

investment companies. The Funds will disclose EWCs in accordance with the requirements of Form N-1A concerning CDSLs.

Asset-Based Distribution and/or Service Fees

1. Section 17(d) of the Act and rule 17d-1 under the Act prohibit an affiliated person of a registered investment company, or an affiliated person of such person, acting as principal, from participating in or effecting any transaction in connection with any joint enterprise or joint arrangement in which the investment company participates unless the Commission issues an order permitting the transaction. In reviewing applications submitted under section 17(d) and rule 17d-1, the Commission considers whether the participation of the investment company in a joint enterprise or joint arrangement is consistent with the provisions, policies and purposes of the Act, and the extent to which the participation is on a basis different from or less advantageous than that of other participants.

2. Rule 17d-3 under the Act provides an exemption from section 17(d) and rule 17d-1 to permit open-end investment companies to enter into distribution arrangements pursuant to rule 12b-1 under the Act. Applicants request an order under section 17(d) and rule 17d-1 under the Act to the extent necessary to permit a Fund to impose asset-based distribution and/or service fees. Applicants have agreed to comply with rules 12b-1 and 17d-3 as if those rules applied to closed-end investment companies, which they believe will resolve any concerns that might arise in connection with a Fund financing the distribution of its shares through asset-based distribution fees.

3. For the reasons stated above, applicants submit that the exemptions requested under section 6(c) are necessary and appropriate in the public interest and are consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants further submit that the relief requested pursuant to section 23(c)(3) will be consistent with the protection of investors and will insure that applicants do not unfairly discriminate against any holders of the class of securities to be purchased. Finally, applicants state that the Funds' imposition of asset-based distribution and/or service fees is consistent with the provisions, policies and purposes of the Act and does not involve participation on a basis different from or less advantageous than that of other participants.

Applicants' Condition

Applicants agree that any order granting the requested relief will be subject to the following condition:

Each Fund relying on the Order will comply with the provisions of rules 6c-10, 12b-1, 17d-3, 18f-3, 22d-1, and, where applicable, 11a-3 under the Act, as amended from time to time, as if those rules applied to closed-end funds, and will comply with the FINRA Sales Charge Rule, as amended from time to time, as if that rule applied to all closed-end funds.

For the Commission, by the Division of Investment Management, under delegated authority.

Eduardo A. Aleman,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-85265; File No. SR-NYSEARCA-2019-08]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Rules 7.16-E, 7.18-E, 7.31-E, 7.34-E, 7.35-E, and 7.38-E

March 7, 2019.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on February 25, 2019, 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, II, and III 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 Rules 7.16-E (Short Sales), 7.18-E (Halts), 7.31-E (Orders and Modifiers), 7.34-E (Trading Sessions), 7.35-E (Auctions), and 7.38-E (Odd and Mixed Lots). The proposed rule change is available on the Exchange's website at www.nyse.com, at the principal office of the Exchange, and at the Commission's Public Reference Room.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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 Rules 7.16-E (Short Sales), 7.18-E (Halts), 7.31-E (Orders and Modifiers), 7.34-E (Trading Sessions), 7.35-E (Auctions), and 7.38-E (Odd and Mixed Lots). The proposed rule changes are intended to provide additional specificity in the Exchange's rules, streamline order processing when a security is halted or paused, and reduce operational complexity when transitioning to continuous trading.

Rule 7.16-E, Short Sales

Rule 7.16-E(f) sets forth how the Exchange handles short sale orders when the provisions of paragraph (b)(1) of Rule 201 of Regulation SHO are in effect ("Short Sale Period").³ The Exchange proposes to make two changes to Rule 7.16-E. First, the Exchange proposes to amend how sell short Market Orders would be processed during a Short Sale Period. Second, the Exchange proposes to amend how sell short orders in Auction-Eligible Orders would be priced before an auction during a Short Sale Period.

With respect to the processing of Market Orders, Rule 7.16-E(f)(5) sets forth how short sale orders are processed during a Short Sale Period, which is defined in Rule 7.16-E(f)(4). More specifically, Rule 7.16-E(f)(5)(B) provides how the Exchange processes sell short Priority 1 and Priority 3 Orders during a Short Sale Period.⁴ The

³ 17 CFR part 242.201(b)(1).

⁴ Pursuant to Rule 7.36-E(e)(1), an order ranked "Priority 1—Market Orders," which is referred to in Rule 7.16-E(f)(5)(B) as a "Priority 1 Order" refers to unexecuted Market Orders. Pursuant to Rule 7.31-E(a)(1)(A), a Market Order may be held undisplayed on the NYSE Arca Book. Pursuant to Rule 7.36-E(e)(3), an order ranked "Priority 3—Non-Display Orders," which is referred to in Rule

current rule provides that such orders, which are not displayed, are re-priced at a Permitted Price⁵ and are continuously re-priced at a Permitted Price as the national best bid moves both up and down. Accordingly, under the current rule, during a Short Sale Period, orders ranked Priority 1—Market Orders, are processed in the same manner as orders ranked Priority 3—Non-Display Orders.

The Exchange proposes to change how sell short Market Orders during a Short Sale Period are processed during continuous trading to conform to how such orders are processed for an auction. As provided for in Commentary .01(a) to Rule 7.35–E, for purposes of pricing an auction and ranking orders for allocation in an auction, sell short Market Orders that are adjusted to a Permitted Price are processed as Limit Orders ranked Priority 2—Display Orders.⁶ With this proposed rule change, the Exchange proposes to extend the functionality currently applicable to sell short Market Orders during an auction to how sell short Market Orders would be processed during continuous trading, *i.e.*, that during a Short Sale Period, sell short Market Orders would be converted into display orders and would be ranked and allocated as a displayed order. To effect this change, the Exchange proposes to delete references to “Priority 1 Orders” and “Market Orders” in current Rule 7.16–E(f)(5)(B) and add new Rule 7.16–E(f)(5)(C) that would be applicable only to Market Orders. Orders ranked Priority 3—Non-Display Orders would continue to be processed in the same manner as they are today under Rule 7.16–E(f)(5)(B).

Proposed new Rule 7.16–E(f)(5)(C) would provide that, during a Short Sale Period, a sell short Market Order would be ranked Priority 2—Display Orders and would be subject to Trading Collars specified in Rule 7.31–E(a)(1)(B)(i).⁷ As discussed below, when a sell short Market Order is ranked as Priority 2—Display Orders, it would be assigned a limit price of one MPV above \$0.00. The Exchange believes that applying Limit

7.16–E(f)(5)(B) as a “Priority 3 Order” refers to non-marketable Limit Orders for which the working price is not displayed, including the reserve interest of Reserve Orders.

⁵ The Permitted Price is one minimum price variation above the current NBB. See Rule 7.16–E(f)(5)(A).

⁶ See Commentary .01(a) to Rule 7.35–E.

⁷ During Core Trading Hours, the Trading Collar is based on a price that is a specified percentage away from the consolidated last sale price and is continuously updated based on market activity. If there is no consolidated last sale price on the same trading day, the Exchange uses the last Official Closing Price for the security. See Rule 7.31–E(a)(1)(B)(i).

Order Price Protection when such orders are ranked as Priority 2—Display Orders would result in all such orders being rejected as being priced too far away from the NBBO.⁸ Accordingly, to ensure that there is a mechanism available to prevent such orders from causing significant price dislocation during a Sell Short Period, the Exchange proposes that such orders would continue to be subject to Trading Collars, which are applicable to Market Orders, rather than to Limit Order Price Protection.

To address what would happen when a Short Sale Period is triggered when there is a resting Market Order on the NYSE Arca Book, proposed Rule 7.16–E(f)(5)(C) would further provide that if a Short Sale Period is triggered when an order ranked Priority 1—Market Orders is resting on the NYSE Arca Book, such resting order would be converted to an order ranked Priority 2—Display Orders. This could happen if there is an unexecuted Market Order that is undisplayed on the NYSE Arca Book pursuant to Rule 7.31–E(a)(1)(A). In such case, the resting order would be converted to an order ranked Priority 2—Display Orders and would be ranked and allocated for all purposes as a displayed order. If the Short Sale Period ends intraday, such order would be converted back to an order ranked Priority 1—Market Orders.

While a sell short Market Order would be ranked and allocated as Priority 2—Display Orders during a Short Sale Period, not all functionality applicable to displayed orders would be applicable to such Market Orders. As proposed, when ranked as Priority 2—Display Orders, such order would be (1) assigned a limit price of one MPV above \$0.00; (2) assigned a working and (during Core Trading Hours) a display price that is the higher of the Permitted Price or one MPV above the lower Trading Collar as determined under Rule 7.31–E(a)(1)(B)(i); and (3) cancelled if the Permitted Price is or becomes lower than the Lower Price Band, as provided in Rule 7.11–E(a)(5).

The Exchange believes that assigning a Market Order with a limit price equal to one MPV above \$0.00 would provide for a limit price for such order while it is functioning as an order ranked Priority 2—Display Orders. However, as noted above, such limit price would not be used for purposes of Limit Order Price Protection. Rather, the Exchange proposes to continue applying the

⁸ Pursuant to Rule 7.31–E(a)(2)(B), a Limit Order to buy (sell) is subject to Limit Order Price Protection and will be rejected if it is priced at or above (below) the greater of \$0.15 or a specified percentage away from the NBO (NBB).

Trading Collars applicable to Market Orders even if such order converts to displayed interest. Next, the Exchange believes that assigning such order a working and display price (during Core Trading Hours) that is the higher of the Permitted Price or one MPV above the lower Trading Collar is consistent both with how sell short Priority 2—Display Orders are displayed and priced during a Short Sale Period and with the proposal that Trading Collars would continue to be applicable to such orders. Not displaying such orders until Core Trading Hours is also consistent with the continued behavior that such Market Orders are not eligible to trade until the Core Trading Session. Finally, the Exchange proposes to cancel such order if the Permitted Price (*i.e.*, the displayed price of the order) is or becomes lower than the Lower Price Band, which is consistent with how Market Orders are processed pursuant to Rule 7.11–E(a)(5)(A)(i) if they cannot be traded or routed at prices at or within the Price Bands. In other words, if the Permitted Price would be a price at or below the Lower Price Band, the Exchange proposes to cancel such order rather than re-pricing it once again to the Lower Price Band, even though the Lower Price Band would be at a price higher than the Permitted Price. Thus, no short sale order would be executed (effected) at or below the NBB during a Short Sale Period.

With the adoption of proposed Rule 7.16–E(f)(5)(C), the Exchange further proposes to re-number each of current sub-paragraphs (C)–(I) of Rule 7.16–E(f)(5) as (D)–(J) without making any substantive change to those rules.

With respect to sell short orders and how they are priced during an auction, Rule 7.16–E(f)(6) states that during a Short Sale Period, a short sale order will be executed and displayed without regard to price if, at the time of initial display of the short sale order, the order was at a price above the then current National Best Bid (“NBB”).⁹ Consistent with this rule, if a short sale order is eligible to be displayed at that price pursuant to Rule 7.16–E(f)(6), it would remain at its previously displayed price for participation in an opening, reopening or closing auction. Otherwise, short sale orders that are unable to remain at their previously displayed price pursuant to Rule 7.16–E(f)(6) are priced to a Permitted Price as required by Rule 7.16–E(f)(5).

The Exchange proposes to change this behavior and no longer apply the exception permitted under Rule 7.16–E(f)(6) to short sale orders when they

⁹ See also 17 CFR part 242.201(b)(1)(iii)(A).

participate in an auction. Accordingly, during a Short Sale Period, the Exchange proposes to adjust the price of all short sale orders to a Permitted Price prior to an auction during a Short Sale Period, even if such orders were eligible to remain at their previously displayed price pursuant to Rule 7.16–E(f)(6). Short sale orders not executed in an auction would remain at a Permitted Price for the duration of the Short Sale Period.

To effect this change, new subparagraph (8) to Rule 7.16–E(f) would provide that notwithstanding subparagraph (6) of Rule 7.16–E(f), with respect to the execution of short sale orders in a covered security in any auction during the Short Sale Period, the Exchange would adjust the working price and display price of such short sale orders in a covered security to a Permitted Price before such auction. Subparagraph (8) to Rule 7.16–E(f) would further provide that if such a short sale order is not executed in the applicable auction and is eligible to trade, it will be priced consistent with paragraph (f)(5)(A) of Rule 7.16–E. In other words, after the auction, it would not revert back to a previously-displayed price pursuant to Rule 7.16–E(f)(6). The Exchange believes that the proposed rule change would streamline order processing by adjusting the price of all short sale orders to a Permitted Price. The proposal is also consistent with the treatment of short sale orders on the Exchange’s affiliate, which also re-prices all short sale orders in advance of an auction.¹⁰

With this proposed change, there may be circumstances when a short sale order displayed at a price other than a Permitted Price pursuant to Rule 7.16–E(f)(6) may lose the opportunity to participate in an auction when it re-priced to a Permitted Price for the auction. For example, currently, if a short sale order is displayed at \$9.99 pursuant to current Rule 7.16–E(f)(6), the Permitted Price at the time of the

auction is \$10.01 (*i.e.*, the NBB crosses the Exchange’s displayed offer of \$9.99), and the auction is priced at \$10.00, that sell short order would be eligible to participate in the auction.¹¹ However, under the proposed new behavior, that sell short order would be re-priced to \$10.01 and would not be eligible to participate in the auction at \$10.00. Based on the Exchange’s review of existing trading data, the Exchange believes that this would be an extremely rare event and would have a de minimis impact on the overall execution of short sale orders in auctions at the Exchange.

The Exchange also proposes to make a related change to Commentary .01(b) to Rule 7.35–E. That Commentary provides that short sale orders that are included in Auction Imbalance Information, but are not eligible for continuous trading before the applicable auction, will be adjusted to a Permitted Price as the NBB moves both up and down. For example, for the Auction Imbalance Information for the Closing Auction, sell short MOC and LOC Orders, which are not eligible for continuous trading, are continually adjusted to a Permitted Price. With the proposed change to Rule 7.16–E, all short sale orders would be participating in an auction at a Permitted Price. Accordingly, the Exchange proposes to amend this Commentary to remove the clause “but are not eligible for continuous trading before the applicable auction.” With this proposed change, the Auction Imbalance Information would reflect the Permitted Price at which a short sale order would participate in an auction.

Rule 7.18–E, Halts¹²

Rule 7.18–E(b) states that the Exchange does not conduct Trading Halt Auctions in UTP Securities and sets forth how the Exchange processes new and existing orders in UTP securities during a UTP Regulatory Halt.¹³ Rule 7.18–E(b)(1) states that during a UTP Regulatory Halt the Exchange will cancel any unexecuted portion of Market Orders and orders not eligible to trade in the current trading session on the NYSE Arca Book. The Exchange proposes to amend this Rule to further provide that orders that are not

displayed would also be cancelled during a UTP Regulatory Halt. To reflect this change, the Exchange proposes to amend Rule 7.18–E(b)(1) to provide that Non-Displayed Limit Orders,¹⁴ Mid-Point Liquidity (“MPL”) Orders,¹⁵ Tracking Orders,¹⁶ Market Pegged Orders,¹⁷ Discretionary Pegged Orders,¹⁸ and Retail Price Improvement (“RPI”) Orders¹⁹ would also be canceled during a UTP Regulatory Halt. The Exchange believes that cancelling these non-displayed orders during a UTP Regulatory Halt would streamline order processing once trading resumes.

Rule 7.18–E(c) sets forth how the Exchange processes new and existing orders in Exchange-listed securities during a halt or pause. Currently, during such a halt or pause, unexecuted Market Orders are cancelled and all other resting orders, including non-displayed orders, are maintained at their last working price and display price. The Exchange proposes to amend how orders in Exchange-listed securities are processed during a halt or pause based on whether orders are eligible to participate in the Trading Halt Auction.

First, the Exchange proposes to cancel the unexecuted portion of non-displayed orders that are not eligible to participate in a Trading Halt Auction. To effect this change, the Exchange proposes to amend Rule 7.18–E(c)(1) to provide that any unexecuted portion of Non-Displayed Limit Orders, MPL Orders, Tracking Orders, Market Pegged Orders, Discretionary Pegged Orders, and RPI Orders in an Exchange-listed security would be cancelled during a halt or pause. This proposed change is consistent with the above proposal regarding how non-displayed orders for UTP Securities during a UTP Regulatory Halt would be processed under Rule 7.18–E(b)(1). The Exchange proposes to make this change for Exchange-listed securities as well because such order types are not eligible to participate in an auction.

Second, because Market Orders are eligible to participate in a Trading Halt Auction, the Exchange proposes to add new paragraph (c)(2) to Rule 7.18–E²⁰ to provide that the unexecuted quantity of a Market Order would be retained.²¹

¹⁰ New York Stock Exchange LLC (“NYSE”) Rule 440B(h) provides that with respect to the execution of short sale orders in a covered security in any single-priced opening, re-opening or closing transaction during the Short Sale Period, the NYSE will re-price short sale orders in a covered security as follows: (1) Opening—one minimum price increment above the national best bid at 9:30 a.m.; (2) Re-opening following a halt or pause in trading—one minimum price increment above the last published Exchange bid prior to such halt or pause in trading; and (3) Closing—one minimum price increment above the last published Exchange bid prior to the close. The Exchange is not proposing to re-price short sale orders to a price other than the Permitted Price. Unlike NYSE Rule 440B(h), proposed Rule 7.16E(f)(8) uses the term “auction” in place of “single-priced opening, re-opening or closing transaction” for consistency with Rule 7.35–E.

¹¹ Pursuant to Rule 7.35–E(a)(6), orders are ranked for purposes of allocation in an auction and not all orders are guaranteed to participate.

¹² The Exchange also proposes to delete a superfluous reference to the word “Halt” at the beginning of Rule 7.18–E.

¹³ A “UTP Regulatory Halt” is defined in Rule 1.1 as a trade suspension, halt, or paused [sic] called by the UTP Listing Market in a UTP Security that requires all market centers to halt trading in that security. The terms UTP Security and UTP Listing Market are also defined in Rule 1.1.

¹⁴ See Rule 7.31–E(d)(2).

¹⁵ See Rule 7.31–E(d)(3).

¹⁶ See Rule 7.31–E(d)(4).

¹⁷ See Rule 7.31–E(h)(1).

¹⁸ See Rule 7.31–E(h)(3).

¹⁹ See Rule 7.44–E(a)(4).

²⁰ The Exchange proposes to renumber the subparagraphs in Rule 7.18–E(c) to account for the addition new subparagraph (c)(2).

²¹ The quantity of a Market Order to buy (sell) not traded or routed will remain undisplayed on the

The Exchange also proposes to delete reference to Market Orders in Rule 7.18–E(c)(1).

Third, the Exchange proposes to amend Rule 7.18–E(c)(3) to provide that it would re-price all other resting orders on the NYSE Arca Book to their limit price.²² This proposed change would not alter how those orders would be ranked for purposes of a Trading Halt Auction, which is based on their limit price.²³

Rule 7.18–E(c)(4), which would be renumbered as Rule 7.18–E(c)(5), currently provides that incoming Limit Orders designated as IOC, Cross Orders, Tracking Orders, Market Pegged Orders, and Discretionary Pegged Orders, and Retail Orders entered during a halt or pause are rejected. The Exchange proposes to make a related change to proposed Rule 7.18–E(c)(5) to provide that incoming Non-Displayed Limit Orders, MPL Orders, and RPI Orders entered during a halt or pause would also be rejected.

Because such non-displayed orders would be cancelled during a halt or pause, the Exchange proposes to amend Rule 7.18–E(c)(5) further to no longer provide that a request to cancel and replace a Tracking Order, Market Pegged Order, Discretionary Pegged Order, or Retail Order is treated as a cancellation without replacing the order. This text in current Rule 7.18–E(c)(4) is no longer necessary because incoming Tracking Orders, Market Pegged Orders, Discretionary Pegged Orders, and Retail Orders would be rejected and any unexecuted portion of such orders resting on the NYSE Arca Book would be cancelled during a halt or pause.

The Exchange believes these proposed changes to Rules 7.18–E(c) relating to non-displayed orders are reasonable because none of these order types are eligible to participate in a Trading Halt Auction either by definition or by their operation.²⁴ Rejecting or cancelling

NYSE Arca Book at a working price of the NBO (NBB) and be eligible to trade with incoming sell (buy) orders at that price. See Rule 7.31–E(a)(1)(A).

²² The Exchange notes that it previously priced orders resting on the NYSE Arca Book during a halt at their limit price. See Securities Exchange Act Release No. 78615 (August 18, 2016), 81 FR 57986 (August 24, 2016) (SR–NYSEArca–2016–117).

²³ See Rule 7.35–E(a)(6)(A) (Limit Orders, LOO Orders, and LOC orders will be ranked based on their limit price and not the price at which they would participate in the auction).

²⁴ Non-Displayed Limit Orders, MPL Orders, Market Pegged Orders, and Discretionary Pegged Orders are by definition ineligible to participate in auctions. See Rule 7.31–E(d)(2), (d)(3), (h)(1), and (h)(3), respectively. Tracking Orders are to only execute against orders that are in the process of being routing away and not against contra-side interest in an auction. See Rule 7.31–E(d)(4). RPI Orders must be designated as either a Non-

these orders resting on the NYSE Arca Book during a halt or pause would reduce operational complexity and ease order processing once the Trading Halt Auction occurs and the Exchange transitions to continuous trading.

Rule 7.31–E, Orders and Modifiers

The Exchange proposes to make a number of changes to Rule 7.31–E, each of which are designed to streamline order processing.

Limit Order Price Protection. As described above, Rule 7.31–E(a)(2)(B) sets forth Limit Order Price Protection for Limit Orders and currently provides that a Limit Order entered before the Core Trading Session that becomes eligible to trade in the Core Trading Session will become subject to Limit Order Price Protection after the Core Opening Auction. With this functionality, orders not yet eligible to trade will not be rejected on arrival, but rather will be evaluated for Limit Order Price Protection when they become eligible to trade.

The Exchange proposes a change to whether Limit Order Price Protection would be applied to Limit Orders in Auction-Eligible Securities entered during a halt or pause. As proposed, a Limit Order in an Auction-Eligible Security entered during a trading halt or pause, *i.e.*, a period when the Exchange is not open for trading in such securities, would not be subject to Limit Order Price Protection. With this proposed change, similar to current functionality, Limit Orders in Auction-Eligible Securities would continue to not be subject to Limit Order Protection on arrival. The first opportunity for an order entered during a period when there is no trading in such security on the Exchange, *i.e.*, during a trading halt or pause, would be the single-priced transaction of a Trading Halt Auction. In such case, the Limit Order would be traded in such auction at the price of the auction and not at the limit price. Accordingly, the Exchange does not believe that Limit Order Price Protection would be necessary for such orders.

To reflect this change, the Exchange proposes to amend Rule 7.31–E(a)(2)(B) to provide that a Limit Order in an Auction-Eligible Security entered during a trading halt or pause would not be subject to Limit Order Price Protection.

Re-pricing of Resting Orders. Rule 7.31–E(a)(2)(C) currently describes how the Exchange re-prices resting orders under specified circumstances.

Displayed Limit Order or an MPL Order, neither of which are eligible to participate in auctions. See Rule 7.44–E(a)(4)(d).

Specifically, if a BB (BO) that is locked or crossed by an Away Market PBO (PBB) is cancelled, executed or routed and the next best-priced resting Limit Order(s) on the NYSE Arca Book that would become the new BB (BO) would have a display price that would lock or cross the PBO (PBB), such Limit Order(s) to buy (sell) will be assigned a display price one MPV below (above) the PBO (PBB) and a working price equal to the PBO (PBB). Such Limit Orders are re-priced when the PBBO is updated, including if the Exchange receives a Day ISO that would result in at least a round lot being displayed as the new BBO.

The Exchange proposes to amend this text to provide that the arrival of any-sized Day ISO would result in the re-pricing of such resting orders. The arrival of a Day ISO of any size provides the Exchange with notice that the ETP Holder that has entered such order has met the requirement under Rule 7.31–E(e)(3)(A)(ii) to simultaneously route one or more additional Limit Orders to trade against the full displayed size of any protected bids (for sell orders) or protected offers (for buy orders) on Away Markets. Accordingly, the Exchange would adjust the PBBO based on the arrival of any-sized Day ISO. Because the PBBO would be adjusted based on the arrival of any-sized Day ISO, the Exchange believes it would no longer be necessary to wait for a round-lot sized Day ISO before re-pricing orders under Rule 7.31–E(a)(2)(C). Accordingly, the Exchange proposes to delete the following text in the second sentence of current Rule 7.31–E(a)(2)(C)—“and would result in at least a round lot being displayed as a new BB (BO)” —and the third and last sentence of current Rule 7.31–E(a)(2)(C).

The Exchange also proposes to provide additional specificity in Rule 7.31–E(h)(2)(B) regarding when a Primary Pegged Order's display price and working price would be adjusted when the PBBO is locked or crossed.²⁵ Specifically, the Exchange proposes to specify that Primary Pegged Orders would be re-priced whenever a Limit Order is re-priced pursuant to Rules 7.31–E(a)(2)(C) or 7.35–E(h)(3)(A)(ii).²⁶ Re-pricing a Primary Pegged Order like a Limit Order pursuant to Rule 7.31–

²⁵ Pursuant to Rule 7.31(h)(2), a Primary Pegged Order is a displayed Pegged Order to buy (sell) with a working price that is pegged to the PBB (PBO), with no offset allowed.

²⁶ Under Rule 7.35–E(h)(3)(A)(ii), before publishing a quote following a Trading Halt Auction, the display price of orders that are marketable against a protected quotation on an Away Market will be adjusted consistent with Rule 7.31–E(a)(2)(C).

E(a)(2)(C) ensures that if the PBBO is locked or crossed, a resting Primary Pegged Order would not be re-priced to a locking or crossing price, for example, if the Exchange BBO changes.²⁷ To effect this change, the Exchange proposes to amend Rule 7.31–E(h)(2)(B) to specify that if a resting Limit Order on the NYSE Arca Book is assigned a new display price and working price pursuant to Rules 7.31–E(a)(2)(C) or 7.35–E(h)(3)(A)(ii) and the PBBO is still locked or crossed, a resting Primary Pegged Order would also be assigned a new display price and working price pursuant to Rule 7.31–E(a)(2)(C). The proposed text represents current functionality. The Exchange believes that this proposed rule change would provide clarity and transparency in Exchange rules of when a Primary Pegged Order would be re-priced consistent with Rule 7.31–E(a)(2)(C).

A Primary Pegged Order is currently eligible to participate in auctions at its limit price. The Exchange proposes to amend Rule 7.31–E(h)(2) to provide that Primary Pegged Orders would no longer be eligible to participate in the Closing Auction. Because a Primary Pegged Order, which intraday is pegged to display to the same-side PBBO, would likely need to be re-priced to its limit price in order to participate in the Closing Auction, the Exchange believes that making such orders ineligible to participate in the Closing Auction would streamline order processing when transition [sic] to the Closing Auction. This is also consistent with one other exchange that precludes Pegged Orders from participating in select auctions.²⁸ ETP Holders wishing to participate in the Closing Auction could do so through the use of other orders types, such as Limit Orders, which like Primary Pegged Orders, participate in the Closing Auction at their limit price.

Rule 7.34–E, Trading Sessions

Rule 7.34–E(c)(1) describes order entry during the Early Trading Session.²⁹ The Exchange proposes to

²⁷ For example, if the PBBO is 10.00 x 10.02, and NYSE Arca's BB is 10.00, a Primary Pegged Order to buy would peg to that 10.00. If next, an Away Market PBO is displayed at 9.98, crossing the NYSE Arca BB, pursuant to Rule 7.31–E(h)(2)(B), the Primary Pegged Order would remain displayed at 10.00. If next, the 10.00 BB on NYSE Arca cancels, the Primary Pegged Order would need to re-price, but at that point, the PBBO is crossed because of the Away Market PBO of 9.98. In this scenario, the Primary Pegged Order would be re-priced to 9.97 as provided for in Rule 7.31–E(a)(2)(C).

²⁸ See Cboe BZX Exchange, Inc. (“BZX”) Rule 11.23(a)(8)(A)(ii) (precluding Pegged Orders from participating in an IPO Auction).

²⁹ The Early Trading Session begins at 4:00 a.m. Eastern Time and concludes at the commencement

add new subparagraph (F) to Rule 7.34–E(c)(1) to provide that the following non-displayed orders would be rejected if entered before the Auction Processing Period for the Early Trading Session concludes: Non-Displayed Limit Orders, Discretionary Pegged Orders [sic],³⁰ MPL Orders, Tracking Orders, and RPI Orders. Similar to how the Exchange proposes to cancel non-displayed orders during halt or pause, the Exchange believes that rejecting these non-displayed orders when the Exchange is not engaged in continuous trading would reduce operational complexity when the Exchange transitions to continuous trading. ETP Holders seeking to enter these order types may do so once the Early Trading Session begins.

Rule 7.35–E, Auctions

Rule 7.35–E(e), Trading Halt Auction. Rule 7.35–E(e)(10) states that if the Re-Opening Time for a Trading Halt Auction would be in the last ten minutes of trading before the end of Core Trading Hours, the Exchange will not conduct a Trading Halt Auction in that security and will not transition to continuous trading. Instead, the Exchange remains halted or paused and will conduct a Closing Auction pursuant to Rule 7.35–E(d). Rule 7.35–E(e)(10)(A) provides that in such case MOO Orders, LOO Orders, and IO Orders entered during the pause or halt will not participate in the Closing Auction and be cancelled.

Consistent with the proposed change to Rule 7.31–E(h)(2), described above, that Primary Pegged Orders are not eligible to participate in a Closing Auction, the Exchange proposes to amend Rule 7.35–E(e)(10)(A) to also provide that Primary Pegged Orders would be rejected on arrival and cancelled when resting if the Exchange does not transition to continuous trading under these circumstances.

Because Primary Pegged Orders may be entered prior to a halt or pause and because by their terms, MOO, LOO, and IO Orders are not eligible to participate in a Closing Auction, the Exchange further proposes to amend Rule 7.35–

of the Core Trading Session. See Rule 7.34–E(a)(1). The Core Trading Session begins at 9:30 a.m. Eastern Time. See Rule 7.34–E(a)(2).

³⁰ The Exchange has represented that it erroneously included a reference to “Discretionary Pegged Orders” in the Purpose and Statutory Basis sections of the filing that describes the proposed changes to subparagraph (F) to Rule 7.34E(c)(1) and that the proposed rule text set forth in Exhibit 5 does not list Discretionary Pegged Orders as one of the order types proposed to be added therein. Telephone conversation between Ira Brandriss and Matthew Cursio, SEC, and Christopher Solgan, NYSE on March 6, 2019.

E(e)(10)(A) to delete the phrase “entered during the pause or halt will not participate in the Closing Auction and be cancelled” as redundant text of the proposed new text that would provide that all such orders would be rejected on arrival and cancelled when resting.

Rule 7.35–E(h), Transition to Continuous Trading. Rule 7.35–E(h) sets forth how the Exchange transitions to continuous trading following an auction, if there is no matched volume and an auction is not conducted, or when transitioning from one trading session to another. Rule 7.35–E(h)(2)(A) provides that during the transition to continuous trading, an order instruction (as defined in Rule 7.35–E(g)) received during the Auction Imbalance Freeze, the transition to continuous trading, or the Auction Processing Period would be processed in time sequence with the processing of orders as specified in Rules 7.35–E(h)(3)(A) or (B) if it relates to an order that was received before the Auction Processing Period. The Exchange proposes to amend Rule 7.35–E(h)(2)(A) to further provide that the processing of order instructions described in that sentence would also apply to orders that have already transitioned to continuous trading. This proposed rule text represents current functionality and is intended to promote clarity and transparency in Exchange rules of when an order instruction would be applied to an order.

The Exchange proposes to make a corollary amendment to Rule 7.35–E(h)(2)(B) to provide that this subparagraph of the Rule would apply only to an order instruction for an order that has not yet transitioned to continuous trading. The Exchange also proposes to make a clarifying amendment to add the word “either” before the phrase “the Auction Processing Period or the transition to continuous trading.”

Rule 7.35–E(h)(3) sets forth how orders are processed when transitioning to continuous trading from a prior trading session or following an auction.

The Exchange proposes to amend Rule 7.35–E(h)(3)(A)(ii) to remove the term “fully-executed” from before the reference to “display quantity.” The Exchange has amended its Reserve Order functionality and specifically the circumstances when a Reserve Order would be replenished, and the reference to “fully-executed” is now moot.³¹

³¹ See Securities Exchange Act Release No. 83967 (August 28, 2018), 83 FR 44984 (September 4, 2018) (SR–NYSEArca–2018–61) (amending Rule 7.31–E(d)(1)(A) to state that the replenish quantity of a Reserve Order is either the minimum display size of the order or the remaining quantity of reserve

Rule 7.35–E(h)(3)(B) provides that unexecuted orders that were not eligible to trade in the prior trading session (or were received during a halt or pause) or that were received during the Auction Processing Period, will be assigned a new working time at the end of the Auction Processing Period in time sequence relative to one another based on original entry time. The Exchange proposes to amend Rule 7.35–E(h)(3)(B) to remove references to orders received during a halt or pause. As noted above, the Exchange will be reducing the number of orders that would be accepted during a halt or pause. Orders not eligible to participate in a Trading Halt Auction would no longer be resting or accepted during a halt or pause, and therefore, there would no longer be a need to assign a working time for such securities. In addition, orders in Exchange-listed securities that are accepted during a halt or pause are eligible to participate in the Trading Halt Auction, and therefore, the working time for such orders is the original entry time, as provided for in Rule 7.36–E(f)(1). The Exchange believes it is reasonable for new orders received during a halt or pause to be processed as provided for in Rule 7.36–E(f)(1) as this is the default processing for assigning a working time.

The Exchange proposes a non-substantive change to number the stand alone paragraph following Rule 7.35–E(h)(3)(C) as paragraph (D).

Rule 7.38–E (Odd and Mixed Lots)

The Exchange proposes to amend Rule 7.38–E relating to Odd and Mixed Lots. Rule 7.38–E sets forth requirements relating to odd lot and mixed lot trading on the Exchange. Rule 7.38–E(b) further provides that round lot, mixed lot, and odd lot orders are treated in the same manner on the Exchange, provided that the working price of an odd lot order is adjusted both on arrival and when resting on the Exchange Book based on the limit price of the order. Currently, if the limit price of an odd lot order to buy (sell) is at or below (above) the PBO (PBB), the order has a working price equal to the limit price. If the limit price of an odd lot order to buy (sell) is above (below) the PBO (PBB), the order has a working price equal to the PBO (PBB). The rule further provides that if the limit price of an odd lot order to buy (sell) is above (below) the PBO (PBB) and the PBBO is crossed, the order has a working price equal to the PBB (PBO).

interest if it is less than the minimum display quantity).

Under the current rule, although the working price of an odd lot order is adjusted based on the PBBO, the display price of an odd lot order ranked Priority 2—Display Orders is not adjusted based on the PBBO. Additionally, the rule provides that an odd lot order ranked Priority 2—Display Orders will not be assigned a new working time if its working price is adjusted under the rule. If the display price of an odd lot order to buy (sell) is above (below) its working price, the order is ranked and allocated based on its display price. As a result, an odd lot bid or offer can be displayed on the Exchange's proprietary data feeds at a price that appears to cross the PBBO, even if such order would not be eligible to trade at that price.

The Exchange proposes to amend Rule 7.38–E(b) to provide that the display price of an odd lot order would be adjusted whenever the working price is adjusted. To effect this change, the Exchange proposes to amend current Rule 7.38–E(b)(1) to provide that the working and display price of an odd lot order would be adjusted both on arrival and when resting on the NYSE Arca Book. The Exchange further proposes to break current Rule 7.38–E(b)(1) into subparagraphs (A)–(C) so that the rule provides how odd lot orders are ranked and executed under each of the instances provided in the current rule that are described above.

Proposed Rule 7.38–E(b)(1)(A) would provide that if the limit price of an odd lot order to buy (sell) is at or below (above) the PBO (PBB), the order would have a working price and display price equal to the limit price of the order. This proposed rule text does not change any functionality, but rather, provides greater specificity of what the display price would be when the limit price of an odd lot order is not through the PBBO.

Proposed Rule 7.38–E(b)(1)(B) would provide that if the limit price of an odd lot order to buy (sell) is above (below) the PBO (PBB), the order would have a working price and display price equal to the PBO (PBB) unless the order's instruction requires a display price to be different from the PBBO. This proposed rule text represents new functionality that the display price of an odd lot order would be adjusted at the same time as the working price is currently adjusted for such order. This proposed amendment does not change the price at which such odd lot order would be eligible to trade, only the price at which it is displayed on the Exchange's proprietary data feeds. The proposed rule text includes that the display price would be adjusted to the contra-side

PBBO unless the order's instruction requires a display price to be different from the PBBO to account for those order types that, by their terms, do not allow the display price to be equal to a contra-side PBBO. For example, a Non-Routable Limit Order does not have a display price equal to the contra-side PBBO.³² Accordingly, if an odd lot order were to be a Non-Routable Limit Order, pursuant to that order's instructions, it would have a display price different from the contra-side PBBO.

Proposed Rule 7.38–E(b)(1)(C) would address what the display price of an odd lot order would be if the PBBO is locked or crossed. The Exchange proposes to expand the current rule text to include locked markets and add that both the display price and working price would be adjusted to the same-side PBBO if the PBBO is locked or crossed. Accordingly, as proposed, if the limit price of an odd lot order to buy (sell) is above (below) the PBO (PBB) and the PBBO is locked or crossed, the order would have a working price and display price equal to the PBB (PBO). The proposed rule would further provide that the working price and the display price of such odd lot order would not be adjusted again until the PBBO unlocks or uncrosses.

Additionally, the Exchange proposes to delete the last two sentences of current Rule 7.38–E(b)(1) regarding the display price of odd lot orders and their ranking given the changes proposed to the current rule regarding the display price of an odd lot order render this text moot. By deleting this rule text, the general rules governing when a working time is assigned to an order, as specified in Rule 7.36–E(f)(2), would be applicable to odd lot orders.

* * * * *

Because of the technology changes associated with this proposed rule change, the Exchange will announce the implementation date of this proposed rule change by Trader Update. The Exchange anticipates that the implementation date will be in the second quarter of 2019.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act,³³ in general, and furthers the objectives of Section 6(b)(5),³⁴ 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

³² See NYSE Arca Rule 7.31–E(e)(1).

³³ 15 U.S.C. 78f(b).

³⁴ 15 U.S.C. 78f(b)(5).

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 because it would provide additional specificity in the Exchange's rules, streamline order processing when a security is halted or paused, and reduce operational complexity when transitioning to continuous trading.

Rule 7.16–E, Short Sales. The Exchange believes that the proposed processing of sell short Market Orders during a Short Sale Period, as proposed in Rule 7.16–E(f)(5)(C), would remove impediments to and perfect the mechanism of a fair and orderly market because it would standardize the processing of sell short Market Orders for both auctions and continuous trading. As described in Commentary .01(a) to Rule 7.35–E, during a Short Sale Period, sell short Market Orders are currently processed as Limit Orders ranked Priority 2—Display Orders. The Exchange believes that it would remove impediments to and perfect the mechanism of a free and open market and a national market system to extend this functionality to how sell short Market Orders are processed during continuous trading. The Exchange further believes that because Market Orders would be assigned a limit price of one MPV above \$0.00, it would remove impediments to and perfect the mechanism of a free and open market for sell short Market Orders that have been converted to an order ranked Priority 2—Display Orders to continue to be subject to Trading Collars and be cancelled if the Permitted Price is equal to or below the Lower Price Band. The Exchange believes that the proposed changes will provide clarity on the short sale order handling procedures employed by the Exchange so that such orders are handled by the Exchange consistent with Regulation SHO. The Exchange also believes that the proposed functionality related to the processing of short sale orders will assist ETP Holders in executing or displaying their orders consistent with Regulation SHO.

The proposed change to adopt new subparagraph (8) to Rule 7.16–E(f) and to make a related change to Commentary .01(b) to Rule 7.35–E would promote just and equitable principles of trade and remove impediments to, and perfect the mechanism of a free and open market and a national market system because it would streamline order processing by adjusting the working and display price of all short sale orders to a Permitted Price ahead of an auction with any unexecuted portion of that

short sale order remaining at a Permitted Price following the auction for the remainder of the Short Sale Period. The proposal would provide for consistent pricing of all short sale orders during a Short Sale Period, even though certain short sale orders would otherwise be permitted to remain at their previously displayed price pursuant to Rule 7.16–E(f)(6). The Exchange believes that situations where the NBB would cross the price at which an auction is conducted are rare, and therefore the number of sell short orders that could lose an execution opportunity in such circumstances would be de minimis. The proposal is also consistent with the treatment of short sale orders on the Exchange's affiliate.³⁵

Rule 7.18–E, Halts. The proposed change to Rule 7.18–E(b) to cancel certain non-displayed orders in UTP Securities during a halt or pause promotes just and equitable principles of trade and removes impediments to, and perfects the mechanism of a free and open market and a national market system because it would reduce the operational complexity of processing these orders following a halt or pause.

The proposed changes to Rules 7.18–E(c)(1) and (4) to cancel or reject various types of non-displayed orders in Exchange-listed securities during a halt or pause also promotes just and equitable principles of trade and removes impediments to, and perfect the mechanism of, a free and open market and a national market system because none of those orders are eligible to participate in a Trading Halt Auction and would reduce operational complexity when the Exchange transitions to continuous trading and orders are placed on the NYSE Arca Book.

The proposed changes to Rule 7.18–E(c)(1) and (2) to retain Market Orders in Exchange-listed securities during and halt or pause promotes just and equitable principles of trade because it would enable those Market Orders to participate in the Trading Halt Auction. ETP Holders that do not wish that their Market Order participate in a Trading Halt Auction may cancel their order while the security is halted or paused.

The proposed change to Rule 7.18–E(c)(3) to provide that the Exchange would re-price orders resting in the NYSE Arca Book during a halt or pause to their limit price fosters cooperation and coordination with persons engaged in facilitating transactions in securities because it would align the pricing of those orders with price at which they

would be ranked for purposes of the Trading Halt Auction.³⁶

Rule 7.31–E, Orders and Modifiers. The proposed change to Rule 7.31–E(a)(2)(B) to not subject a Limit Order in an Auction-Eligible Security entered during a halt or pause to Limit Order Price Protection removes impediments to, and perfects the mechanism of, a free and open market and a national market system because it is consistent with other provisions of Rule 7.31–E(a)(2)(B) under which an order would not be subject to Limit Order Protection on arrival before they are eligible to trade. The first opportunity such order would have to trade would be a single-priced transaction of a Trading Halt Auction. In such case, the Limit Order would be traded in such auction at the price of the auction and not at the limit price. Accordingly, the Exchange does not believe that Limit Order Price Protection would be necessary for such orders. The proposal would also provide additional specificity in the Exchange's rules because Limit Orders are not eligible to trade during a halt or pause and, therefore, should not be subject to Limit Order Price Protection.

The Exchange also believes the proposed change to Rule 7.31–E(a)(2)(C) would remove impediments to and perfect the mechanism of a free and open market and a national market system by providing specificity regarding when resting orders would be re-priced due to the arrival of a Day ISO. Specifically, as proposed, because any-sized Day ISO would result in a new PBBO, it is not necessary for an arriving Day ISO to result in a round lot or more being displayed as a new BBO before resting orders would be re-priced under Rule 7.31–E(a)(2)(C). The Exchange therefore believes that this proposed change would remove impediments to and perfect the mechanism of a free and open market and a national market system because it would promote the display of orders at their limit price without locking or crossing the PBBO.

Similarly, amending Rule 7.31–E(h)(2)(B) to describe when a resting Primary Pegged Order would be re-priced pursuant to Rule 7.31–E(a)(2)(C) or Rule 7.35–E(h)(3)(A)(ii) removes impediments to, and perfects the mechanism of, a free and open market and a national market system because it does not propose new functionality, but rather, provides additional specificity in the Exchange's rules regarding the operation of Primary Pegged Orders

³⁶ See Rule 7.35–E(a)(6)(A) (Limit Orders, LOO Orders, and LOC orders will be ranked based on their limit price and not the price at which they would participate in the auction).

³⁵ See *supra* note 10.

such that it prevents a resting Primary Pegged Order from being re-priced to peg to a locked or crossed market. This change does not alter the operation of Primary Pegged Orders. Rather, it would further clarify the Exchange's rules regarding when a Primary Pegged Order would be re-priced to avoid pegging to a locked or crossed PBBO.

The additional proposed changes to Primary Pegged Orders remove impediments to and perfects the mechanism of a free and open market and a national market system because prohibiting Primary Pegged Orders from participating in the Closing Auction would streamline order processing in the Closing Auction process. ETP Holders wishing to participate in the Closing Auction may do so through the use of other orders types, such as Limit Orders, which like Primary Pegged Orders, participate in the Closing Auction at their limit price. The Exchange notes that not allowing Primary Pegged Orders in the Closing Auction is similar to the rules of another exchange that prohibits the entry of pegging orders in select auctions.³⁷

Rule 7.34-E, Trading Sessions. The proposed changes to Rule 7.34-E(c) promote just and equitable principles of trade and remove impediments to, and perfect the mechanism of, a free and open market and a national market system because rejecting Non-Displayed Limit Orders, Discretionary Pegged Orders [sic], MPL Orders, Tracking Orders, and RPI Orders entered before the Auction Processing Period for the Early Open Auction concludes would reduce operational complexity when the Exchange transitions to continuous trading. It would also streamline order processing when the Exchange begins continuous trading by reducing the operational complexity of processing these orders following a halt or pause. ETP Holders seeking to enter these order types may do so once the Early Trading Session begins.

Rule 7.35-E, Auctions. The proposed change to Rule 7.35-E(e)(10) to reject on arrival and cancel MOO Orders, LOO Orders, IO Orders, and Primary Pegged Orders when resting on the NYSE Arca

Book during a halt or pause when the Re-Opening Time for a Trading Halt Auction would be in the last 10 minutes of trading before the end of Core Trading Hours removes impediments to, and perfects the mechanism of, a free and open market and a national market system because, as described above, such order types would not be eligible to participate in a Closing Auction.

The proposed changes to Rule 7.35-E(h)(2) would also remove impediments to, and perfect the mechanism of, a free and open market and a national market system because it adds further specificity to the Exchange's rules regarding how order instruction (as defined in Rule 7.35-E(g)) are processed before and after the order transitions to continuous trading. The proposed rule change does not alter the manner in which the Exchange processes order instructions. Rather, the proposal provides additional specificity within the Exchange's rules, thereby removing any ambiguity and avoiding potential investor confusion.

The proposed change to Rule 7.35-E(h)(3)(A)(ii) perfects the mechanism of a free and open market and a national market system because conforms the rule to a recent change to the description of Reserve Orders under Rule 7.31-E(d)(1)(A) to specify that the replenish quantity of a Reserve Order may not be the full display quantity.³⁸

The proposed change to Rule 7.35-E(h)(3)(B) to process orders received during a halt or pause consistent with Rule 7.36-E(f)(1) is consistent with the proposed changes, described above, limiting the orders that are accepted during a halt or pause to those order types that are eligible to participate in a Trading Halt Auction. The Exchange believes that it would remove impediments to and perfect the mechanism of a free and open market and a national market system to apply the default process for assigning a working time to such orders.

The non-substantive changes to Rules 7.18-E and 7.35-E(h)(3) promote just and equitable principles of trade because they are designed to promote clarity and consistency in Exchange rules.

Rule 7.38—Odd and Mixed Lots. The Exchange believes that the proposed processing of odd lot orders would remove impediments to and perfect the mechanism of a fair and orderly market because the proposed change would align the working price and display price of odd lot orders. The proposed change would not alter the price at which an odd lot order would be

eligible to trade, but rather, would provide greater transparency regarding what price an odd lot order would trade by aligning the display price of such order with its working price. The Exchange believes that this proposed rule change would further remove impediments to and perfect the mechanism of a free and open market and a national market system by reducing the potential for an odd lot order to appear on the Exchange's proprietary data feeds as though it is locking or crossing the PBBO. The Exchange further believes the proposed rule change, which proposes to assign a display price that is equal to the working price for odd lot orders, would remove impediments to and perfect the mechanism of a fair and orderly market because it would promote transparency in the ranking and execution of such orders. Additionally, the Exchange believes the proposed change to how the working time of an odd lot order would be adjusted would remove impediments to and perfect the mechanism of a free and open market by aligning the processing of odd lot orders with the standard manner by which the working time is assigned to an order, as provided for in Rule 7.36-E(f)(2).

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 proposed changes to Rules 7.18-E, 7.31-E, 7.34-E and 7.35-E are designed to provide additional specificity to the Exchange's rules, reduce operational complexity during a halt or pause, and streamline order processing when transitioning to continuous trading following an auction. The proposed changes to Rules 7.16-E, 7.31-E, 7.38-E are also designed to provide additional specificity to the Exchange's rules and reduce operational complexity by (i) aligning the display price of an odd lot order with its working price, (ii) converting sell short Market Orders to displayed interest and adjusting the working and display price of short sale orders prior to an auction to the Permitted Price, (iii) clarifying that Primary Pegged Orders would not be re-priced to a locked or crossed PBBO, and (iv) promoting transparency in the ranking and execution of odd lot orders. These proposed changes should, therefore, promote competition by enhancing the Exchange's rules to provide greater specificity to market participants and improving the efficiency of the Exchange's order

³⁷ See BZX Rule 11.23(a)(8)(A)(ii) (precluding Pegged Orders from participating in an IPO Auction). See also Securities Exchange Act Release No. 77476 (March 30, 2016), 81 FR 19661 (April 5, 2016) (SR-BATS-2016-17) (Approval Order) (stating that refining the types of orders processed in an IPO Auction and/or those that would be placed onto the BATS Book following such IPO Auction would simplify and reduce the complexity of the IPO Auction for BATS listed corporate securities). BZX further argued that the proposal would aid in ensuring a robust, but streamlined, IPO Auction process for a newly listed corporate securities. *Id.* at 19662.

³⁸ See *supra* note 30.

handling processes. The non-substantive changes to Rule 7.18–E and subparagraphs (B) and (D) of Rule 7.35–E(h)(3) would have no impact on competition because they do not amend or alter the operation of either rule.

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 Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act³⁹ and Rule 19b–4(f)(6) thereunder.⁴⁰ 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 prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.

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)⁴¹ 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–2019–08 on the subject line.

Paper Comments

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

All submissions should refer to File Number SR–NYSEARCA–2019–08. 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 website (<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 website 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 this filing will also be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEARCA–2019–08, and should be submitted on or before April 3, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁴²

Eduardo A. Aleman,
Deputy Secretary.

[FR Doc. 2019–04555 Filed 3–12–19; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–85267; File No. SR–CboeEDGX–2019–007]

Self-Regulatory Organizations; Cboe EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Bats Auction Mechanism (“BAM”)

March 7, 2019.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”),¹ and Rule 19b–4 thereunder,² notice is hereby given that on March 5, 2019, Cboe EDGX Exchange, Inc. (the “Exchange” or “EDGX”) 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 Exchange. The Exchange filed the proposal as a “non-controversial” proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act³ and Rule 19b–4(f)(6) thereunder.⁴ 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

Cboe EDGX Exchange, Inc. (the “Exchange” or “EDGX”) proposes to amend the Bats Auction Mechanism (“BAM”). The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (http://markets.cboe.com/us/options/regulation/rule_filings/edgx/), at the Exchange's Office of the Secretary, 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.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

³ 15 U.S.C. 78s(b)(3)(A)(iii).

⁴ 17 CFR 240.19b–4(f)(6).

³⁹ 15 U.S.C. 78s(b)(3)(A)(iii).

⁴⁰ 17 CFR 240.19b–4(f)(6).

⁴¹ 15 U.S.C. 78s(b)(2)(B).

⁴² 17 CFR 200.30–3(a)(12).