

The Exchange's proposal would treat BX Participants who submitted unrelated market or marketable interest which rested on the order book *prior* to the commencement of a PRISM Auction in the same manner as other BX Participants who posted liquidity on the order book as they would both be considered makers of liquidity. Further, all Participants who submitted a PRISM Order that executed against the unrelated market or marketable interest that posted to the order book *prior* to the commencement of a PRISM Auction would be uniformly assessed a Taker Fee. The Exchange's proposal would treat BX Participants who submitted PRISM Order that executed against the unrelated market or marketable interest that posted to the order book *prior* to the commencement of a PRISM Auction in the same manner as other BX Participants who removed liquidity from the order book as they would both be considered takers of liquidity.

The Exchange's proposal to state the manner in which the Exchange prices unrelated market or marketable interest received during a PRISM Auction does not impose an undue burden on competition because all BX Participants who submitted unrelated market or marketable interest which rested on the order book during a PRISM Auction would uniformly be assessed the same fees. The Exchange's proposal would treat BX Participants who submitted unrelated market or marketable interest which rested on the order book during a PRISM Auction in the same manner as other BX Participants who submitted PAN responses into the PRISM Auction and were provided with a guaranteed execution and potential price improvement. Further, paying a rebate of \$0.35 per contract for Penny Classes and \$0.70 per contract for Non-Penny Classes only to Customer PRISM Orders that executes against unrelated market or marketable interest received during a PRISM Auction does not impose an undue burden on competition because Customer liquidity is the most sought after liquidity among Participants. Customer liquidity benefits all market participants by providing more trading opportunities, which attracts market makers. An increase in the activity of these market participants in turn facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

No written comments were either solicited or received.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.<sup>21</sup>

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) 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 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](mailto:rule-comments@sec.gov). Please include File Number SR-BX-2023-006 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-BX-2023-006. 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 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. 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-BX-2023-006 and should be submitted on or before April 6, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>22</sup>

**J. Matthew DeLesDernier,**  
*Deputy Secretary.*

[FR Doc. 2023-05336 Filed 3-15-23; 8:45 am]

BILLING CODE 8011-01-P

**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-97106; File No. SR-NYSEARCA-2023-21]

**Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the NYSE Arca Equities Fees and Charges**

March 10, 2023.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on March 1, 2023, 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 the NYSE Arca Equities Fees and Charges ("Fee Schedule") by (i) lowering the credit applicable to Tape B securities for

<sup>22</sup> 17 CFR 200.30-3(a)(12).

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

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

<sup>21</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

Adding Liquidity under Standard Rates; (ii) introducing a new pricing tier, Tier 5, under Adding Tiers; (iii) eliminating the BBO Setter Tier; and (iv) reformatting the tiers under Tape C Tiers for Adding. The Exchange proposes to implement the fee changes effective March 1, 2023. The proposed rule change is available on the Exchange's website at [www.nyse.com](http://www.nyse.com), at the principal office of the Exchange, and at the Commission's Public Reference Room.

## II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

### A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

#### 1. Purpose

The Exchange proposes to amend the Fee Schedule by (i) lowering the credit applicable to Tape B securities for Adding Liquidity under Standard Rates; (ii) introducing a new pricing tier, Tier 5, under Adding Tiers; (iii) eliminating the BBO Setter Tier; and (iv) reformatting the tiers under Tape C Tiers for Adding. The Exchange proposes to implement the fee changes effective March 1, 2023.

#### Background

The Exchange operates in a highly competitive market. The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system "has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies."<sup>3</sup>

<sup>3</sup> See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (File No. S7-10-04) (Final Rule) ("Regulation NMS").

While Regulation NMS has enhanced competition, it has also fostered a "fragmented" market structure where trading in a single stock can occur across multiple trading centers. When multiple trading centers compete for order flow in the same stock, the Commission has recognized that "such competition can lead to the fragmentation of order flow in that stock."<sup>4</sup> Indeed, equity trading is currently dispersed across 16 exchanges,<sup>5</sup> numerous alternative trading systems,<sup>6</sup> and broker-dealer internalizers and wholesalers, all competing for order flow. Based on publicly available information, no single exchange currently has more than 17% market share.<sup>7</sup> Therefore, no exchange possesses significant pricing power in the execution of equity order flow. More specifically, the Exchange currently has less than 10% market share of executed volume of equities trading.<sup>8</sup>

The Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can move order flow, or discontinue or reduce use of certain categories of products. While it is not possible to know a firm's reason for shifting order flow, the Exchange believes that one such reason is because of fee changes at any of the registered exchanges or non-exchange venues to which a firm routes order flow. With respect to non-marketable order flow that would provide liquidity on an Exchange against which market makers can quote, ETP Holders can choose from any one of the 16 currently operating registered exchanges to route such order flow. Accordingly, competitive forces constrain exchange transaction fees that relate to orders that would provide liquidity on an exchange.

#### Proposed Rule Change

##### Adding Liquidity—Tape B

The Exchange proposes to lower the credit applicable for Adding Liquidity in Tape B securities. Under Section III. Standard Rates—Transactions, for

<sup>4</sup> See Securities Exchange Act Release No. 61358, 75 FR 3594, 3597 (January 21, 2010) (File No. S7-02-10) (Concept Release on Equity Market Structure).

<sup>5</sup> See Choe U.S. Equities Market Volume Summary, available at [https://markets.cboe.com/us/equities/market\\_share/](https://markets.cboe.com/us/equities/market_share/).

<sup>6</sup> See FINRA ATS Transparency Data, available at <https://otctransparency.finra.org/otctransparency/AtsIssueData>. A list of alternative trading systems registered with the Commission is available at <https://www.sec.gov/foia/docs/atlist.htm>.

<sup>7</sup> See Choe Global Markets U.S. Equities Market Volume Summary, available at [http://markets.cboe.com/us/equities/market\\_share/](http://markets.cboe.com/us/equities/market_share/).

<sup>8</sup> See *id.*

securities priced at or above \$1.00, the Exchange currently provides ETP Holders a credit of \$0.0020 per share for Adding Liquidity in Tape A, Tape B and Tape C securities. The Exchange proposes to lower the credit for Adding Liquidity in Tape B securities from \$0.0020 per share to \$0.0016 per share. The purpose of adjusting the Tape B credit for Adding Liquidity is for business and competitive reasons. The credit applicable for Adding Liquidity in Tape A and Tape C securities would remain unchanged.

The Exchange believes the proposed new credit would continue to incentivize ETP holders to direct their liquidity-providing orders in Tape B securities to the Exchange. As noted below, the proposed credit would continue to be in line with credits provided by the Exchange's competitors. The Exchange believes that pricing is just one of the factors that ETP Holders consider when determining where to direct their order flow. Among other things, factors such as execution quality, fill rates, and volatility, are important and deterministic to ETP Holders in deciding where to send their order flow. These factors are particularly relevant for trading in Tape B securities for which the Exchange is the primary market.

##### Adding Tiers—Tier 5

The Exchange proposes to introduce a new pricing tier, Tier 5, in the Adding Tiers table under Section VII. Tier Rates—Round Lots and Odd Lots (Per Share Price \$1.00 or Above). As proposed, an ETP Holder could qualify for a credit of \$0.0022 per share for Adding in Tape A and Tape C securities and \$0.0020 per share for Adding in Tape B securities if the ETP Holder has Adding ADV that is equal to at least 0.15% of CADV.

The Exchange believes that the proposed new pricing tier would incentivize ETP Holders to route their liquidity-providing order flow to the Exchange in order to qualify for the tier, which would provide higher credits than those currently available under Standard Rates. This in turn would support the quality of price discovery on the Exchange and provide additional price improvement opportunities for incoming orders. The Exchange believes that by correlating the amount of the fee to the level of orders sent by an ETP Holder that add liquidity, the Exchange's fee structure would incentivize ETP Holders to submit more orders that add liquidity to the Exchange, thereby increasing the potential for price improvement to

incoming marketable orders submitted to the Exchange.

As noted above, the Exchange operates in a competitive environment, particularly as it relates to attracting non-marketable orders, which add liquidity to the Exchange. The Exchange does not know how much order flow ETP Holders choose to route to other exchanges or to off-exchange venues. Based on the profile of liquidity-adding firms generally, the Exchange believes that a number of ETP Holders could qualify for the proposed new pricing tier if they choose to direct their order flow to the Exchange. However, without having a view of ETP Holders' activity on other exchanges and off-exchange venues, the Exchange has no way of knowing whether this proposed rule change would result in any additional ETP Holders directing orders to the Exchange in order to qualify for the new Tier 5 credits.

**BBO Setter Tier**

The Exchange currently provides incremental credits under the BBO Setter Tier pricing tier. Specifically, the Exchange currently provides an incremental credit of \$0.0004 per share

for orders that set a new NYSE Arca BBO in Tape A and Tape C securities and \$0.0002 per share for orders that set a new NYSE Arca BBO in Tape B securities.<sup>9</sup> To qualify for the BBO Setter Tier, ETP Holders must execute Adding ADV per month of at least 0.70% of CADV, and provided that an ETP ID (associated with an ETP Holder) (1) executes Adding ADV per month of at least 0.20% of CADV, (2) sets a new NYSE Arca BBO with at least 0.10% of CADV, and (3) sets a new NYSE Arca BBO of at least 40% of that ETP ID's Adding ADV.<sup>10</sup>

The Exchange proposes to eliminate the BBO Setter Tier pricing tier and footnote (c) associated with the pricing tier and remove it from the Fee Schedule because the pricing tier has been underutilized by ETP Holders.<sup>11</sup> The Exchange has observed that not a single ETP Holder has qualified for the pricing tier proposed for elimination in the last twelve months. Since the BBO Setter Tier pricing tier has not been effective in accomplishing its intended purpose, the Exchange has determined to eliminate the pricing tier from the Fee Schedule.

**Tape C Tiers**

The Exchange currently provides the following credits to ETP Holders that add liquidity in Tape C securities on the Exchange:

- Tier 3 credit of \$0.0030 per share for ETP Holders that have at least 0.20% Adding ADV as a percentage of CADV;
- Tier 2 credit of \$0.0033 per share for ETP Holders that have at least 0.35% Adding ADV as a percentage of CADV; and
- Tier 1 credit of \$0.0034 per share for ETP Holders that have at least 0.40% Adding ADV as a percentage of CADV and a fee of \$0.0029 per share for removing liquidity.

With this proposed rule change, the Exchange proposes to reformat the credits payable under the Tape C Tier for Adding table such that the tier that pays the highest credit would appear at the top of the table followed by the tier that pays the second highest credit, then the tier that pays the lowest credit. With this proposed rule change, the reformatted Tape C Tiers for Adding table would appear on the Fee Schedule as follows:

**TAPE C TIERS FOR ADDING**

Tier	Minimum criteria for tape C adding	Rate
Tier 1 .....	0.40% of CADV .....	(\$0.0034) \$0.0029 fee for Removing Liquidity.
Tier 2 .....	0.35% of CADV .....	(\$0.0033).
Tier 3 .....	0.20% of CADV .....	(\$0.0030).

The Exchange is not proposing any substantive change to the requirements to qualify for Tape C Tiers for Adding pricing tier or the level of the credits payable under Tape C Tiers for Adding pricing tier.

**2. Statutory Basis**

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,<sup>12</sup> in general, and furthers the objectives of Sections 6(b)(4) and (5) of the Act,<sup>13</sup> in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

As discussed above, the Exchange operates in a highly fragmented and

competitive market. The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Specifically, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system “has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.”<sup>14</sup>

The Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can shift order flow, or discontinue or reduce use of certain categories of products, in response to fee changes.

With respect to non-marketable orders that provide liquidity on an Exchange, ETP Holders can choose from any one of the 16 currently operating registered exchanges to route such order flow. Accordingly, competitive forces reasonably constrain exchange transaction fees that relate to orders that would provide displayed liquidity on an exchange. Stated otherwise, changes to exchange transaction fees can have a direct effect on the ability of an exchange to compete for order flow.

Given this competitive environment, the proposal represents a reasonable attempt to attract additional order flow to the Exchange.

**Adding Liquidity—Tape B**

The Exchange believes that its proposal to lower the credit provided for Adding Liquidity in Tape B

<sup>9</sup> See Securities Exchange Act Release No. 83032 (April 11, 2018), 83 FR 16909 (April 17, 2018) (SR-NYSEArca-2018-20).

<sup>10</sup> Footnote (c) under the BBO Setter Tier table provides that the BBO Setter Credit is in addition to the ETP Holder's Tiered or Basic Rate credit(s),

and for Tape B and Tape C, the BBO Setter Credit is in addition to any capped credit.

<sup>11</sup> With the proposed deletion of footnote (c) under the BBO Setter Tier table, the Exchange proposes to renumber current footnotes (d), (e) and (f) under the Retail Tiers table as footnotes (c), (d)

and (e) and renumber current footnotes (g) and (h) under the Tape B Tiers table as footnotes (f) and (g).

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

<sup>13</sup> 15 U.S.C. 78f(b)(4) and (5).

<sup>14</sup> See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005).

securities is reasonable, equitable and not unfairly discriminatory as it would apply uniformly to all similarly situated participants. The Exchange believes the proposed change (a \$0.0004 decrease from the current credit) is reasonable in that it represents a modest decrease from the current credit provided under Standard Rates. The Exchange believes that the proposed credit, albeit lower than the current level, would continue to provide an incentive to ETP Holders to submit liquidity providing order flow in Tape B securities to the Exchange. The Exchange believes that even with the proposed reduced credit in Tape B securities, the Exchange's pricing incentive would remain in line with credits provided by the Exchange's competitors.<sup>15</sup> Additionally, the Exchange believes that its proposal is an equitable allocation of its fees and credits and is not unfairly discriminatory because the Exchange will apply the credit equally to all ETP Holders. All similarly situated participants would be subject to the same credit, and access to the Exchange is offered on terms that are not unfairly discriminatory.

#### Adding Tiers—Tier 5

The Exchange believes that the proposed new Tier 5 pricing tier is reasonable because it is designed to encourage increased trading activity on the Exchange. The Exchange believes it is reasonable to require ETP Holders to meet the applicable volume threshold as it offers liquidity providers an opportunity to receive an enhanced rebate. Further, the proposed new pricing tier is reasonable as it would provide ETP Holders an additional opportunity to qualify for a rebate by meeting lower volume threshold than that required to qualify for the current pricing tiers under Adding Tiers. The Exchange believes that the proposal represents a reasonable effort to promote price improvement and enhanced order execution opportunities for ETP Holders. All ETP Holders would benefit from the greater amounts of liquidity on the Exchange, which would represent a wider range of execution opportunities. The Exchange believes the proposed new Tier 5 pricing tier is a reasonable means to encourage ETP Holders to increase their liquidity providing orders in Tape A, Tape B and Tape C securities.

The Exchange believes that the proposed rule change to introduce the

new pricing tier is equitable and not unfairly discriminatory. The Exchange believes that the proposal does not permit unfair discrimination because the proposed new pricing tier would be available to all similarly situated ETP Holders and all ETP Holders would be subject to the same requirement to qualify for the proposed new credit. Accordingly, no ETP Holder already operating on the Exchange would be disadvantaged by the proposed allocation of fees and credits under the proposal. The Exchange further believes that the proposed fee change would not permit unfair discrimination among ETP Holders because the general and tiered rates are available equally to all ETP Holders. As noted above, the Exchange operates in a highly competitive environment, particularly for attracting order flow that provides liquidity on an exchange. More specifically, the Exchange notes that greater add volume order flow may provide for deeper, more liquid markets and execution opportunities at improved prices, which the Exchange believes would incentivize liquidity providers to submit additional liquidity and enhance execution opportunities.

#### BBO Setter Tier

The Exchange believes that the proposed rule change to eliminate the BBO Setter Tier is reasonable because the pricing tier has been underutilized and has not incentivized ETP Holders to bring liquidity and increase trading on the Exchange. No ETP Holder has availed itself of the pricing tier in the last twelve months. The Exchange does not anticipate any ETP Holder in the near future to qualify for the BBO Setter Tier. The Exchange believes it is reasonable to eliminate requirements and credits, and even entire pricing tiers, when such incentives become underutilized. The Exchange believes eliminating underutilized incentive programs would also simplify the Fee Schedule. The Exchange further believes that removing reference to the pricing tier that the Exchange proposes to eliminate from the Fee Schedule would also add clarity to the Fee Schedule. The Exchange believes that eliminating requirements and credits, and even entire pricing tiers, from the Fee Schedule when such incentives become ineffective is equitable and not unfairly discriminatory because the requirements, and credits, and even entire pricing tiers, would be eliminated in their entirety and would no longer be available to any ETP Holder. All ETP Holders would continue to be subject to the same fee structure, and access to the Exchange's market would continue to be

offered on fair and non-discriminatory terms. The Exchange also believes that the proposed change would protect investors and the public interest because the deletion of the underutilized pricing tier would make the Fee Schedule more accessible and transparent and facilitate market participants' understanding of the fees charged for services currently offered by the Exchange.

#### Tape C Tiers

The Exchange believes that the proposed change to the Tape C Tiers for Adding pricing tier is reasonable and equitable because the proposed changes are non-substantive, and the Exchange is not changing any current fees or credits that apply to trading activity on the Exchange. Further, the changes are designed to make the Fee Schedule easier to read and make it more user-friendly to better display the allocation of fees and credits among Exchange members. The Exchange believes that this proposed format will provide additional transparency of Exchange fees and credits. The Exchange also believes that the proposal is non-discriminatory because it would apply uniformly to all ETP Holders. The Exchange also believes that the proposed change would protect investors and the public interest because the reformatted pricing tier would make the Fee Schedule more accessible and transparent and facilitate market participants' understanding of the rates applicable for services currently offered by the Exchange. Finally, the Exchange believes that the reformatted pricing tier, as proposed herein, will be clearer and less confusing for investors and will eliminate potential investor confusion, thereby removing impediments to and perfecting the mechanism of a free and open market and a national market system, and, in general, protecting investors and the public interest. The Exchange believes that the proposed reformatted pricing tier is equitable and not unfairly discriminatory because the resulting streamlined Fee Schedule would continue to apply to ETP Holders as it does currently because the Exchange is not adopting any new fees or credits or removing any current fees or credits from the Fee Schedule that impact ETP Holders. All ETP Holders would continue to be subject to the same fees and credits that currently apply to them under the current pricing tier.

In the prevailing competitive environment, ETP Holders are free to disfavor the Exchange's pricing if they believe that alternatives offer them

<sup>15</sup> See e.g., Choe BZX U.S. Equities Exchange Fee Schedule, Standard Rates, which provides a credit of \$0.0016 per share in Tape A, Tape B and Tape C securities.

better value. Moreover, this proposed rule change neither targets nor will it have a disparate impact on any particular category of market participant. The Exchange believes that this proposal does not permit unfair discrimination because the changes described in this proposal would be applied uniformly to all similarly situated ETP Holders and all ETP Holders would be subject to the same requirements. Accordingly, no ETP Holder already operating on the Exchange would be disadvantaged by the proposed allocation of fees.

Finally, the submission of orders to the Exchange is optional for ETP Holders in that they could choose whether to submit orders to the Exchange and, if they do, the extent of its activity in this regard. The Exchange believes that it is subject to significant competitive forces, as described below in the Exchange's statement regarding the burden on competition.

For the foregoing reasons, the Exchange believes that the proposal is consistent with the Act.

#### *B. Self-Regulatory Organization's Statement on Burden on Competition*

In accordance with Section 6(b)(8) of the Act,<sup>16</sup> the Exchange believes that the proposed rule change would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Instead, as discussed above, the Exchange believes that the proposed changes would encourage the submission of additional liquidity to a public exchange, thereby promoting market depth, price discovery and transparency and enhancing order execution opportunities for ETP Holders. As a result, the Exchange believes that the proposed change furthers the Commission's goal in adopting Regulation NMS of fostering integrated competition among orders, which promotes "more efficient pricing of individual stocks for all types of orders, large and small."<sup>17</sup>

*Intramarket Competition.* The Exchange believes the proposed amendments to its Fee Schedule would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that the proposed change represents a significant departure from previous pricing offered by the Exchange or its competitors. The proposed changes are designed to attract

additional order flow to the Exchange. In this proposed rule change, the Exchange is adopting a new pricing tier. Thus, the proposed change provides another opportunity for ETP Holders to receive a credit based on their market-improving behavior and is reflective of the highly competitive market in which the Exchange operates. The new pricing tier may attract greater order flow to the Exchange, which would benefit all market participants trading on the Exchange. The proposed reduced credit is reflective of the need to periodically calibrate the criteria required to receive credits. The Exchange has limited resources with which to apply to credits. Given the competitive environment among exchanges and other trading venues, the Exchange must ensure that it is requiring the most beneficial market activity for a credit that is permitted in the competitive landscape for order flow. In this regard, the Exchange notes that other market venues are free to adopt the same or similar credits and incentives as a competitive response to this proposed change. Moreover, if the changes proposed herein are unattractive to market participants, it is likely that the Exchange will lose market share as a result and, conversely, if the proposal is successful at attracting greater volume to the Exchange other market venues are free to make similar changes as a competitive response. Greater overall order flow, trading opportunities, and pricing transparency benefits all market participants on the Exchange by enhancing market quality and continuing to encourage ETP Holders to send orders, thereby contributing towards a robust and well-balanced market ecosystem. The Exchange also does not believe the proposed rule change to eliminate an underutilized pricing tier and reformatting an existing pricing tier will impose any burden on intramarket competition because the proposed change would impact all ETP Holders uniformly. Accordingly, the Exchange does not believe that the proposed changes will impair the ability of ETP Holders or competing order execution venues to maintain their competitive standing in the financial markets.

*Intermarket Competition.* The Exchange operates in a highly competitive market in which market participants can readily choose to send their orders to other exchange and off-exchange venues if they deem fee levels at those other venues to be more favorable. As noted above, the Exchange's market share of intraday trading (*i.e.*, excluding auctions) is

currently less than 10%. In such an environment, the Exchange must continually adjust its fees and rebates to remain competitive with other exchanges and with off-exchange venues. Because competitors are free to modify their own fees and credits in response, and because market participants may readily adjust their order routing practices, the Exchange does not believe its proposed fee change can impose any burden on intermarket competition.

The Exchange believes that the proposed changes could promote competition between the Exchange and other execution venues, including those that currently offer similar order types and comparable transaction pricing, by encouraging additional orders to be sent to the Exchange for execution.

#### *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 foregoing rule change has become effective upon filing pursuant to Section 19(b)(3)(A)<sup>18</sup> of the Act and paragraph (f) thereunder. At any time within 60 days of the filing of the 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.

#### **IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

##### *Electronic Comments*

- Use the Commission's internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-NYSEARCA-2023-21 on the subject line.

##### *Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange

<sup>16</sup> 15 U.S.C. 78f(b)(8).

<sup>17</sup> See Securities Exchange Act Release No. 51808, 70 FR 37495, 37498-99 (June 29, 2005) (S7-10-04) (Final Rule).

<sup>18</sup> 15 U.S.C. 78s(b)(3)(A).

Commission, 100 F Street NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-NYSEARCA-2023-21. 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 the filing also will be available for inspection and copying at the principal offices 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-2023-21, and should be submitted on or before April 6, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>19</sup>

**J. Matthew DeLesDernier,**  
Deputy Secretary.

[FR Doc. 2023-05334 Filed 3-15-23; 8:45 am]

BILLING CODE 8011-01-P

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## SMALL BUSINESS ADMINISTRATION

### Reporting and Recordkeeping Requirements Under OMB Review

**AGENCY:** Small Business Administration.  
**ACTION:** 30-Day notice.

**SUMMARY:** The Small Business Administration (SBA) is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act and OMB procedures,

SBA is publishing this notice to allow all interested member of the public an additional 30 days to provide comments on the proposed collection of information.

**DATES:** Submit comments on or before April 17, 2023.

**ADDRESSES:** Written comments and recommendations for this information collection request should be sent within 30 days of publication of this notice to [www.reginfo.gov/public/do/PRAMain](http://www.reginfo.gov/public/do/PRAMain). Find this particular information collection request by selecting "Small Business Administration"; "Currently Under Review," then select the "Only Show ICR for Public Comment" checkbox. This information collection can be identified by title and/or OMB Control Number.

**FOR FURTHER INFORMATION CONTACT:** You may obtain a copy of the information collection and supporting documents from the Agency Clearance Office at [Curtis.Rich@sba.gov](mailto:Curtis.Rich@sba.gov); (202) 205-7030, or from [www.reginfo.gov/public/do/PRAMain](http://www.reginfo.gov/public/do/PRAMain).

**SUPPLEMENTARY INFORMATION:** This information collection will facilitate registration for the new e-learning and networking platform for women entrepreneurs interested in accessing resources to support growing an existing business. This information collection will enable the Agency to track customer use of the platform and its resources. By collecting basic demographic information and data on the registrant's entrepreneurial goals, the SBA will better understand who is using the platform and their business goals, and can develop a platform that would enable the user to tailor delivery of content to meet their needs. This data collection will also facilitate user connectivity to relevant resources (peer-to-peer learning, networking, mentoring, etc.). Information collected will be used for determining the scope of user participation on the platform, as well as user satisfaction with platform content.

### Solicitation of Public Comments

Comments may be submitted on (a) whether the collection of information is necessary for the agency to properly perform its functions; (b) whether the burden estimates are accurate; (c) whether there are ways to minimize the burden, including through the use of automated techniques or other forms of information technology; and (d) whether there are ways to enhance the quality, utility, and clarity of the information.

*OMB Control:* 3245-0399.

*Title:* Women's Digitalization (Entrepreneur Learning) Initiative Registration.

*Description of Respondents:* To aid, counsel, assist, and protect the interests of small business concerns to preserve free competitive enterprise.

*Estimated Number of Respondents:* 500,000.

*Estimated Annual Responses:* 500,000.

*Estimated Annual Hour Burden:* 6,667.

**Curtis Rich,**

Agency Clearance Officer.

[FR Doc. 2023-05374 Filed 3-15-23; 8:45 am]

BILLING CODE 8026-09-P

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## DEPARTMENT OF STATE

[Public Notice 12011]

### Notice of Determinations; Culturally Significant Objects Being Imported for Exhibition—Determinations: "Pacita Abad" Exhibition

**SUMMARY:** Notice is hereby given of the following determinations: I hereby determine that certain objects being imported from abroad pursuant to agreements with their foreign owners or custodians for temporary display in the exhibition "Pacita Abad" at the Walker Art Center, Minneapolis, Minnesota; the San Francisco Museum of Modern Art, San Francisco, California; MoMA PS1, New York, New York; and at possible additional exhibitions or venues yet to be determined, are of cultural significance, and, further, that their temporary exhibition or display within the United States as aforementioned is in the national interest. I have ordered that Public Notice of these determinations be published in the **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:** Elliot Chiu, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202-632-6471; email: [section2459@state.gov](mailto:section2459@state.gov)). The mailing address is U.S. Department of State, L/PD, 2200 C Street NW (SA-5), Suite 5H03, Washington, DC 20522-0505.

**SUPPLEMENTARY INFORMATION:** The foregoing determinations were made pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), E.O. 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236-3 of August 28,

<sup>19</sup> 17 CFR 200.30-3(a)(12).