

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-62450; File No. SR-NYSEArca-2010-66]

### Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by NYSE Arca, Inc. To Expand Its \$1 Strike Program

July 2, 2010.

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 July 2, 2010, NYSE Arca, Inc. (“NYSE Arca” or the “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 Rule 6.4 Commentary .04 to expand the Exchange’s \$1 Strike Price Program (the “\$1 Strike Program” or “Program”) to allow the Exchange to select 150 individual stocks on which options may be listed at \$1 strike price intervals. The text of the proposed rule change is attached as Exhibit 5 to the 19b-4 form. A copy of this filing is available on the Exchange’s Web site at <http://www.nyse.com>, at the Exchange’s principal office, on the Commission’s Web site at <http://www.sec.gov>, 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 self-regulatory organization 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 this proposed rule change is to expand the \$1 Strike Program.<sup>3</sup>

The \$1 Strike Program currently allows NYSE Arca to select a total of 55 individual stocks on which option series may be listed at \$1 strike price intervals. In order to be eligible for selection into the Program, the underlying stock must close below \$50 in its primary market on the previous trading day. If selected for the Program, the Exchange may list strike prices at \$1 intervals from \$1 to \$50, but no \$1 strike price may be listed that is greater than \$5 from the underlying stock’s closing price in its primary market on the previous day. The Exchange may also list \$1 strikes on any other option class designated by another securities exchange that employs a similar Program under their respective rules. The Exchange may not list long-term option series (“LEAPS”)<sup>4</sup> at \$1 strike price intervals for any class selected for the Program, except as specified in subparagraph (c) to Commentary .04 to Rule 6.4.<sup>5</sup> The Exchange is also restricted from listing series with \$1 intervals within \$0.50 of an existing strike price in the same series, except that strike prices of \$2, \$3, and \$4 shall be permitted within \$0.50 of an existing

<sup>3</sup> The Commission approved the Pilot Program on June 17, 2003. *See* Securities Exchange Act Release No. 48045 (June 17, 2003) 68 FR 37594 (June 24, 2003). The Pilot Program was subsequently extended. *See* Securities Exchange Act Release No. 49818 (June 4, 2004), 69 FR 33440 (June 15, 2004) (extending the Pilot Program until August 4, 2004); Securities Exchange Act Release No. 50152 (August 5, 2004), 69 FR 49931 (August 12, 2004) (extending the Pilot Program until June 5, 2005); Securities Exchange Act Release No. 51767 (May 31, 2005), 70 FR 33244 (June 7, 2005) (extending the Pilot Program until June 5, 2006); Securities Exchange Act Release No. 53807 (May 15, 2006), 71 FR 29373 (May 22, 2006) (extending the Pilot Program until June 5, 2007); Securities Exchange Act Release No. 55718 (May 7, 2007), 72 FR 27346 (May 15, 2007) (extending the Pilot Program until June 5, 2008). The Program was subsequently expanded and permanently approved in 2008. *See* Exchange Act Release 57130 (January 10, 2008) 73 FR 3302 (January 17, 2008) The Program was last expanded in 2009. *See* Exchange Act Release No. 59587 (March 17, 2009) 74 FR 12414 (March 24, 2009).

<sup>4</sup> LEAPS are long-term options that generally have up to thirty-nine months from the time they are listed until expiration. *See* Rule 6.4(e) Long-Term Equity Option Series (LEAPS®).

<sup>5</sup> Commentary .04(c) states that the Exchange may list \$1 strike prices up to \$5 in LEAPS in up to 200 option classes in individual stocks. *See* Securities Exchange Act Release No. 61035 (November 19, 2009).

strike price for classes also selected to participate in the \$0.50 Strike Program.<sup>6</sup>

The Exchange now proposes to expand the Program to allow NYSE Arca to select a total of 150 individual stocks on which option series may be listed at \$1 strike price intervals. The existing restrictions on listing \$1 strikes would continue, i.e., no \$1 strike price may be listed that is greater than \$5 from the underlying stock’s closing price in its primary market on the previous day, and NYSE Arca is restricted from listing any series that would result in strike prices being \$0.50 apart (unless an option class is selected to participate in both the \$1 Strike Program and the \$0.50 Strike Program).

As stated in the Commission order that initially approved NYSE Arca’s Program and in subsequent extensions and expansions of the Program,<sup>7</sup> NYSE Arca believes that \$1 strike price intervals provide investors with greater flexibility in the trading of equity options that overlie lower price stocks by allowing investors to establish equity options positions that are better tailored to meet their investment objectives.

During the time that the \$1 Strike Program was a pilot, the Exchange submitted three pilot reports to the Commission in which the Exchange discussed, among other things, the strength and efficacy of the Program based upon the steady increase in volume and open interest of options traded on the Exchange at \$1 strike price intervals; and that the Program had not and, in the future, should not create capacity problems for NYSE Arca or the Options Price Reporting Authority (“OPRA”) systems.<sup>8</sup> This has not changed. Moreover, the number of \$1 strike options traded on the Exchange has continued to increase since the inception of the Program such that these options are now among some

<sup>6</sup> Regarding the \$0.50 Strike Program, which allows \$0.50 strike price intervals for options on stocks trading at or below \$3.00, *see* Commentary .04 to Rule 6.4 and Securities Exchange Act Release No. 60721 (September 25, 2009), 74 FR 50858 (October 1, 2009). *See also* Securities Exchange Act Release No. 61920 (April 15, 2010), 75 FR 21092 (April 22, 2010) (allowing concurrent listing of \$3.50 and \$4 strikes for classes that participate in both the \$0.50 Strike Program and the \$1 Strike Program).

<sup>7</sup> *See supra* Note 1.

<sup>8</sup> *See* Securities Exchange Act Release No. 49818 (June 4, 2004), 69 FR 33440 (June 15, 2004); Securities Exchange Act Release No. 50152 (August 5, 2004), 69 FR 49931 (August 12, 2004); Securities Exchange Act Release No. 51767 (May 31, 2005), 70 FR 33244 (June 7, 2005); Securities Exchange Act Release No. 53807 (May 15, 2006), 71 FR 29373 (May 22, 2006); Securities Exchange Act Release No. 55718 (May 7, 2007), 72 FR 27346 (May 15, 2007).

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

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

of the most popular products traded on the Exchange.

The Exchange believes that market conditions have led to an increase in the number of securities trading below \$50 warranting the proposed expansion of the \$1 Strike Program.<sup>9</sup> In addition, the Exchange notes that this filing is based on a filing previously submitted by NASDAQ OMX PHLX, Inc (“PHLX”) that the Commission recently noticed.<sup>10</sup> With regard to previous expansions of the Program, the Commission has approved proposals from the options exchanges that employ a \$1 Strike Program in lockstep.

The Exchange notes that, in addition to options classes that are trading pursuant to the \$1 strike programs of options exchanges, there are also options trading at \$1 strike intervals on the Exchange on over 170 exchange-traded fund shares (“ETFs”) and exchange-traded notes (ETNs),<sup>11</sup> ETF and ETN options trading at \$1 intervals have not, however, negatively impacted the system capacity of the Exchange or OPRA.

With regard to the impact of this proposal on system capacity, NYSE Arca has analyzed its capacity and represents that it and OPRA have the necessary systems capacity to handle the potential additional traffic associated with the listing and trading of an expanded number of series in the \$1 Strike Program.

The Exchange believes that the \$1 Strike Program has provided investors with greater trading opportunities and flexibility and the ability to more closely tailor their investment and risk management strategies and decisions to the movement of the underlying security. Furthermore, the Exchange has not detected any material proliferation of illiquid options series resulting from the narrower strike price intervals. For these reasons, the Exchange requests an expansion of the current Program and the opportunity to provide investors with additional strikes for investment, trading, and risk management purposes.

## 2. Statutory Basis

The Exchange believes the proposed rule change is consistent with section 6(b)<sup>12</sup> of the Securities Exchange Act of

1934 (the “Act”), in general, and furthers the objectives of section 6(b)(5)<sup>13</sup> in particular in that it is designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, to remove impediments to and to perfect the mechanism for a free and open market and a national market system and, in general, to protect investors and the public interest. The Exchange believes that expanding the current \$1 Strike Program will result in a continuing benefit to investors by giving them more flexibility to closely tailor their investment decisions in a greater number of securities.

### 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 necessary or appropriate in furtherance of the purposes of the Act.

### 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

Because the foregoing proposed rule change does not significantly affect the protection of investors or the public interest, does not impose any significant burden on competition, and, by its terms, does not become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to section 19(b)(3)(A) of the Act<sup>14</sup> and Rule 19b-4(f)(6) thereunder.<sup>15</sup>

The Exchange has requested that the Commission waive the 30-day operative delay. The Commission believes that waiver of the operative delay is consistent with the protection of investors and the public interest because the proposal is substantially similar to that of another exchange that has been approved by the

Commission.<sup>16</sup> Therefore, the Commission designates the proposal operative upon filing.<sup>17</sup>

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate 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 e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-NYSEArca-2010-66 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-2010-66. This file number should be included on the subject line if e-mail 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.,

<sup>9</sup> See e.g., Exchange Act Release No. 59587 (March 17, 2009) 74 FR 12414 (March 24, 2009) (SR-NYSEArca-2009-10) (more than five-fold increase in the number of individual stocks on which options may be listed at \$1 intervals).

<sup>10</sup> See Securities Exchange Act Release No. 62151 (May 21, 2010), 75 FR 30078 (May 28, 2010) (SR-Phlx-2010-72).

<sup>11</sup> See Commentary .05 to Rule 6.4 allowing \$1 strike price intervals for ETF and ETN options where the strike price is \$200 or less.

<sup>12</sup> 15 U.S.C. 78f(b).

<sup>13</sup> 15 U.S.C. 78f(b)(5).

<sup>14</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>15</sup> 17 CFR 240.19b-4(f)(6). In addition, rule 19b-4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange’s intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

<sup>16</sup> See Securities Exchange Act Release No. 62420 (June 30, 2010) (SR-Phlx-2010-72) (order approving expansion of \$1 strike program to 150 classes).

<sup>17</sup> For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule’s impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NYSEArca-2010-66 and should be submitted on or before August 2, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>18</sup>

**Elizabeth M. Murphy,**  
Secretary.

[FR Doc. 2010-16850 Filed 7-9-10; 8:45 am]

BILLING CODE 8010-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-62433; File No. SR-NYSEArca-2010-62]

### Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Rule Change by NYSE Arca, Inc. Amending Its Fee Schedule

July 1, 2010.

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 June 24, 2010, NYSE Arca, Inc. ("NYSE Arca" 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 the Substance of the Proposed Rule Change

The Exchange proposes to amend its Schedule of Fees and Charges for Exchange Services (the "Schedule"). While changes to the Schedule pursuant to this proposal will be effective upon filing, the changes will become operative on July 1, 2010. The amended section of the Schedule is included as Exhibit 5 hereto. A copy of this filing is available on the Exchange's Web site at

<http://www.nyse.com>, at the Exchange's principal office 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

Effective July 1, 2010, NYSE Arca proposes to set volume requirements for both Tier 1 and Tier 2 based on average U.S. consolidated daily volumes. Volume requirements to reach the tiered pricing levels will adjust each calendar month based on U.S. average daily consolidated share volume in Tape A, Tape B, Tape C securities ("U.S. ADV") for that given month. U.S. ADV is equal to the volume reported by all exchanges and trade reporting facilities to the Consolidated Tape Association ("CTA") Plan for Tapes A, B and C [sic] securities.

*Tier 1:* Currently, Tier 1 pricing is applied to customers with an average daily volume in shares per month of greater than 55 million shares that add liquidity in Tape A, Tape B, and Tape C securities combined. Starting July 1, the monthly requirement will be based on U.S. ADV for that given month as follows:

- When U.S. ADV is 8 billion shares or less, the requirement for adding liquidity will be 50 million shares average daily volume in Tape A, Tape B, and Tape C combined.
- When U.S. ADV is greater than 8 billion up to 10 billion shares, the requirement for adding liquidity will [sic] 55 million shares average daily volume in Tape A, Tape B, and Tape C combined.
- When U.S. ADV is greater than 10 billion up to 11 billion shares, the requirement for adding liquidity will [sic] 65 million shares average daily volume in Tape A, Tape B, and Tape C combined.

—When U.S. ADV is greater than 11 billion up to 12 billion shares, the requirement for adding liquidity will [sic] 75 million shares average daily volume in Tape A, Tape B, and Tape C combined.

—When U.S. ADV is greater than 12 billion up to 13 billion shares, the requirement for adding liquidity will [sic] 85 million shares average daily volume in Tape A, Tape B, and Tape C combined.

—When U.S. ADV is greater than 13 billion shares, the requirement for adding liquidity will [sic] 95 million shares average daily volume in Tape A, Tape B, and Tape C combined.

*Tier 2:* Currently, Tier 2 pricing is applied to customers with an average daily volume in shares per month of greater than 25 million shares that add liquidity in Tape A, Tape B, and Tape C securities combined. Starting July 1, the monthly requirement will be based on U.S. ADV for that given month as follows:

- When U.S. ADV is 8 billion shares or less, the requirement for adding liquidity will be 20 million shares average daily volume in Tape A, Tape B, and Tape C combined.
- When U.S. ADV is greater than 8 billion up to 10 billion shares, the requirement for adding liquidity will [sic] 25 million shares average daily volume in Tape A, Tape B, and Tape C combined.
- When U.S. ADV is greater than 10 billion up to 11 billion shares, the requirement for adding liquidity will [sic] 30 million shares average daily volume in Tape A, Tape B, and Tape C combined.
- When U.S. ADV is greater than 11 billion up to 12 billion shares, the requirement for adding liquidity will [sic] 35 million shares average daily volume in Tape A, Tape B, and Tape C combined.
- When U.S. ADV is greater than 12 billion up to 13 billion shares, the requirement for adding liquidity will [sic] 40 million shares average daily volume in Tape A, Tape B, and Tape C combined.
- When U.S. ADV is greater than 13 billion shares, the requirement for adding liquidity will [sic] 45 million shares average daily volume in Tape A, Tape B, and Tape C combined.

Transactions that are not reported to the Consolidated Tape, such as odd-lots and Crossing Session 2 transactions, are not included in U.S. ADV. The Exchange will make this data publically [sic] available on a T + 1 basis from a link at <http://www.nyxdata.com>.

The Exchange believes the proposed changes to the tiers are equitable in that

<sup>18</sup> 17 CFR 200.30-3(a)(12).

<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.