

via ISG from other exchanges that are members of ISG or with which the Exchange has entered into a comprehensive surveillance sharing agreement. In addition, as noted above, investors will have ready access to information regarding the Fund's holdings, the IOPV, the Disclosed Portfolio, and quotation and last sale information for the Shares. The Fund will not invest in options, futures or swaps. The Fund's investments will be consistent with its investment objective and will not be used to enhance leverage.

#### *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 purpose of the Act. The Exchange notes that the proposed rule change will facilitate the listing and trading of an additional type of actively-managed exchange-traded product that will enhance competition among market participants, to the benefit of investors and the marketplace.

#### *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**

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be 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 No. SR-NYSEArca-2013-14 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 No. SR-NYSEArca-2013-14. 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 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 10:00 a.m. and 3:00 p.m. Copies of such 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 No. SR-NYSEArca-2013-14 and should be submitted on or before March 14, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>27</sup>

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

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### **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-68925; File No. SR-NASDAQ-2012-137]

#### **Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Designation of a Longer Period for Commission Action on Proposed Rule Change, as Modified by Amendment Nos. 1 and 3 Thereto, To Establish the Market Quality Program**

February 14, 2013.

On December 7, 2012, The NASDAQ Stock Market LLC ("Exchange" or "NASDAQ") filed with the Securities and Exchange Commission ("Commission"), 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> a proposed rule change to establish the Market Quality Program ("MQP" or "Program") on a pilot basis. On December 20, 2012, the Exchange submitted Amendment No. 1 to the proposed rule change, which replaced and superseded the proposed rule change in its entirety. The proposed rule change, as modified by Amendment No. 1 thereto, was published for comment in the **Federal Register** on December 31, 2012.<sup>3</sup> The Commission received two comment letters on the proposed rule change.<sup>4</sup> On February 7, 2013, the Exchange submitted Amendment No. 2 to the proposed rule change. On February 8, 2013, the Exchange withdrew Amendment No. 2<sup>5</sup> and filed Amendment No. 3 to the proposed rule change.<sup>6</sup>

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

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

<sup>3</sup> Securities Exchange Act Release No. 68515 (Dec. 21, 2012), 77 FR 77141 (Dec. 31, 2012).

<sup>4</sup> See Letter from Rey Ramsey, President & CEO, TechNet, dated January 22, 2013 and Letter from Daniel G. Weaver, Ph.D., Professor of Finance, Rutgers Business School, dated January 30, 2013.

<sup>5</sup> The Exchange withdrew Amendment No. 2 due to a technical error in the amendment.

<sup>6</sup> In Amendment No. 3, the Exchange clarified: (i) that the Exchange may limit on a Program-wide basis the number of Exchange-Traded Funds ("ETFs") per MQP Company that can participate in the MQP, and that the Exchange would not be limiting the number of actual shares issued by an MQP Company for a particular ETF participating in the Program; (ii) that the Exchange will provide in the monthly public report to the Commission relating to the MQP (a) information on the market quality of MQP Securities after they exceed the threshold and "graduate" from the Program pursuant to proposed Rule 5950(d)(1)(A), and (b) its analysis of the information to be included in the report and its assessment of the efficacy of the MQP; and (iii) that the Exchange will provide to the Commission data and analyses about comparable ETFs that are listed on the Exchange but that are not in the MQP, as well as any other MQP-related data and analyses requested by Commission staff for the purpose of evaluating the efficacy of the MQP. Amendment No. 3 provides clarification to the

<sup>27</sup> 17 CFR 200.30-3(a)(12).

Section 19(b)(2) of the Act<sup>7</sup> provides that, within 45 days of the publication of notice of the filing of a proposed rule change—or within such longer period up to 90 days (i) as the Commission may designate if it finds the longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents—the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day for this filing is February 14, 2013. The Commission is extending this 45-day period.

The Commission finds that it is appropriate to designate a longer period within which to take action on the proposed rule change so that the Commission has sufficient time to consider the proposed rule change and the comments received. The proposed rule change would, among other things, add new Rule 5950 to establish the Market Quality Program and exempt the Market Quality Program from NASDAQ Rule 2460 (Payment for Market Making).

Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,<sup>8</sup> designates March 31, 2013, as the date by which the Commission should either approve or disapprove or institute proceedings to determine whether to disapprove the proposed rule change (File Number SR-NASDAQ-2012-137).

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

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

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-68927; File No. SR-NYSEARCA-2013-15]

### Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Proposed Rule Change Amending Rule 6.87 in Part and Adding a New Section To Address Errors That Involve Complex Orders

February 14, 2013.

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 February 1, 2013, 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.

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

The Exchange proposes to amend Rule 6.87 in part and add a new section to address errors that involve Complex Orders. 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 the Statutory Basis for, the Proposed Rule Change

##### 1. Purpose

The Exchange is proposing to amend certain existing provisions of Rule 6.87 (“Obvious Error Rule”).<sup>4</sup> In addition, the Exchange is proposing to add new language to Rule 6.87 specific to how errors involving Complex Orders will be addressed.

##### Proposed Amendments to Existing Provisions of Rule 6.87

The Exchange adopted the Obvious Error Rule to handle situations where an order receives an erroneous execution, such as receiving a price that is higher or lower than the Theoretical Price by a specified amount.<sup>5</sup> The Exchange is proposing several amendments to the Obvious Error Rule. First, the Exchange is proposing to change the portion of the rule that addresses errors in series with zero or no bid. Specifically, the Exchange proposes replacing reference to “series quoted no bid on the Exchange” with “series where the NBBO bid is zero.” This is being done to ensure consistency in the language with other aspects of the existing rule that reference NBBO for determination of whether a transaction is deemed eligible for obvious error treatment. The Exchange believes the NBBO provides greater accuracy in determining the value or valueless of an option because it takes into account interest from all market participants and not just those active on the Exchange. The Exchange also believes that ensuring consistency throughout the rule text is important to help avoid investor confusion.

Second, the Exchange proposes to amend the times in which certain OTP Holders are required to notify the

<sup>4</sup> See Exchange Rule 6.87.

<sup>5</sup> See e.g. Securities Exchange Act Release Nos. 34-48538 (September 25, 2003), 68 FR 56858 (October 2, 2003) (PCX-2002-01); 49718 (May 17, 2004), 69 FR 29611 (May 24, 2004) (PCX-2004-08); 51723 (May 20, 2005), 70 FR 30988 (May 31, 2005) (PCX-2005-52); 52008 (July 11, 2005), 70 FR 41069 (July 15, 2005) (PCX-2005-78); 53221 (February 3, 2006), 71 FR 6811 (February 9, 2006) (PCX-2005-102); 55330 (February 21, 2007), 72 FR 9052 (February 28, 2007) (NYSEArca-2007-06); 57103 (January 4, 2008), 73 FR 1903 (January 10, 2008) (NYSEArca-2007-115); 57653 (April 11, 2008), 73 FR 20996 (April 17, 2008) (NYSEArca-2008-41); 58717 (October 2, 2008), 73 FR 60386 (October 10, 2008) (NYSEArca-2008-106); 59556 (March 11, 2009), 74 FR 11396 (March 17, 2009) (NYSEArca-2009-17); 61393 (January 21, 2010), 75 FR 4887 (January 29, 2010) (NYSEArca-2010-03); 62019 (April 30, 2010), 75 FR 25889 (May 10, 2010) (NYSEArca-2010-16); 62052 (May 6, 2010), 75 FR 26832 (May 12, 2010) (NYSEArca-2010-38); 65504 (October 6, 2011), 76 FR 63980 (October 14, 2011) (NYSEArca-2011-71).

proposed rule change, and because it does not materially affect the substance of the proposed rule change, Amendment No. 3 does not require notice and comment. All terms relating to the MQP that are referred to, but not defined in, this Notice of Designation of a Longer Period for Commission Action are defined in the proposed rule change, as amended.

<sup>7</sup> 15 U.S.C. 78s(b)(2).

<sup>8</sup> *Id.*

<sup>9</sup> 17 CFR 200.30-3(a)(31).

<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.