such order flow. Accordingly, competitive forces constrain exchange transaction fees that relate to orders that would provide liquidity on an exchange.

Proposed Rule Change

Tape B Tier 3

The Exchange proposes to introduce a new pricing tier—Tape B Tier 3—for securities with a per share price of $1.00 and above. The proposed rule change is designed to be available to ETP Holders that are affiliated with an OTP Holder or OTP Firm that has a market maker account on the Exchange's options platform (''NYSE Arca Options'') and is intended to provide such ETP Holders with an incentive to direct their liquidity-providing orders in Tape B securities to the Exchange.

As proposed, ETP Holders would qualify for the new Tape B Tier 3 pricing tier if, on a daily basis, measured monthly, they directly execute providing volume in Tape B Securities during the billing month that is equal to 0.20% or more of the US consolidated average daily volume (''US CADV'')[12] in Tape B Securities and are affiliated with an OTP Holder or OTP Firm that provides an ADV of electronic posted executions for the account of a market maker in all issues on NYSE Arca Options of at least 0.50% of total Customer equity and ETF option ADV as reported by The Options Clearing Corporation (''OCC''). ETP Holders that qualify for the proposed Tape B Tier 3 would receive a credit of $0.0025 per share for orders that provide liquidity in Tape B securities.

As with the current Tape B Tier 1 and Tape B Tier 2 pricing tiers, Lead Market Makers (''LMMs'') cannot qualify for the proposed Tape B Tier 3 pricing tier. For all other fees and credits, tiered or basic rates would apply based on a firm's qualifying levels.

The purpose of this proposed rule change is to incentivize ETP Holders to increase the liquidity-providing orders they send to the Exchange, which would support the quality of price discovery on the Exchange and provide additional liquidity for incoming orders. The Exchange believes that the proposal would create an added incentive for ETP Holders to bring additional order flow to a public market. The Exchange further believes that providing credits to ETP Holders that are affiliated with an OTP Holder or OTP Firm could lead to increased trading on the Exchange's equities and options markets.[13]

The Exchange believes that the proposed pricing tier would provide an incentive for a greater number of ETP Holders to send additional liquidity to the Exchange in order to qualify for the proposed new credit because, although the proposed pricing tier has a requirement of a minimum of options volume, it also requires an ETP Holder to provide liquidity in Tape B securities at a level below the requirement under both the Tape B Tier 1 and Tape B Tier 2 pricing tiers.[14]

The Exchange believes that this proposed change will provide a greater incentive to attract additional liquidity from additional ETP Holders so as to qualify for the Tape B Tier 3 credit. The Exchange anticipates a small number of ETP Holders could qualify for Tape B Tier 3 if they choose to route their orders to the Exchange. The Exchange does not know how much order flow ETP Holders choose to route to other exchanges or to off-exchange venues. Without having a view of ETP Holders' activity on other exchanges and off-exchange venues, the Exchange has no way of knowing whether this proposed rule change would result in any ETP Holder directing orders to the Exchange

[4] All references to ETP Holders in connection with this proposed fee change include Market Makers.

[5] The Exchange originally filed to amend the Fee Schedule on February 1, 2021 (SR–NYSEArca–2021–10). SR–NYSEArca–2021–10 was subsequently withdrawn and replaced by this filing.

[6] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (File No. S7–10–04) (Final Rule) (''Regulation NMS'').

[7] *See* Securities Exchange Act Release No. 61358, 75 FR 3594, 3597 (January 21, 2010) (File No. S7–02–10) (Concept Release on Equity Market Structure).

[8] *See* Cboe Global Markets, U.S Equities Market Volume Summary, available at *https://markets.cboe.com/us/equities/market_share. See generally https://www.sec.gov/fast-answers/divisionsmarketregmrexchangesshtml.html.*

[9] *See* FINRA ATS Transparency Data, *available at https://otctransparency.finra.org/otctransparency/AtsIssueData.* A list of alternative trading systems registered with the Commission is *available at https://www.sec.gov/foia/docs/atslist.htm.*

[10] *See* Cboe Global Markets, U.S. Equities Market Volume Summary, available at *http://markets.cboe.com/us/equities/market_share/.*

[11] *See id.*

[12] US CADV means the United States Consolidated Average Daily Volume for transactions reported to the Consolidated Tape, excluding odd lots through January 31, 2014 (except for purposes of Lead Market Maker pricing), and excludes volume on days when the market closes early and on the date of the annual reconstitution of the Russell Investments Indexes. Transactions that are not reported to the Consolidated Tape are not included in US CADV. *See* Fee Schedule, footnote 3.

[13] There are currently 54 firms that are both ETP Holders and OTP Holders.

[14] For example, Tape B Tier 1 requires ETP Holders to execute providing volume in Tape B Securities that is equal to at least 1.50% of US Tape B CADV. While Tape B Tier 2 provides ETP Holders multiple ways to earn Tape B Tier 2 credit, at a minimum, ETP Holders must execute providing volume equal to at least 0.20% of the US Tape B CADV over the ETP Holder's baseline, which for Tape B Tier 2 is the ETP Holder's Q2 2015 providing ADV.

in order to qualify for the proposed new pricing tier.

Non-Substantive Change

The Exchange proposes to make a non-substantive change by deleting the words ''to the Book,'' ''from the Book,'' and ''outside the Book'' from the Fee Schedule. Specifically, in the context of a credit provided by the Exchange, a fee charged by the Exchange, or routing fees charged by the Exchange, the Fee Schedule currently utilizes the words ''to the Book,'' ''from the Book,'' and ''outside the Book,'' respectively. The Exchange believes these phrases are superfluous. ETP Holders understand that when they provide liquidity, they provide it ''to the Book.'' And when they take liquidity, they take it ''from the Book.'' Similarly, when their orders are routed, they are routed ''outside the Book.'' Therefore, the Exchange proposes to delete these three phrases from the Fee Schedule. The Exchange believes this non-substantive change would streamline the Fee Schedule and promote clarity.

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

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[15] in general, and furthers the objectives of Sections 6(b)(4) and (5) of the Act,[16] 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 Proposed Fee Change Is Reasonable

As discussed above, the Exchange operates in a highly fragmented and competitive market. The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Specifically, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' [17]

The Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can shift order flow, or discontinue to reduce use of certain categories of products, in response to fee changes. With respect to non-marketable orders that provide liquidity on an Exchange, ETP Holders can choose from any one of the 16 currently operating registered exchanges to route such order flow. Accordingly, competitive forces reasonably constrain exchange transaction fees that relate to orders that would provide liquidity on an exchange. Stated otherwise, changes to exchange transaction fees can have a direct effect on the ability of an exchange to compete for order flow.

Tape B Tier 3

Given this competitive environment, the proposed rule change represents a reasonable attempt to attract additional order flow to the Exchange. In particular, the Exchange believes the proposed introduction of the Tape B Tier 3 pricing tier is reasonable because it provides ETP Holders affiliated with an OTP Holder or OTP Firm that has a market maker account on NYSE Arca Options with an opportunity to qualify for the Tape B Tier 3 credit through equity and options orders. The Exchange believes that the proposed pricing tier utilizing a lower equity adding volume requirement coupled with a minimum options volume requirement is reasonable because the proposal provides firms with greater flexibility to reach volume tiers across asset classes, thereby creating an added incentive for ETP Holders affiliated with an OTP Holder or OTP Firm that has a market maker account on NYSE Arca Options to bring additional order flow to a public exchange, consequently encouraging greater participation and liquidity.

The Exchange notes that volume-based incentives and discounts have been widely adopted by exchanges, including the Exchange. They also provide additional benefits or discounts that are reasonably related to the value of the Exchange's market quality and associated higher levels of market activity, such as higher levels of liquidity provision and/or growth patterns. Additionally, as noted above, the Exchange operates in a highly competitive market. The Exchange is one of many venues and off-exchange venues to which market participants may direct their order flow, and it represents a small percentage of the overall market. Competing exchanges offer similar tiered pricing structures to that of the Exchange, including schedules of rebates and fees that apply based on members achieving certain volume thresholds across asset classes. Moreover, the Exchange believes the proposed pricing tier is a reasonable means to encourage ETP Holders affiliated with an OTP Holder or OTP Firm that has a market maker account on NYSE Arca Options to increase their liquidity on the Exchange and their participation on NYSE Arca Options. The Exchange believes adopting the proposed pricing tier may encourage those ETP Holders who could not previously achieve the requirements to qualify for Tape B credits to increase their order flow on both the Exchange and on NYSE Arca Options. Increased liquidity benefits all investors by deepening the Exchange's liquidity pool, offering additional flexibility for all investors to enjoy cost savings, supporting the quality of price discovery, promoting market transparency and improving investor protection.

Non-Substantive Change

The Exchange believes that the proposed rule change to delete the phrases ''to the Book,'' ''from the Book,'' and ''outside the Book'' from the Fee Schedule is reasonable because each of the phrases are superfluous and extraneous. As noted above, ETP Holders understand that when they provide liquidity, they provide it ''to the Book,'' when they take liquidity, they take it ''from the Book,'' and when their orders are routed, they are routed ''outside the Book.'' The Exchange believes it is reasonable to delete these phrases in an effort to streamline the Fee Schedule. The Exchange believes deleting these phrases would also promote clarity to the Fee Schedule and simplify the Fee Schedule.

The Proposed Fee Change Is an Equitable Allocation of Fees and Credits

Tape B Tier 3

The Exchange believes the proposed rule change to adopt a new pricing tier equitably allocates its fees and credits among market participants because it is reasonably related to the value of the Exchange's market quality associated with higher equities and options volume.

The proposed pricing tier would be available to ETP Holders that are affiliated with OTP Holders or OTP Firms that have a market maker account

[15] 15 U.S.C. 78f(b).

[16] 15 U.S.C. 78f(b)(4) and (5).

[17] *See* Regulation NMS, 70 FR at 37499.

on NYSE Arca Options. A number of ETP Holders have a reasonable opportunity to satisfy the tier's criteria.[18] The Exchange does not know how much order flow ETP Holders choose to route to other exchanges or to off-exchange venues. Without having a view of an ETP Holder's activity on other markets and off-exchange venues, the Exchange has no way of knowing whether this proposed rule change would result in any ETP Holder affiliated with an OTP Holder or OTP Firm that has a market maker account on NYSE Arca Options to increase participation in the Exchange's equities and options markets to qualify for the proposed Tape B Tier 3 credit. The Exchange believes the proposed pricing tier could provide an incentive for other ETP Holders that are affiliated with an OTP Holder or OTP Firm that has a market maker account on NYSE Arca Options to submit additional liquidity on the Exchange and on NYSE Arca Options to qualify for the Tape B Tier 3 credit. To the extent that such participants direct significant order flow to the Exchange's equities and options markets, the Exchange believes such participants should receive the credit proposed by the new pricing tier. To the extent an ETP Holder participates on the Exchange but not on NYSE Arca Options, the Exchange believes that the proposal is still reasonable, equitable and not unfairly discriminatory with respect to such ETP Holder based on the overall benefit to the Exchange resulting from the success of NYSE Arca Options. In particular, such success would allow the Exchange to continue to provide and potentially expand its existing incentive programs to the benefit of all participants on the Exchange, whether they participate on NYSE Arca Options or not.

While the proposal is intended to incentivize ETP Holders that are affiliated with an OTP Holder or OTP Firm that has a market maker account on NYSE Arca Options, ETP Holders that do not meet the criteria for the proposed tier can still qualify for credits available under the other Tape B pricing tiers which do not require it to have any affiliation with an OTP Holder or OTP Firm and conduct options trading on NYSE Arca Options.

Non-Substantive Change

The Exchange believes that the proposed rule change to delete the phrases "to the Book," "from the Book," and "outside the Book" from the Fee Schedule is equitable because the resulting streamlined Fee Schedule would continue to apply to ETP Holders as it does currently because the Exchange is not adopting any new fees or credits or removing any current fees or credits from the Fee Schedule. All ETP Holders would continue to be subject to the same fees and credits that currently apply to them.

The Proposed Fee Change Is Not Unfairly Discriminatory

Tape B Tier 3

The Exchange believes that the proposal is not unfairly discriminatory. In the prevailing competitive environment, ETP Holders are free to disfavor the Exchange's pricing if they believe that alternatives offer them better value.

The Exchange believes it is not unfairly discriminatory to adopt the Tape B Tier 3 pricing tier as it would be available on an equal basis to ETP Holders that are affiliated with an OTP Holder or OTP Firm that has a market maker account on NYSE Arca Options that meet the requirement of the proposed Tape B Tier 3 pricing tier. Further, the Exchange believes the proposed pricing tier would incentivize such ETP Holders to send their options orders to the Exchange to qualify for the proposed new credit. The Exchange believes that, to the extent that ETP Holders affiliated with an OTP Holder or OTP Firm that has a market maker account on NYSE Arca Options, direct significant order flow to the Exchange's equities and options markets, such participants should receive the credit proposed by the new pricing tier. The Exchange also believes that the proposed change is not unfairly discriminatory because it is reasonably related to the value to the Exchange's market quality associated with higher volume.

The proposed rule change is intended to incentivize ETP Holders that are affiliated with an OTP Holder or OTP Firm that has a market maker account on NYSE Arca Options. As such, it does not permit unfair discrimination because the requirement to qualify for the new pricing tier would be applied to all similarly situated ETP Holders, who would all be eligible for the same credit on an equal basis.

Non-Substantive Change

The Exchange believes that the proposed rule change to delete the phrases "to the Book," "from the Book," and "outside the Book" from the Fee Schedule is not unfairly discriminatory because the resulting streamlined Fee Schedule would continue to apply to ETP Holders as it does currently because the Exchange is not adopting any new fees or credits or removing any current fees or credits from the Fee Schedule. All ETP Holders would continue to be subject to the same fees and credits that currently apply to them.

Finally, the submission of orders to the Exchange is optional for ETP Holders in that they could choose whether to submit orders to the Exchange and, if they do, the extent of its activity in this regard. 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 the foregoing reasons, the Exchange believes that the proposal is consistent with the Act.

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

In accordance with Section 6(b)(8) of the Act,[19] 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, as discussed above, the Exchange believes that the proposed changes would encourage the submission of additional liquidity to a public exchange, thereby promoting market depth, price discovery and transparency and enhancing order execution opportunities for ETP Holders. As a result, the Exchange believes that the proposed change furthers the Commission's goal in adopting Regulation NMS of fostering integrated competition among orders, which promotes "more efficient pricing of individual stocks for all types of orders, large and small." [20]

Intramarket Competition. The proposed change is designed to attract additional equities and options order flow to the Exchange. The Exchange believes that the proposed introduction of the Tape B Tier 3 pricing tier would incentivize market participants to direct providing order flow to the Exchange and greater participation on NYSE Arca Options. Greater liquidity benefits all market participants on the Exchange by providing more trading opportunities and encourages ETP Holders affiliated with an OTP Holder or OTP Firm that has a market maker account on NYSE Arca Options to send orders to the Exchange, thereby contributing to robust levels of liquidity, which benefits all market participants. The proposed volume requirement would be applicable to all similarly-situated market participants, and, as such, the

[18] *See supra* note 13.

[19] 15 U.S.C. 78f(b)(8).

[20] *See* Regulation NMS, 70 FR at 37498–99.

proposed change would not impose a disparate burden on competition among market participants on the Exchange. As such, the Exchange believes the proposed new pricing tier would not impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe the proposed rule change places a burden on competition among participants that are not affiliated with an OTP Holder or OTP Firm with a market maker account on NYSE Arca Options because such participants can avail themselves to credits available under other Tape B pricing tiers that do not require participation on NYSE Arca Options. Additionally, the Exchange's proposal to delete the phrases ''to the Book,'' ''from the Book,'' and ''outside the Book'' from the Fee Schedule will not place any undue burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because the proposed change does not impact any fees charged or credits provided by the Exchange. All ETP Holders would continue to be subject to the same fees and credits that currently apply to them.

Intermarket Competition. The Exchange operates in a highly competitive market in which market participants can readily choose to send their orders to other exchange and off-exchange venues if they deem fee levels at those other venues to be more favorable. As noted above, the Exchange's market share of intraday trading (*i.e.,* excluding auctions) is currently less than 10%. In such an environment, the Exchange must continually adjust its fees and rebates to remain competitive with other exchanges and with off-exchange venues. 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 does not believe its proposed fee change can impose any burden on intermarket competition.

The Exchange believes that the proposed rule change 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.

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) [21] of the Act and subparagraph (f)(2) of Rule 19b–4 [22] 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) [23] 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.* Please include File Number SR–NYSEARCA–2021–12 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–2021–12 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–NYSEARCA–2021–12 and should be submitted on or before March 16, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[24]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–03547 Filed 2–22–21; 8:45 am]

BILLING CODE 8011–01–P

[21] 15 U.S.C. 78s(b)(3)(A).

[22] 17 CFR 240.19b–4(f)(2).

[23] 15 U.S.C. 78s(b)(2)(B).

[24] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–91142; File No. SR–Phlx–2021–08]

Self-Regulatory Organizations; Nasdaq PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Rule 3304

February 17, 2021.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on February 4, 2021, Nasdaq PHLX LLC (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''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

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.