

clearing member application is designed to elicit relevant information from an applicant for clearing membership in order for OCC to determine if the applicant meets OCC's qualifications for clearing membership. The clearing member agreement is a contract between OCC and a clearing member whereby the clearing member agrees to meet all of the requirements of clearing membership at OCC. The By-Laws require OCC's Board of Directors to approve both the form of clearing member application and the form of clearing member agreement.

In addition to the clearing member agreement, clearing members may also enter into an Agreement for OCC Services. The Agreement for OCC Services sets forth certain ancillary services OCC provides to its clearing members that are in addition to those services set forth in the By-Laws and Rules. The Agreement for OCC Services is set up as a master agreement. Clearing members may then choose the specific ancillary services they desire and then execute the appropriate ancillary services supplement. Such ancillary services may include, for example, access to OCC's Data Distribution Services, internet access to OCC information and data systems, and OCC's theoretical profit and loss values service.

B. Proposed By-Law and Rule Changes

OCC proposes to amend the applicable provisions of its By-Laws to state that both the form of clearing member application and the form of clearing member agreement be specified by OCC generally, rather than its Board of Directors. The requirement that the Board of Directors approve the form of such documents is overly ministerial given that OCC's By-Laws specify the substantive requirements of both the clearing member application and the clearing member agreement.

OCC also proposes to amend its Agreement for OCC Services to reflect operational changes OCC made since OCC first created the agreement. These changes include broader references to "clearing services" provided by OCC and not only to "options" clearing services. Advanced notice of 90 days of fee changes would be eliminated because fee changes to the ancillary services program are filed as rule changes and are infrequent in nature. Language would be added to the Agreement for OCC Services such that the clearing member authorizes OCC to withdraw funds from the clearing member's firm account, on or after the fifth business day following the end of the calendar month. This language

conforms to OCC Rules. In addition, a provision referring to the exclusivity of the warranties set forth in the Agreement for OCC Services would be eliminated because the agreement contains no warranty provisions. Any applicable warranty provisions would be contained within the ancillary supplements to the Agreement for OCC Services.

III. Discussion

Section 19(b)(2)(C) of the Act³ directs the Commission to approve a proposed rule change of a self-regulatory organization if it finds that such proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to such organization. Section 17A(b)(3)(F) of the Act⁴ requires, among other things, that the rules of a clearing agency are designed to remove impediments to and perfect the mechanism of a national system for the prompt and accurate clearance and settlement of securities transactions.

The Commission believes that these changes are consistent with the requirements of Section 17A of the Act⁵ and the rules and regulations thereunder applicable to OCC. The changes to OCC's By-Laws eliminate inefficient and burdensome administrative procedures which unnecessarily require OCC's Board approval for the form of clearing member application and agreement. The changes to the Agreement for OCC Services are designed to reflect operational changes OCC made since creating the agreement.

IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposal is consistent with the requirements of the Act and in particular with the requirements of Section 17A of the Act⁶ and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,⁷ that the proposed rule change (File No. SR-OCC-2012-12) be, and hereby is, approved.⁸

³ 15 U.S.C. 78s(b)(2)(C).

⁴ 15 U.S.C. 78q-1(b)(3)(F).

⁵ 15 U.S.C. 78q-1.

⁶ *Id.*

⁷ 15 U.S.C. 78s(b)(2).

⁸ In approving the proposed rule change, the Commission considered the proposal's impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.⁹

Kevin M. O'Neill,
Deputy Secretary.

[FR Doc. 2012-22242 Filed 9-10-12; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-67785; File No. SR-NYSEArca-2012-48]

Self-Regulatory Organizations; NYSE Arca, Inc.; Order Approving a Proposed Rule Change Amending NYSE Arca Equities Rule 7.31(h) To Add a PL Select Order

September 5, 2012.

I. Introduction

On May 22, 2012, NYSE Arca, Inc. ("Exchange" or "NYSE Arca") 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 NYSE Arca Equities Rule 7.31(h) to add a PL Select Order. The proposed rule change was published for comment in the **Federal Register** on June 8, 2012.³ A designation of a longer period for Commission action was published in the **Federal Register** on July 26, 2012.⁴ The Commission received no comment letters regarding the proposed rule change. This order approves the proposed rule change.

II. Description of the Proposal

The Exchange proposes to amend NYSE Arca Equities Rule 7.31(h) to add a PL Select Order. The PL Select Order would be a subset of a Passive Liquidity ("PL") Order.⁵ NYSE Arca Equities Rule 7.31(h)(7) would define the PL Select Order as a PL Order that would not interact with an incoming order that: (i) Has an immediate-or-cancel ("IOC") time in force condition,⁶ (ii) is an ISO,⁷ or (iii) is larger than the size of the PL Select Order. The PL Select Order

⁹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 67101 (June 4, 2012), 77 FR 34115 ("Notice").

⁴ See Securities Exchange Act Release No. 67475 (July 20, 2012), 77 FR 43879 (Notice of Designation of a Longer Period for Commission Action on Proposed Rule Change Amending NYSE Arca Equities Rule 7.31(h) To Add a PL Select Order Type).

⁵ See NYSE Arca Equities Rule 7.31(h)(4).

⁶ See NYSE Arca Equities Rule 7.31(e).

⁷ See NYSE Arca Equities Rule 7.31(jj).

would otherwise, except for the specified restrictions on trading with certain incoming orders, operate as a PL Order and retain its standing in execution priority among PL Orders. In the instances when an incoming order meets one of the PL Select Order restrictions, the PL Select Order would not interact with the incoming order and could be traded through.

The Exchange believes that the restrictions on trading with incoming IOC or ISO orders would enable Users⁸ to designate that their PL Orders would not trade with interest that would never become displayed or passive liquidity on the Exchange. The Exchange believes that the final restriction would serve to attract larger-sized PL Orders because the User would not have to risk having the PL Select Order being swept up by larger-sized contra interest, thereby obviating the primary purpose of the PL Order types: to provide price improvement.

The Exchange further proposes that upon notice to ETP Holders, the Corporation⁹ may suspend the entry of PL Select Orders. If such provision is invoked, Users may continue to submit PL Orders, but would not be able to enter PL Select Orders and all open PL Select Orders on the NYSE Arca trading book would be cancelled back to the User. The Exchange believes that it is appropriate to be able to suspend the entry of PL Select Orders in circumstances where the volume of orders creates an issue with the ability of the Exchange to timely process inbound orders to the Exchange.

Because of the related technology changes that this proposed rule change would require, the Exchange proposes to announce the initial implementation date via Trader Update.

III. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.¹⁰ In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,¹¹ which requires, among other things, that the rules of a national securities exchange be

⁸ See Arca Equities Rule 1.1(yy) (defining the term "User").

⁹ See Arca Equities Rule 1.1(k) (defining the term "Corporation").

¹⁰ In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

¹¹ 15 U.S.C. 78f(b)(5).

designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest; and are not designed to permit unfair discrimination between customers, issuers, brokers or dealers.

The Commission finds the instant proposed rule change to be consistent with the Act. The Commission notes that the Exchange believes that the proposed rule change should allow PL Select Order users to avoid interacting with market participants that are submitting orders primarily for the purpose of probing for or "pinging" hidden interest on the NYSE Arca book as opposed to adding liquidity to the market. The Exchange also indicates that the probing or "pinging" interest that PL Select Orders would avoid is more likely to come from professional traders than non-professional traders. In addition, the Exchange believes that use of the PL Select Order could attract displayed liquidity that would be eligible for execution against PL Select Orders or posting on the NYSE Arca book if not executed by PL Select Orders or other resting liquidity.

The Commission notes further that the Exchange believes that, because PL Select Orders would not interact with larger-sized incoming interest, market participants could be incentivized to use PL Select Orders to provide price improvement opportunities, thereby promoting more favorable executions for the benefit of public customers. In addition, the Exchange believes that market participants also could be incentivized to route more aggressively priced, displayable interest to the Exchange because of an increased likelihood of receiving price improvement.

Based on the Exchange's statements, the Commission believes that the proposed rule change is consistent with Section 6(b)(5) of the Act.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,¹² that the proposed rule change (SR-NYSEArca-2012-48) be, and it hereby is, approved.

¹² 15 U.S.C. 78s(b)(2).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹³

Kevin M. O'Neill,

Deputy Secretary.

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SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #13271 and #13272]

Louisiana Disaster Number LA-00048

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 1.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for the State of Louisiana (FEMA-4080-DR), dated 08/31/2012.

Incident: Hurricane Isaac.

Incident Period: 08/26/2012 and continuing.

Effective Date: 09/01/2012.

Physical Loan Application Deadline Date: 10/30/2012.

EIDL Loan Application Deadline Date: 05/29/2013.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: The notice of the Presidential disaster declaration for the State of Louisiana, dated 08/31/2012 is hereby amended to include the following areas as adversely affected by the disaster:

Primary Parishes: (Physical Damage and Economic Injury Loans): Ascension, Lafourche, Livingston, Orleans.
Contiguous Parishes: (Economic Injury Loans Only):

Louisiana: Assumption, East Baton Rouge, Iberville, Saint Helena, Terrebonne.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2012-22265 Filed 9-10-12; 8:45 am]

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¹³ 17 CFR 200.30-3(a)(12).