**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) [20] of the Act and subparagraph (f)(2) of Rule 19b–4 [21] 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) [22] 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*. Please include File Number SR–NYSEArca–2016–78 on the subject line.

*Paper Comments*

• Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEArca–2016–78. 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 10:00 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 Number SR–NYSEArca–2016–78, and should be submitted on or before June 23, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[23]

**Brent J. Fields,**

*Secretary.*

[FR Doc. 2016–12872 Filed 6–1–16; 8:45 am]

**BILLING CODE 8011–01–P**

[20] 15 U.S.C. 78s(b)(3)(A).

[21] 17 CFR 240.19b–4(f)(2).

[22] 15 U.S.C. 78s(b)(2)(B).

[23] 17 CFR 200.30–3(a)(12).

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## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–77934; File No. SR–NYSEArca–2016–80]**

## Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending NYSE Arca Equities Rule 7.31P(e) Regarding ALO Orders

May 26, 2016.

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 May 24, 2016, 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 and II 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 NYSE Arca Equities Rule 7.31P(e) (Orders and Modifiers) regarding ALO Orders. 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 the Statutory Basis for, the Proposed Rule Change*

1. Purpose

The Exchange proposes to amend NYSE Arca Equities Rule 7.31P(e) (''Rule 7.31P'') regarding ALO Orders. These proposed changes would revise how ALO Orders would price and trade on the Pillar trading platform only.

Overview

Currently, an arriving ALO Order will trade only if its limit price crosses the working price of a non-displayed order, which for purposes of ALO Orders only, includes a displayed odd-lot sized order priced better than the Best Bid (BB) or Best Offer (BO).[4] An arriving ALO Order will not trade with the BB or BO, even if such trade would provide price improvement to the ALO Order. In addition, an arriving ALO Order that would lock the BB or BO on the NYSE Arca Marketplace will be assigned a working price and display price one minimum price variation (''MPV'')

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

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

[3] 17 CFR 240.19b–4.

[4] *See* Rule 7.31P(e)(2)(C) (defining nondisplayed order(s) as sell (buy) orders priced below (above) the BO (BB)). The Exchange is proposing a clarifying amendment to Rule 1.1(h) to specify that the term ''BBO'' means the best bid or offer that is a protected quotation, which is defined in Rule 1.1(eee) as having the same meaning as that term is defined in Regulation NMS, on the NYSE Arca Marketplace. Adding the phrase ''that is a protected quotation'' clarifies that the terms BBO, BB, and BO does not include odd lots that do not aggregate to a round lot or more. The term ''NYSE Arca Marketplace'' is defined in Rule 1.1(e) as the electronic securities communications and trading facility designated by the Board of Directors through which orders of Users are consolidated for execution and/or display.

worse than the BB or BO.[5] Because displayed odd lot orders are not considered the BB or BO, an arriving ALO Order to buy with a limit price equal to a resting displayed odd lot order to sell would lock the odd lot order's displayed price on the Exchange's book.[6]

The Exchange proposes to make two substantive changes to how ALO Orders would operate on Pillar:

- An ALO Order that crosses the working price of any displayed or non-displayed orders would trade with the resting order(s); and
- An ALO Order that locks the price of any-sized display order would be re-priced.

The Exchange believes that these proposed changes would simplify the display and execution of ALO Orders on Pillar by applying consistent treatment of how such orders would behave. Specifically, an ALO Order would trade regardless of whether it crosses the price of displayed *or* non-displayed interest and would be re-priced regardless of whether it locks the price of a round lot *or* odd lot displayed interest. The Exchange further believes that the proposed changes would harmonize the behavior of ALO Orders on the Exchange with the operation of similar orders on other exchanges.[7]

Proposed Rule Change

To effect the rule change, the Exchange proposes to delete current Rules 7.31P(e)(2)(B)(i) and (B)(ii) and 7.31P(e)(2)(C), (C)(i), and (C)(ii) and add new subparagraphs (i)–(iv) to Rule 7.31P(e)(2)(B) that would merge the concepts currently set forth in Rules 7.31P(e)(2)(B) and (C). The Exchange also proposes to move text from current Rule 7.31P(e)(B)(iii) and (iv) to new subsection (C), with proposed modifications described below. The proposed amendments would include both the substantive changes described above and non-substantive clarifying changes.

The Exchange proposes to amend Rule 7.31P(e)(2)(B) to describe how ALO Orders to buy (sell) that, at the time of entry, are marketable against an order of any size on the NYSE Arca Book or would lock or cross a protected quotation, in violation of Rule 610(d) of Regulation NMS, would be priced and trade. The Exchange proposes to replace the phrase ''the BO (BB)'' in the current rule with the phrase ''an order of any size to sell (buy) on the NYSE Arca Book'' to change the scope of Rule 7.31P(e)(2)(B) to describe how an ALO Order would be priced and executed when marketable against any displayed and non-displayed orders on the NYSE Arca Book, and not only when marketable against the BO or BB. The Exchange also proposes to add the clause ''or trade, or both'' to the current rule to specify that this section of the rule would address not only how an ALO Order is priced, but also how it may trade, or both.

Proposed new Rule 7.31P(e)(2)(B)(i) would provide that if there are no displayed or non-displayed orders on the NYSE Arca Book priced equal to or better than the PBO (PBB),[8] the ALO Order to buy (sell) would have a working price equal to the PBO (PBB) and a display price one MPV below (above) the PBO (PBB). Current Rule 7.31P(e)(2)(B)(i) provides that if the BO (BB) is higher (lower) than the PBO (PBB), the ALO Order to buy (sell) will have a working price of the PBO (PBB) and a display price one MPV below (above) the PBO (PBB). The Exchange's proposal would mean that an ALO Order would have a working price at the PBO (PBB) and a display price one MPV worse than the PBO (PBB) if there are any orders on the NYSE Arca Book, even if those orders are undisplayed or odd lot orders and thus not part of the BO (BB).

Proposed new Rule 7.31P(e)(2)(B)(ii) would provide that if the limit price of the ALO Order to buy (sell) crosses the working price of any displayed or non-displayed order on the NYSE Arca Book priced equal to or better than the PBO (PBB), it would trade as the liquidity taker with such order(s). This proposed rule combines the text currently set forth in Rule 7.31P(e)(2)(C)(i), which provides that an ALO Order will trade as the liquidity taker if it crosses the working price of a non-displayed order, with the proposed substantive change that an ALO Order would also trade if it crosses the price of a displayed order. This proposed amendment would also include a substantive change that if the price of an ALO Order crosses non-displayed interest priced equal to the Exchange's BBO, the ALO Order would trade. This proposed rule text differs from current Rule 7.31P(e)(2) because currently, an ALO Order would trade with non-displayed interest only if it is priced better than the BBO. The Exchange proposes to make this change because the participant sending the ALO Order would get the benefit of potential price improvement without trading through the PBBO.[9]

Because trading with both displayed and non-displayed orders would be addressed in this proposed rule text, the Exchange proposes to delete Rule 7.31P(e)(2)(C)(i), which addresses trading with non-displayed orders only. The Exchange also proposes to add, for clarity, that any untraded quantity of the ALO Order would have a working price equal to the PBO (PBB) and a display price one MPV below (above) the PBO (PBB). This proposed rule text represents current functionality and clarifies that after trading with any interest that it crosses, the ALO Order would be priced consistent with proposed Rule 7.31P(e)(2)(B)(i).[10]

Proposed Rule 7.31P(e)(2)(B)(iii) would provide that if the limit price of the ALO Order locks the display price of any order ranked Priority 2—Display Orders on the NYSE Arca Book priced equal to or better than the PBO (PBB), it would be assigned a working price and display price one MPV worse than the price of the displayed order on the NYSE Arca Book.[11] This proposed rule text is based, in part, on current Rule 7.31P(e)(2)(B)(ii), which provides that if the BO (BB) is equal to the PBO (PBB), an ALO Order to buy (sell) will have a working price and display price one MPV below (above) the PBO (PBB). By proposing to refer to any order ranked Priority 2—Display Orders, the new rule would include the substantive change that the Exchange would re-price an ALO Order that locks a display order of

[5] *See* Rule 7.6 (Trading Differentials) (defining the MPV for quoting and entry of orders in securities traded on the NYSE Arca Marketplace).

[6] *See* Rule 7.31P(e)(2)(C)(ii).

[7] *See, e.g.,* BATS BZX Exchange, Inc. (''BZX'') Rules 11.9(c)(6) (BZX Post Only Order removes contraside liquidity if the trade provides price improvement to the arriving BZX Post Only Order) and Nasdaq Stock Market LLC (''Nasdaq'') Rule 4702(b)(4)(A) (Post-Only Order that locks or crosses an order on the Nasdaq Book will be either repriced or trade if it receives price improvement).

[8] *See* Rule 1.1(dd) (defining the terms ''Best Protected Bid'' or ''PBB'' as the highest Protected Bid and ''Best Protected Offer'' or ''PBO'' as the lowest Protected Offer).

[9] For all securities priced over $1.00, the price improvement that an ALO Order would receive for trading with an order under the proposed rule would be greater than any fee for trading as the liquidity taker. While this may not be true for all transactions for securities priced under $1.00, the Exchange proposes to apply consistent behavior to how an ALO Order trades, regardless of the fees that would be charged.

[10] For example, assume the PBO on an Away Market is 10.10 and the Exchange has an offer to sell 50 shares priced at 10.10 that is ranked Priority 2—Display Orders. An arriving ALO Order to buy priced at 10.11 for 200 shares would trade with the 50 share sell order at 10.10 and the remaining 150 shares of that ALO Order would be assigned a working price of 10.10 and a display price of 10.09.

[11] For example, assume the PBO is 10.10 and the Exchange has an odd-lot order to sell ranked Priority 2—Display Order priced at 10.09. An ALO Order to buy priced at 10.09 that locks the price of the odd-lot order to sell would be assigned a working price and display price of 10.08.

any size, including an odd-lot order.[12] Because the proposed rule is inclusive of how an ALO order would be priced if it locks the BB or BO, the Exchange proposes to delete current Rule 7.31P(e)(2)(B)(ii).

Proposed Rule 7.31P(e)(2)(B)(iv) would provide that if the limit price of the ALO Order locks the working price of any order ranked Priority 3—Non-Display Orders [13] on the NYSE Arca Book priced equal to or better than the PBO (PBB), it would be assigned a working price equal to the PBO (PBB) and a display price one MPV below (above) the PBO (PBB). This proposed rule text is based on current Rule 7.31P(e)(2)(C)(ii), which provides that if the limit price of the ALO Order to buy (sell) is equal to the working price of resting non-displayed order(s) to sell (buy), it will post to the NYSE Arca Book and will not trade with such order(s). By referring to orders ranked Priority 3—Non-Display Orders rather than ''non-displayed orders,'' proposed Rule 7.31P(e)(2)(B)(iv) would not re-price ALO Orders when they lock the working price of displayed odd lot orders. This represents a substantive change from current Rule 7.31P(e)(2)(C), which re-prices ALO Orders when they lock the working price of displayed odd lot orders because such orders are not included in the BO or BB. In addition, the proposed rule text would specify how the ALO Order would be priced when it locks the non-displayed order, which is how an ALO Order would be priced currently, *i.e.,* if the resting non-displayed order to sell (buy) equals the PBO (PBB), the ALO Order to buy (sell) would be priced as provided for in proposed Rule 7.31P(e)(2)(B)(i).

Proposed Rule 7.31P(e)(2)(B)(iv)(a) would further provide that if there are any displayed orders at the working price of an order ranked Priority 3—Non-Display Orders, the ALO Order would be re-priced under proposed Rule 7.31P(e)(2)(B)(iii). This proposed rule text clarifies that if an ALO locks both displayed and non-displayed orders at the same price, the rule governing re-pricing ALO Orders off of the resting displayed order trumps displaying the ALO at the locking price.

Proposed Rule 7.31P(e)(2)(B)(iv)(b) would provide that if the resting order(s) is a Limit Non-Displayed Order or an Arca Only Order to sell (buy) that has been designated with a Non-Display Remove Modifier, the ALO Order will trade with such order(s) as the liquidity provider.[14] This rule text is based on the second clause of current Rule 7.31P(e)(2)(C)(ii) with a clarifying, non-substantive change that in such case, the ALO Order would be considered the liquidity provider.[15] Because ETP Holders have the option to include a Non-Display Remove Modifier on Arca Only or Limit Non-Displayed Orders, and therefore such orders could be eligible to trade with an arriving ALO Order, absent such designation, if such orders are locked by an ALO Order, they would not trade, even after the ALO Order rests on the book. The Exchange therefore proposes a clarifying amendment to specify that unless a resting order is designated with a Non-Display Remove Modifier, an ALO Order would trade only with arriving interest.[16] This proposed clarifying amendment is consistent with the current rule governing MPL–ALO Orders on the Pillar trading platform.[17]

Proposed Rule 7.31P(e)(v) would provide that an ALO Order to buy (sell) would not be assigned a working price or display price above (below) the limit price of such order. This proposed rule change makes clear that an ALO Order would never be priced outside of its limit price, regardless of the contra-side PBBO or orders on the Exchange book. For example, if the limit price of an ALO Order is worse than the contra-side PBBO or orders ranked Priority 2—Display Orders, the ALO Order would be assigned a display price and working price of its limit price, and would not be priced based off of the PBBO or displayed orders on the NYSE Arca Book, as provided for in proposed Rule 7.31P(e)(2)(B)(i)–(iv).

Current Rules 7.31P(e)(2)(B)(iii) and (B)(iv) describe what happens to a resting ALO Order when the PBBO re-prices. The Exchange proposes to describe re-pricing of a resting ALO Order in a separate subsection by adding a new subsection (C) to Rule 7.31P(e)(2). The Exchange also proposes to specify that this section of the Rule would also address how a resting ALO Order may trade when the PBBO re-prices. New Rule 7.31P(e)(2)(C) would provide that once resting on the NYSE Arca Book, an ALO Order would be re-priced or trade, or both, as set forth in Rules 7.31P(e)(2)(C)(i) and (ii).

Proposed Rule 7.31P(e)(2)(C)(i) is based on current Rule 7.31P(e)(2)(B)(iii), which provides that if the PBO (PBB) re-prices higher (lower), an ALO Order to buy (sell) will be assigned a new working price and display price consistent with current Rules 7.31P(e)(2)(B)(i) and (ii). The Exchange proposes to amend the rule text to make the following two substantive changes, discussed above: (1) An ALO Order that locks a displayed odd-lot would be re-priced off of that odd lot, and (2) if the limit price of an ALO Order crosses the price of any order, it would trade. Accordingly, as proposed, Rule 7.31P(e)(2)(C)(i) would provide that if orders ranked Priority 2—Display Order or the PBO (PBB) re-prices to a worse price, the ALO Order would trade or be assigned a new working price and display price, or both, consistent with Rules 7.31P(e)(2)(B)(i)–(iv). In other words, with each such re-pricing of the displayed orders on the NYSE Arca Book or PBBO, the Exchange would re-evaluate whether the ALO should trade (*e.g.,* if its limit price crosses any orders on the NYSE Arca Book) or be re-priced (*e.g.,* if its limit price locks any displayed or non-displayed orders on the NYSE Arca Book), or both.

Proposed Rule 7.31P(e)(2)(C)(ii) is based on current Rule 7.31P(e)(2)(B)(iv), which provides that if the PBO (PBB) re-prices to be equal to or lower (higher) than its last display price or if its limit price no longer locks or crosses the PBO (PBB), a resting ALO Order will be re-priced pursuant to Rule 7.31P(e)(1)(A)(iii) and (iv). The Exchange proposes a non-substantive clarifying change to replace the second reference to ''it'' with the phrase ''the ALO Order to buy (sell).''

The Exchange proposes to amend the rules governing Day ISO ALOs to

[12] *See* Rule 7.36P(b)(1) (Odd-lot sized Limit Orders and the displayed portion of a Reserve Orders are considered displayed for ranking purposes) and 7.36P(e)(2) (Priority 2—Display Orders defined as non-marketable Limit Orders with a displayed working price).

[13] *See* Rule 7.36P(e)(3) (Priority 3—Non-Display Orders defined as Non-marketable Limit Orders for which the working price is not displayed, including reserve interest of Reserve Orders).

[14] Because proposed Rule 7.31P(e)(2)(B)(iv) includes when an order ranked Priority 3—Non-Display Orders is priced equal to the contra-side PBBO, if the arriving ALO Order locks the price of contra-side PBBO, it would trade with a resting non-displayed order at that price that has been designated with the Non-Display Remove Modifier and any remaining quantity of the ALO Order would be priced consistent with proposed Rule 7.31P(e)(2)(B)(i).

[15] *See also* Rules 7.31P(d)(2)(B) (a Limit Non-Displayed Order designated with a Non-Display Remove Modifier will trade as the liquidity taker) and 7.31P(e)(1)(C) (an Arca Only Order designated with a Non-Display Remove Modifier will trade as the liquidity taker).

[16] For example, assume the PBO is 10.10 and the Exchange has a Limit Non-Displayed Order to sell at 10.09 for 100 shares (Order A) that does not include a Non-Display Remove Modifier. An arriving ALO Order to buy 200 shares priced at 10.09 will lock that Limit Non-Displayed Order. Assume the Exchange now receives another Limit Non-Display Order to sell priced at 10.09 for 100 shares (Order B). Order B, as an arriving order, will trade 100 shares with the ALO Order. The remaining 100 shares of the ALO Order will continue to lock Order A.

[17] *See* NYSE Arca Equities Rule 7.31P(d)(3)(F) (''A resting MPL–ALO Order to buy (sell) will trade with an arriving order to sell (buy) that is eligible to trade at the midpoint of the PBBO.'')

conform to the proposed changes to ALO Orders discussed above. Specifically, the Exchange proposes to amend the second sentence of Rule 7.31P(e)(3)(D), which currently provides that a Day ISO ALO to buy (sell) that, at the time of entry, is marketable against the BO (BB) will not trade with orders on the NYSE Arca Book priced at the BO (BB) or higher (lower), but may trade through or lock or cross a protected quotation that was displayed at the time of arrival of the Day ISO ALO. Consistent with the changes to ALO Orders described above, the Exchange proposes to amend this second sentence to provide instead that an arriving Day ISO ALO to buy (sell) may trade through or lock or cross a protected quotation that was displayed at the time of arrival of the Day ISO ALO, and would be re-priced or trade, or both, as described in proposed Rules 7.31P(e)(3)(D)(i)–(iv).

The Exchange proposes to delete current Rule 7.31P(e)(3)(D)(i) and replace it with proposed Rules 7.31P(e)(3)(D)(i)–(iii), which are based on proposed Rules 7.31P(e)(2)(B)(ii)–(iv). Proposed paragraphs (e)(3)(D)(i)–(iii), unlike proposed paragraphs (e)(2)(B)(ii)–(iv), will not refer to the PBBO because a Day ISO ALO may trade through or lock a protected quotation, as follows:

- Proposed Rule 7.31P(e)(3)(D)(i) would provide that if the limit price of the Day ISO ALO crosses the working price of any displayed or non-displayed order on the NYSE Arca Book, it would trade as the liquidity taker with such order(s). Any untraded quantity of the Day ISO ALO would have a working price and display price equal to its limit price.
- Proposed Rule 7.31P(e)(3)(D)(ii) would provide that if the limit price of the Day ISO ALO locks the display price of any order ranked Priority 2—Display Orders on the NYSE Arca Book, it would be assigned a working price and display price one MPV worse than the price of the displayed order on the NYSE Arca Book.
- Proposed Rule 7.31P(e)(3)(D)(iii) would provide that if the limit price of the Day ISO ALO locks the working price of any order ranked Priority 3—Non-Display Orders on the NYSE Arca Book, it would have a working price and display price equal to the limit price of the ALO Order. Similar to proposed Rule 7.31P(e)(2)(B)(iv)(a), proposed Rule 7.31P(e)(3)(D)(iii)(a) would provide that if there are any displayed orders at the working price of an order ranked Priority 3—Non-Display Orders, the Day ISO ALO would be priced under proposed Rule 7.31P(e)(3)(D)(ii). In addition, similar to proposed Rule 7.31P(e)(2)(B)(iv)(b), if the resting order is a Non-Displayed Limit Order or Arca Only Order that has been designated with a Non-Display Remove Modifier, the Day ISO ALO would trade with such order(s) as the liquidity provider.

Proposed Rule 7.31P(e)(3)(D)(iv) is based on current Rule 7.31P(e)(3)(D)(ii), which provides that after being displayed, a Day ISO ALO will be re-priced and re-displayed or trade, or both, based on changes to orders ranked Priority 2—Display Orders or the PBO (PBB) consistent with paragraphs (e)(2)(B)(iii) and (iv) of this Rule. The Exchange proposes a non-substantive, clarifying amendment to replace the term ''it'' with the term ''a Day ISO ALO.'' The Exchange also proposes to update the cross references to provide that a Day ISO ALO would be re-priced and re-displayed based on changes to the PBO (PBB) consistent with Rule 7.31P(e)(2)(C)(i) and (ii).

* * * * *

Because of the technology changes associated with this proposed rule change, the Exchange will announce by Trader Update the implementation date.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Securities Exchange Act of 1934 (the ''Act''),[18] in general, and furthers the objectives of Section 6(b)(5),[19] in particular, because 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.

Specifically, the Exchange believes that the proposed rule change would remove impediments to and perfect the mechanism of a free and open market and a national market system by simplifying the operation of ALO Orders on Pillar by applying consistent treatment of how an ALO Order would behave if it crosses the price of any displayed or non-displayed interest (*i.e.,* trade) or locks the price of any-sized displayed interest (*i.e.,* re-price). Currently, an ALO Order trades on arrival if it would cross the price of non-displayed orders. The Exchange believes that the proposed substantive change to extend similar treatment when an ALO Order crosses the price of any displayed orders that are priced equal to or better than the PBBO would remove impediments to and perfect the mechanism of a free and open market and a national market system because an ALO Order would have additional opportunities to receive price improvement. In addition, the Exchange believes that the proposed substantive change to re-price ALO Orders that lock the price of any-sized displayed orders would remove impediments to and perfect the mechanism of a free and open market and a national market system by eliminating the potential for an ALO Order to lock the price of a displayed odd lot order. The Exchange further believes that the two proposed substantive changes would remove impediments to and perfect the mechanism of a free and open market and a national market system because they would harmonize the operation of ALO Orders with how similar orders function on other exchanges when the limit price of an ALO Order crosses the price of resting interest.[20]

The Exchange believes that the proposed non-substantive changes to the proposed rule would remove impediments to and perfect the mechanism of a free and open market and national market system by providing greater clarity to the rule text and re-organizing the rule text along similar functional lines. Finally, the Exchange believes that the proposed amendment to the definition of BBO would remove impediments to and perfect the mechanism of a free and open market and a national market system because it would promote clarity in Exchange rules by specifying that the BBO is the Exchange's protected quotation, and therefore would not include odd lots that do not aggregate to a round lot or more.

*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. The Exchange believes that the proposed rule change would reduce the burden on competition for its ETP Holders because it would simplify the operation of ALO Orders on Pillar by applying consistent treatment of how an ALO Order would behave if it crosses the price of any displayed or non-displayed interest (*i.e.,* trade) or locks the price of any-sized displayed interest (*i.e.,* re-price). Currently, an ALO Order only trades if

[18] 15 U.S.C. 78f(b).

[19] 15 U.S.C. 78f(b)(5).

[20] *See supra* note 7.

it crosses a non-displayed order on the NYSE Arca Book. As proposed, ALO Orders would trade if the limit price of such order crosses any displayed or non-displayed orders on the NYSE Arca Book, thus providing for similar treatment regardless of whether the contra-side order is displayed or not. In addition, currently, an ALO Order is re-priced so it would not lock the price of the BO or BB. As proposed, the Exchange would provide for similar treatment so that an ALO Order would not lock the price of a displayed order of any size. The proposed rule change would further reduce the burden on competition for its ETP Holders by harmonizing the operation of ALO Orders with how similar orders function on other exchanges.[21]

*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 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 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[22] and Rule 19b–4(f)(6) thereunder.[23]

A proposed rule change filed under Rule 19b–4(f)(6)[24] normally does not become operative for 30 days after the date of the filing. However Rule 19b–4(f)(6)(iii)[25] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. According to the Exchange, the proposed rule change would consistently treat ALO Orders if they cross the price of displayed or non-displayed interest (*i.e.,* trade),[26] which would increase the potential for price improvement for ALO Orders. Also, according to the Exchange, the proposed rule change would consistently treat ALO Orders if they lock the price of any-sized displayed interest (*i.e.,* re-price), which would reduce the potential for ALO Orders to lock the displayed price of an odd lot order and therefore reduce confusion in the market. In addition, the Exchange states that it anticipates that it will be able to implement the technology changes supporting this proposed rule change in less than 30 days from the date of filing. The Commission believes the waiver of the operative delay is consistent with the protection of investors and the public interest. Therefore, the Commission hereby waives the operative delay and designates the proposal operative upon filing.[27]

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 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.* Please include File Number SR–NYSEARCA–2016–80 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEARCA–2016–80. 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 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of 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–2016–80 and should be submitted on or before June 23, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[28]

**Brent J. Fields,**

*Secretary.*

[FR Doc. 2016–12891 Filed 6–1–16; 8:45 am]

**BILLING CODE 8011–01–P**

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[21] *See supra* note 7.

[22] 15 U.S.C. 78s(b)(3)(A).

[23] 17 CFR 240.19b–4(f)(6). As required under Rule 19b–4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the 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.

[24] 17 CFR 240.19b–4(f)(6).

[25] 17 CFR 240.19b–4(f)(6)(iii).

[26] The Exchange states that this proposed change is based on the rules of BZX and Nasdaq. *See supra* note 7.

[27] 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).

[28] 17 CFR 200.30–3(a)(12).

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## SECURITIES AND EXCHANGE COMMISSION

**[Investment Company Act Release No. 32127; 812–14399]**

## Ares Capital Corporation, et al.; Notice of Application

May 26, 2016.

**AGENCY:** Securities and Exchange Commission ("Commission").

**ACTION:** Notice of an application for an order under section 6(c) of the Investment Company Act of 1940 (the "Act") for an exemption from sections 18(a) and 61(a) of the Act.

*Applicants:* Ares Capital Corporation (the "Company"), Ares Capital