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

A proposed rule change filed under Rule 19b–4(f)(6) [19] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b4(f)(6)(iii),[20] [sic] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

**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–NYSEMKT–2012–40 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549.

All submissions should refer to File Number SR–NYSEMKT–2012–40. 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 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of NYSE MKT. 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–NYSEMKT–2012–40 and should be submitted on or before September 20, 2012.

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

**Kevin M. O'Neill,**

*Deputy Secretary.*

[FR Doc. 2012–21385 Filed 8–29–12; 8:45 am]

**BILLING CODE 8011–01–P**

[19] 17 CFR 240.19b–4(f)(6).

[20] 17 CFR 240.19b–4(f)(6)(iii).

[21] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

### Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Proposing To Offer Certain Proprietary Options Data Products

August 23, 2012.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on August 16, 2012, 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.

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

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

[3] 17 CFR 240.19b–4.

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

The Exchange proposes to rule change will have any direct effect, or any significant indirect effect, on any other Exchange rule in effect at the time of this filing. [sic] The text of the proposed rule change is available on the Exchange's Web site at *www.nyse.com*, at the principal office of the Exchange, and at the Commission's Public Reference Room.

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

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

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

1. Purpose

The Exchange proposes to offer certain proprietary options data products. Specifically, the products are ArcaBook for Arca Options—Trades, ArcaBook for Arca Options—Top of Book, ArcaBook for Arca Options—Depth of Book, ArcaBook for Arca Options—Complex, ArcaBook for Arca Options—Series Status, and ArcaBook for Arca Options—Order Imbalance. Each of these products, which are described in more detail below, is either identical or substantially similar to products offered by other exchanges.

ArcaBook for Arca Options—Trades would make available NYSE Arca Options last sale information on a real-time basis as it is reported to the Options Price

Reporting Authority (''OPRA'') and disseminated on a consolidated basis

under the OPRA Plan.[4] Other exchanges also offer this product.[5]

ArcaBook for Arca Options—Top of Book would make available NYSE Arca Options best bids and offers (''BBO'') (including orders and quotes) on a real-time basis as it is reported to OPRA and disseminated on a consolidated basis under the OPRA Plan. Other exchanges also offer this product.[6]

ArcaBook for Arca Options—Depth of Book would make available NYSE Arca Options quotes and orders at the first five price levels in each series on a real-time basis as it is reported to OPRA and disseminated on a consolidated basis under the OPRA Plan. One exchange offers an identical product; other exchanges also offer similar products.[7]

ArcaBook for Arca Options—Complex would make available NYSE Arca Options quote and trade information (including orders/quotes, requests for responses, and trades) for the complex order book on a real-time basis.[8] Other exchanges also offer similar data feeds related to their complex order execution facilities.[9]

ArcaBook for Arca Options—Series Status would make available series status messages for each individual options series in the event of a delayed opening or trading halt. The Exchange's equity trading facility currently makes this information available via one of its market data products.[10]

Finally, ArcaBook for Arca Options—Order Imbalance would make available a data feed that includes order imbalance information prior to the opening and closing of the market, a data product that is offered by the Exchange's equity trading facility[11] and is similar to products offered by other options exchanges.[12]

Each of these options data products will be offered through the Exchange's Liquidity Center Network (''LCN''), a local area network in the Exchange's Mahwah, New Jersey data center that is available to users of the Exchange's co-location services. The Exchange would also offer the products through the Exchange's Secure Financial Transaction Infrastructure (''SFTI'') network, through which all other Users and member organizations access the Exchange's trading and execution systems and other proprietary market data products.

The Exchange will submit a separate rule filing to establish fees for the data products.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b)[13] of the Act, in general, and furthers the objectives of Section 6(b)(5)[14] of the Act, in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, 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, and it is not designed to permit unfair discrimination among customers, brokers, or dealers.

In adopting Regulation NMS, the Commission granted self-regulatory organizations and broker-dealers increased authority and flexibility to offer new and unique market data to consumers of such data. It was believed that this authority would expand the amount of data available to users and consumers of such data and also spur innovation and competition for the provision of market data. The Exchange believes that the options data products proposed herein are precisely the sort of market data products that the Commission envisioned when it adopted Regulation NMS. The Commission concluded that Regulation NMS—by lessening regulation of the market in proprietary data—would itself further the Act's goals of facilitating efficiency and competition:

[E]fficiency is promoted when broker-dealers who do not need the data beyond the prices, sizes, market center identifications of the NBBO and consolidated last sale information are not required to receive (and pay for) such data. The Commission also believes that efficiency is promoted when broker-dealers may choose to receive (and pay for) additional market data based on their own internal analysis of the need for such data.[15]

By removing ''unnecessary regulatory restrictions'' on the ability of exchanges to sell their own data, Regulation NMS advanced the goals of the Act and the principles reflected in its legislative history.

The Exchange further notes that the existence of alternatives to the Exchange's products, including real-time consolidated data, free delayed consolidated data, and proprietary data from other sources, ensures that the Exchange is not unreasonably discriminatory because vendors and subscribers can elect these alternatives.

The proposed options data products will help to protect a free and open market by providing additional data to the marketplace and give investors greater choices. In addition, the proposal would not permit unfair discrimination because the products will be available to all of the Exchange's customers and broker-dealers through both the LCN and SFTI.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not

[4] The OPRA Plan is a national market system plan approved by the Securities and Exchange Commission (''Commission'') pursuant to Section 11A of the Securities Exchange Act of 1934 (the ''Act'') and Rule 608 thereunder (formerly Rule 11Aa3–2). *See* Securities Exchange Act Release No. 17638 (March 18, 1981), 22 SE.C. Docket 484 (March 31, 1981). The full text of the OPRA Plan is available at *http://www.opradata.com.*

The OPRA Plan provides for the collection and dissemination of last sale and quotation information on options that are traded on the participant exchanges. Section 5.2(c) of the OPRA Plan also permits OPRA Plan participants to disseminate unconsolidated market information to certain of their members under certain circumstances. The manner in which the Exchange proposes to disseminate the proposed products would comply with Section 5.2(c).

[5] For example, Chicago Board Options Exchange (''CBOE''), NASDAQ Options Market (''NOM''), and NASDAQ OMX PHLX LLC (''PHLX'') offer proprietary products that include their last sale data as reported to OPRA. *See* Securities Exchange Act Release No. 66486 (February 28, 2012), 77 FR 13166 (March 5, 2012) (SR–CBOE–2012–016); NOM Rules, Chapter VI, Section 1(a)(3) and Securities Exchange Act Release No. 64652 (June 13, 2011), 76 FR 35498 (June 17, 2011) (SR–NASDAQ–2011–075); and Securities Exchange Act Release No. 67352 (July 5, 2012), 77 FR 40930 (July 11, 2012) (SR–Phlx–2012–83), respectively.

[6] *See id. See also* Securities Exchange Act Release No. 65000 (August 1, 2011), 76 FR 47627 (August 5, 2011) (SR–ISE–2011–44).

[7] International Securities Exchange (''ISE'') currently offers ISE Depth of Market Feed, which includes the first five price levels on ISE's limit order book. *See* Securities Exchange Act Release No. 59949 (May 20, 2009), 74 FR 25593 (May 28, 2009) (SR–ISE–2007–97). NOM and PHLX also offer full depth of market feeds. *See supra* note 5.

[8] *See* Rule 6.62(e), which defines complex orders, and Rule 6.91, that describes electronic complex order trading, including requests for responses.

[9] *See, e.g.,* description of ISE Spread Feed in SR–ISE–2011–44, *supra* note 6, and description of TOPO of PHLX Options Plus Orders feed in SR–Phlx–2012–83, *supra* note 5.

[10] *See* Securities Exchange Act Release No. 65669 (November 2, 2011), 76 FR 69311 (November 8, 2011) (SR–NYSEArca–2011–78).

[11] *See id.*

[12] *See, e.g.,* SR–Phlx–2012–83 and SR–NASDAQ–2011–075, *supra* note 5. PHLX disseminates an Imbalance Message during the PHLX Opening Process. *See* Securities Exchange Act Release No. 66967 (May 11, 2012); 77 FR 29400 [sic] (May 17, 2012) (SR–Phlx–2012–60). NASDAQ's ITTO data product includes the order imbalance information relating to the opening as described in NASDAQ Options Market Rules Chapter VI, Section 8.

[13] 15 U.S.C. 78f(b).

[14] 15 U.S.C. 78f(b)(5).

[15] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496 (June 29, 2005).

necessary or appropriate in furtherance of the purposes of the Act. The market for proprietary data products is currently competitive and inherently contestable because there is fierce competition for the inputs necessary to the creation of proprietary data. Numerous exchanges compete with each other for listings, trades, and market data itself, providing virtually limitless opportunities for entrepreneurs who wish to produce and distribute their own market data. This proprietary data is produced by each individual exchange, as well as other entities (such as internalizing broker-dealers and various forms of alternative trading systems, including dark pools and electronic communication networks), in a vigorously competitive market. It is common for market participants to further and exploit this competition by sending their order flow and transaction reports to multiple markets, rather than providing them all to a single market.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others*

No written comments were solicited or received with respect to the proposed rule change.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [16] and Rule 19b–4(f)(6) thereunder.[17] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.

A proposed rule change filed under Rule 19b–4(f)(6) [18] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[19] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

**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–Arca–2012—89 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549.

All submissions should refer to File Number SR–NYSE–Arca–2012–89. 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 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of NYSE Arca. 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–NYSE–Arca–2012–89 and should be submitted on or before September 20, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[20]

**Kevin M. O'Neill,**

*Deputy Secretary.*

[FR Doc. 2012–21386 Filed 8–29–12; 8:45 am]

**BILLING CODE 8011–01–P**

[16] 15 U.S.C. 78s(b)(3)(A)(iii).

[17] 17 CFR 240.19b–4(f)(6).

[18] 17 CFR 240.19b–4(f)(6).

[19] 17 CFR 240.19b–4(f)(6)(iii).

[20] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–67726; File No. SR–EDGA–2012–28]**

## Self-Regulatory Organizations; EDGA Exchange, Inc.; Order Approving a Proposed Rule Change To Amend EDGA Rules To Add the Route Peg Order

August 24, 2012.

**I. Introduction**

On June 26, 2012, EDGA Exchange, Inc. (''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend Exchange Rule 11.5 to provide an additional order type, the Route Peg Order. In addition, the Exchange proposed to amend Exchange Rule 11.8 to describe the priority of the Route Peg Order relative to other orders on the EDGA Book. The proposed rule change was published for comment in the **Federal Register** on July 5, 2012.[3] The Commission received no comment letters on the proposed rule change. On August 16, 2012, the Commission extended to October 3, 2012, the time period in which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change.[4] This order approves the proposed rule change.

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

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 67291 (June 28, 2012), 77 FR 39785 (''Notice'').

[4] *See* Securities Exchange Act Release No. 67677 (August 16, 2012), 77 FR 50740 (August 22, 2012).