

received an objection to the proposed change within 60 days of the later of (i) the date that the Commission receives notice of the proposed change, or (ii) the date the Commission receives any further information it requests for consideration of the notice. The designated clearing agency shall not implement this change if the Commission has any objection.

The Commission may, during the 60-day review period, extend the review period for an additional 60 days for proposed changes that raise novel or complex issues, subject to the Commission providing the designated clearing agency with prompt written notice of the extension. The designated clearing agency may implement a change in less than 60 days from the date of receipt of the notice of proposed change by the Commission, or the date the Commission receives any further information it requested, if the Commission notifies the designated clearing agency in writing that it does not object to the proposed change and authorizes the designated clearing agency to implement the change on an earlier date, subject to any conditions imposed by the Commission.

The designated clearing agency shall post notice on its Web site of proposed changes that are implemented.

#### IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. 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-FICC-2014-801 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-FICC-2014-801. 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 of submission. 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 advance notice that

are filed with the Commission, and all written communications relating to the advance notice 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 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 FICC and on FICC's Web site at <http://www.dtcc.com/~media/Files/Downloads/legal/rule-filings/2014/ficc/SR-FICC-2014-801-advance-notice.ashx>. 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-FICC-2014-801 and should be submitted on or before March 3, 2014.

By the Commission.

**Kevin M. O'Neill,**  
*Deputy Secretary.*

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**BILLING CODE 8011-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-71475; File No. SR-NYSEArca-2014-09]

### Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending the NYSE Arca Equities Schedule of Fees and Charges for Exchange Services To Eliminate the Tape B Adding Tier and Modify the Tape B Step Up Tier

February 4, 2014.

Pursuant to Section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934 (the "Act")<sup>2</sup> and Rule 19b-4 thereunder,<sup>3</sup> notice is hereby given that, on January 23, 2014, 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

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

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

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

solicit comments on the proposed rule change from interested persons.

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

The Exchange proposes to amend the NYSE Arca Equities Schedule of Fees and Charges for Exchange Services ("Fee Schedule") to eliminate the Tape B Adding Tier and modify the Tape B Step Up Tier. The Exchange proposes to implement the changes on February 1, 2014. The text of the proposed rule change is available on the Exchange's Web site at [www.nyse.com](http://www.nyse.com), at the principal office of the Exchange, and at the Commission's Public Reference Room.

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

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

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

###### 1. Purpose

The Exchange proposes to amend the Fee Schedule to eliminate the Tape B Adding Tier and modify the Tape B Step Up Tier. The Exchange proposes to implement the changes on February 1, 2014.

Currently, under the Tape B Adding Tier, the Exchange provides a \$0.0002 per share credit for ETP holders, including Market Makers, that provide liquidity of 0.675% or more of U.S. consolidated ADV ("CADV") in Tape B Securities ("U.S. Tape B CADV") for the billing month. When the Exchange proposed the Tape B Adding Tier credit, the Exchange expected it to incentivize ETP Holders to provide additional liquidity to the Exchange in Tape B Securities;<sup>4</sup> however, the credit has not had the intended effect. Accordingly, the Exchange proposes to eliminate the Tape B Adding Tier.

<sup>4</sup> See Securities Exchange Act Release No. 69926 (July 3, 2013), 78 FR 41154 (July 9, 2013) (SR-NYSEArca-2013-67).

The Exchange also proposes to revise the Tape B Step Up Tier. Currently, ETP Holders, including Market Makers, that, on a daily basis, measured monthly, directly execute providing volume in Tape B Securities during the billing month (“Tape B Adding ADV”) that is equal to at least the ETP Holder’s May 2013 Tape B Adding ADV plus 0.275% of U.S. Tape B CADV for the billing month receive a credit of \$0.0004 per share for orders that provide liquidity to the Exchange in Tape B Securities, which is in addition to the ETP Holder’s Tiered or Basic Rate credit(s). The Exchange proposes to revise the threshold for qualifying for the tier by requiring ETP Holders, including Market Makers, on a daily basis, measured monthly, to directly execute Tape B Adding ADV that is equal to at least 0.275% of the U.S. Tape B CADV for the billing month over the ETP Holder’s or Market Maker’s May 2013 Tape B Adding ADV taken as a percentage of Tape B CADV (“Tape B Baseline % CADV”). The Exchange believes that the revised threshold criteria are more logical and fairer in that they take into account a change in a Member’s volume relative to CADV. The Tape B Step Up Tier would continue to be a credit of \$0.0004 per share in addition to the ETP Holder’s Tiered or Basic Rate credit(s).

For example, under the proposed Fee Schedule, if the ETP Holder’s Tape B Baseline % CADV during May 2013 was 0.10%, the ETP Holder would need to have a Tape B Adding ADV of at least 0.375% in order to qualify for the applicable credit of \$0.0004 per share (i.e., 0.10% Tape B Baseline % CADV plus 0.275% of the U.S. Tape B CADV for the billing month).

The proposed change is not otherwise intended to address any other issues, and the Exchange is not aware of any problems that ETP Holders 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>5</sup> in general, and furthers the objectives of Sections 6(b)(4) and (5) of the Act,<sup>6</sup> in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

The Exchange believes that eliminating the Tape B Adding Tier is

reasonable because it has generally not incentivized ETP Holders to provide additional liquidity in Tape B Securities as intended.<sup>7</sup> The Exchange believes that removal of the Tape B Adding Tier is equitable and not unfairly discriminatory because it would be eliminated for all ETP Holders.

The Exchange believes that revising the Tape B Step Up Tier is reasonable because it would make the eligibility requirement consistent with the Exchange’s other variable eligibility requirements that also are based on percentage of volume while still incenting ETP Holders and Market Makers to provide liquidity in Tape B Securities. The Exchange believes that the revised threshold criteria for this tier are more logical and fairer in that they take into account a change in a Member’s volume relative to CADV. The Exchange believes that the revised Tape B Step Up Tier is equitable and not unfairly discriminating because the \$0.0004 credit will remain the same and would continue to be available for all ETP Holders, including Market Makers, on an equal and non-discriminatory basis.

Finally, 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 these 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,<sup>8</sup> the Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. In particular, the removal of the Tape B Adding Tier will not impose a burden on competition because the tier will be removed in its entirety and generally has not encouraged liquidity on the Exchange, as intended. The revised Tape B Step Up Tier will not place a burden on competition because it will apply uniformly to all ETP Holders and Market Makers, and the Exchange does not propose to change the level of the credit.

The Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues. In such an environment, the Exchange must continually review, and consider adjusting, its fees and credits to remain competitive with other exchanges. For

the reasons described above, the Exchange believes that the proposed rule change promotes a competitive environment.

## 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>9</sup> of the Act and subparagraph (f)(2) of Rule 19b-4<sup>10</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>11</sup> of the Act to determine whether the proposed rule change should be approved or disapproved.

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

### Electronic Comments

- Use the Commission’s Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-NYSEArca-2014-09 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 20549-1090.

All submissions should refer to File Number SR-NYSEArca-2014-09. This file number should be included on the subject line if email is used.

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

<sup>6</sup> 15 U.S.C. 78f(b)(4) and (5).

<sup>7</sup> See *supra* note 4.

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

<sup>9</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>10</sup> 17 CFR 240.19b-4(f)(2).

<sup>11</sup> 15 U.S.C. 78s(b)(2)(B).

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 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal offices of NYSE. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NYSEArca-2014-09, and should be submitted on or before March 3, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>12</sup>

**Kevin M. O'Neill,**  
Deputy Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-71470; File No. SR-Phlx-2014-07]

### Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Membership Process

February 4, 2014.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on January 30, 2014, NASDAQ OMX PHLX LLC ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I and II below, which Items have been

prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange proposes to amend Exchange Rule 910 to permit an expedited application process for firms that are already approved members of The NASDAQ Stock Market, LLC ("NASDAQ") or NASDAQ OMX BX, Inc. ("BX").

The text of the proposed rule change is attached as Exhibit 5,<sup>3</sup> available on the Exchange's Web site at [nasdaqomxphlx.cchwallstreet.com](http://nasdaqomxphlx.cchwallstreet.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 Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

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

###### 1. Purpose

The purpose of the proposed rule change is to amend a PHLX membership rule and provide for an expedited review of applicants seeking to become PHLX member organizations that have already successfully undergone a NASDAQ or BX membership evaluation and are currently members in good standing of NASDAQ or BX. Currently, PHLX Rule 910 provides the qualifications for a Member Organization, including the required terms and conditions. The Exchange is proposing to modify Rule 910 in order to recognize the new member review previously conducted by member regulation when a PHLX applicant has already been approved for membership

on NASDAQ or BX.<sup>4</sup> The fundamental membership qualifications are standard across all three domestic exchanges owned by The NASDAQ OMX Group<sup>5</sup> and are all reviewed by NASDAQ member regulation as part of the new member application process. These membership requirements include but are not limited to: Registration as a Broker Dealer with the United States Securities and Exchange Commission, maintaining a pre-determined minimum net capital, qualification of associated persons, maintaining sufficient written supervisory procedures. These and other reviews are considered in each new member review conducted by NASDAQ member regulation or by FINRA on behalf of NASDAQ.<sup>6</sup>

The Exchange is proposing to amend Rule 910 to align PHLX rules with the expedited membership processes that already exist on other exchanges affiliated with PHLX. Specifically, NASDAQ Rule and BX Rule 1013(a)(5)(C) both allow for an expedited membership review process for applicants that are already approved on an affiliated exchange.<sup>7</sup> The membership review for firms that submit a Waive-In Membership Application largely relies [sic] the information previously supplied to NASDAQ and simply reviews any additional new information which has changed or has not yet been evaluated by NASDAQ or by FINRA on behalf of NASDAQ as part of the membership determination. However, the Exchange notes that there are three differences from NASDAQ Rule 1013(a)(5)(C) and BX Rule 1013(a)(5)(c) [sic] and the proposed rule. The first is that NASDAQ and BX also allow FINRA members to qualify for expedited registration. PHLX

<sup>4</sup> NASDAQ and BX are filing separate rule changes which would recognize the membership review conducted by PHLX.

<sup>5</sup> NASDAQ, BX, and PHLX.

<sup>6</sup> FINRA reviews the following membership applications for NASDAQ and BX pursuant to a Regulatory Services Agreement: Waive-in applications for FINRA members that seek to become NASDAQ members; applications for NASDAQ applicants that are not FINRA members; applications for applicants that are simultaneously applying for FINRA and NASDAQ Membership; applications for NASDAQ Options Market Participation; applications for NASDAQ OMX BX; NASDAQ and BX membership applications.

<sup>7</sup> For example, NASDAQ rule 1013(a)(5)(C) states: An applicant that is an approved FINRA or NASDAQ OMX BX, Inc. ("BX") member shall have the option to apply to become a Nasdaq member and to register with Nasdaq all associated persons of the firm whose registrations with the firm are approved with FINRA or BX in categories recognized by Nasdaq rules through an expedited process by submitting a Waive-in Membership Application Form and a Nasdaq Membership Agreement. NASDAQ and BX will file subsequent rule changes to recognize the membership review conducted on behalf of PHLX.

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

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

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> The Commission notes that the text of the proposed rule change is attached to the filing as Exhibit 5, not to this Notice.