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 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–NYSE–2024–35 and should be submitted on or before July 30, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[25]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2024–15037 Filed 7–8–24; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–100456; File No. SR–NYSEARCA–2024–57]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the NYSE Arca Options Fee Schedule

July 2, 2024.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on June 17, 2024, NYSE Arca, Inc. (''NYSE Arca'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange proposes to amend the NYSE Arca Options Fee Schedule (''Fee Schedule'') to modify the Customer Take Fee Discount Tiers. The Exchange proposes to implement the fee change effective June 17, 2024.[4] 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.

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 purpose of this filing is to amend the Fee Schedule to modify the Customer Take Fee Discount Tiers. The Exchange proposes to implement the rule change on June 17, 2024.

Background

The Exchange first notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or incentives to be insufficient. 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.''[5]

There are currently 17 registered options exchanges competing for order flow. Based on publicly-available information, and excluding index-based options, no single exchange has more than 16% of the market share of executed volume of multiply-listed equity and ETF options trades.[6] Therefore, currently no exchange possesses significant pricing power in the execution of multiply-listed equity & ETF options order flow. More specifically, in April of 2024, the Exchange had 13.71% market share of executed volume of multiply-listed equity & ETF options trades.[7] Thus, in such a low-concentrated and highly competitive market, no single options exchange possesses significant pricing power in the execution of option order flow.

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 use of certain categories of products, in response to fee changes. Accordingly, competitive forces constrain the Exchange's transaction fees (and credits), and market participants can readily trade on competing venues if they deem pricing levels at those other venues to be more favorable. In response to the competitive environment, the Exchange offers specific rates and credits in its Fees Schedule, as do other competing options exchanges, which the Exchange believes provide incentive to OTP Holder and OTP Firms (collectively, ''OTP Holders'') to increase order flow of certain qualifying orders.

Proposal

In response to these competitive forces, the Exchange has established various pricing incentives designed to encourage increased volume executed on the Exchange, including volume that

[25] 17 CFR 200.30–3(a)(12).

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

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

[3] 17 CFR 240.19b–4.

[4] On June 3, 2024, the Exchange originally filed to amend the Fee Schedule (NYSEARCA–2024–51) and, on June 14, 2024, the Exchange withdrew that filing and submitted NYSEARCA–2024–56. On June 17, 2024, the Exchange withdrew NYSEARCA–2024–56.

[5] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (S7–10–04) (''Reg NMS Adopting Release'').

[6] The OCC publishes options and futures volume in a variety of formats, including daily and monthly volume by exchange, available here*: https://www.theocc.com/Market-Data/Market-Data-Reports/Volume-and-Open-Interest/Monthly-Weekly-Volume-Statistics*.

[7] Based on a compilation of OCC data for monthly volume of equity-based options and monthly volume of equity-based ETF options, *see id.,* the Exchanges market share in equity-based options increased from 12.54% for the month of April 2023 to 13.71% for the month of April 2024.

removes or ''takes'' liquidity on the Exchange (also known as ''liquidity taking'' or ''liquidity removing'' volume). Currently, if an OTP Holder executes a ''liquidity taking'' transaction, the OTP Holder is charged a ''Take Liquidity'' fee (referred to herein as a ''Take Fee'', or collectively, as ''Take Fees'').''[8] Currently, Customer executions in Penny and non-Penny issues are subject to Take Fees of $0.49 and $0.85, respectively.[9] To offset such Take Fees and encourage market participants to direct order flow to the Exchange, the Exchange offers Take Fee discounts to some market participants for executions in Penny and non-Penny issues.[10] Last year, in September 2023, the Exchange introduced the Customer Take Fee Discount Tiers (the ''Take Fee Discount(s)''), which provides tiered per contract discounts on Customer Take Fees (in both Penny and non-Penny issues) based on an OTP Holder's achievement of certain volume qualifications in average electronic executions per day.[11] Now that the Take Fee Discounts have been in place for approximately nine months, the Exchange is proposing certain modifications.

Specifically, the Exchange proposes to modify the volume qualifications for Tiers 1 and 2 of the Take Fee Discounts (without changing the per contract discount) and to delete entirely the Tier 3 Take Fee Discount of the Program.

The proposed changes to the Take Fee Discounts are as follows (with new text shown in italics and to be deleted text shown in brackets):

Tier	Take fee discount qualification for Penny and Non-Penny Issues	Discount amount
Tier 1	At least [0.20%]*0.40%* of TCADV from Customer liquidity removing interest in all issues	$0.01
Tier 2	At least [0.40%]*0.60%* of TCADV from Customer liquidity removing interest in all issues, and 1% of TCADV from Customer posted interest in all issues.	0.02
[Tier 3]	[At least 0.60% of TCADV from Customer liquidity removing interest in all issues, and 1.50% of TCADV from Customer posted interest in all issues].	[0.03]

Professional Customer orders are not included in the above qualifications or in discount-eligible volume. OTP Holders and OTP Firms may earn only the highest discount for which they qualify.

As proposed, Tier 1 would continue to offer a $0.01 discount on Customer Take Fees if an OTP Holder achieves at least 0.40% of TCADV (up from 0.20%) in Customer liquidity removing interest in all issues and Tier 2 would continue to offer a $0.02 discount on Customer Take Fees if an OTP Holder achieves at least 0.60% of TCADV (up from 0.40%) in Customer liquidity removing interest in all issues and 1% of TCADV from Customer posting in all issues, which 1% threshold is not being modified. Further, the Exchange is proposing to remove entirely Tier 3, which currently offers a $0.03 discount on Customer Take Fees when an OTP Holder achieves at least 0.60% of TCADV from Customer liquidity removing interest in all issues and 1.50% of TCADV from Customer posting in all issues. The Exchange therefore believes that the proposed modifications to Tiers 1 and 2, coupled with the removal of Tier 3, would strike the right balance between setting the thresholds for the Take Fee Discounts at levels that are achievable, while ensuring that the overall Take Fee rates remain competitive with other options exchanges.[12]

As is the case today, the Take Fee Discounts only apply to Customer orders, and the qualifications for the discounts are based only on activity in the Customer range; activity in the Professional Customer range is not included in the qualifications and is not eligible to receive any of the proposed discounts, as Professional Customer orders are already eligible for other discounts on Take Fees.[13] Further, as is the case today, OTP Holders may earn only the highest discount for which they qualify.

Although the Exchange cannot predict with certainty whether any OTP Holders would seek to qualify for the Take Fee Discounts, the Exchange believes that the proposed change would continue to encourage OTP Holders to direct interest—particularly Customer liquidity removing interest—to the Exchange to earn the proposed discounts on Take Fees. To the extent that the proposed Program, as modified, continues to attract Customer order flow, including liquidity taking volume, the Exchange believes all market participants stand to benefit from increased order flow, which promotes market depth, facilitates tighter spreads and enhances price discovery. Such increased liquidity would result in enhanced market quality for all participants.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[14] in general, and furthers the objectives of Sections 6(b)(4) and (5) of the Act,[15] 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.

The Exchange believes that the proposed change to the Take Fee Discounts is reasonable, equitable, and not unfairly discriminatory. As noted above, the Exchange operates in highly competitive market. The Exchange is only one of several options venues to which market participants may direct their order flow, and it represents a small percentage of the overall market. As such, market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or incentives to be insufficient. The Exchange believes that the proposed fee change is reasonable, equitable, and not unfairly discriminatory in that the Exchange and competing options exchanges currently offer similar discounts.

The Exchange believes that the proposed Take Fee Discounts would continue to incent OTP Holders to increase the amount of Customer interest sent to the Exchange, especially liquidity removing interest, which

[8] *See* Fee Schedule, NYSE Arca OPTIONS: TRADE–RELATED CHARGES FOR STANDARD OPTIONS, TRANSACTION FEE FOR ELECTRONIC EXECUTIONS—PER CONTRACT.

[9] *See id.*

[10] *See, e.g.,* Fee Schedule, DISCOUNT IN TAKE LIQUIDITY FEES FOR PROFESSIONAL CUSTOMER AND NON-CUSTOMER LIQUIDITY REMOVING INTEREST.

[11] *See* Securities Exchange Act Release No. 98422 (September 18, 2023), 88 FR 65415 (September 22, 2023) (immediately effective fee filing to adopt the Customer Take Fee Discount Tiers) (SR–SR–NYSEARCA–2023–62).

[12] *See* notes 16–17, *infra.*

[13] *See* note 10, *supra.*

[14] 15 U.S.C. 78f(b).

[15] 15 U.S.C. 78f(b)(4) and (5).

benefits all market participants by providing more trading opportunities, thereby making the Exchange a more attractive execution venue. The Exchange further believes that the proposed qualifications for the Take Fee Discounts are attainable for OTP Holders based on recent volumes and that the proposed amounts of the discounts are reasonable, as the Exchange's rates for Customer liquidity removing interest would remain in range of and competitive with the rates assessed by other options exchanges.[16] In particular, the Exchange believes that the proposed modifications to Tiers 1 and 2, coupled with the removal of Tier 3, would strike the right balance between setting the thresholds for the Take Fee Discounts at levels that are achievable, while ensuring that the overall Take Fee rates remain competitive.

To the extent the proposed rule change attracts greater volume and liquidity by encouraging OTP Holders to increase their options volume on the Exchange, the Exchange believes the proposed change would improve the Exchange's overall competitiveness and strengthen its market quality for all market participants. In the backdrop of the competitive environment in which the Exchange operates, the proposed rule change is a reasonable attempt by the Exchange to increase the depth of its market and improve its market share relative to its competitors.[17]

The Proposed Rule Change is an Equitable Allocation of Credits and Fees

The Exchange believes the proposed rule change is an equitable allocation of its fees and credits. The proposal is based on the amount and type of business transacted on the Exchange, and OTP Holders can attempt to qualify for the discounts or not. Moreover, the proposal is designed to incent OTP Holders to continue to direct Customer liquidity removing interest to the Exchange and to aggregate all liquidity removing interest at the Exchange as a primary execution venue. To the extent that the proposed change attracts more opportunities for execution of Customer interest on the Exchange, this increased order flow would continue to make the Exchange a more competitive venue for order execution. Thus, the Exchange believes the proposed rule change would improve market quality for all market participants on the Exchange and, as a consequence, attract more order flow to the Exchange thereby improving market-wide quality and price discovery.

The Exchange also believes the proposed Take Fee Discounts are not unfairly discriminatory because they would be available to all similarly-situated market participants on an equal and non-discriminatory basis. The Exchange also believes that the proposed change is not unfairly discriminatory to Professional Customers and non-Customers, as those market participants are already afforded discounts on Take Fees under the current Fee Schedule.[18]

The proposal is based on the amount and type of business transacted on the Exchange, and OTP Holders are not obligated to try to achieve the proposed qualifications to earn the Take Fee Discounts, nor are they obligated to direct liquidity removing interest or posted interest to the Exchange. To the extent that the proposed change attracts more interest, including liquidity removing interest, to the Exchange, this increased order flow would continue to make the Exchange a more competitive venue for order execution. Thus, the Exchange believes the proposed rule change would improve market quality for all market participants on the Exchange and, in turn, attract more order flow to the Exchange thereby improving market-wide quality and price discovery. The resulting increased volume and liquidity would provide more trading opportunities and tighter spreads to all market participants and thus would promote just and equitable principles of trade, 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.

Finally, the Exchange believes that it is subject to significant competitive forces, as described below in the Exchange's statement regarding the burden on competition.

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

In accordance with Section 6(b)(8) of the Act, the Exchange does not believe that the proposed rule change would 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 change 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 all market participants. 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." [19]

Intramarket Competition. The proposed change is designed to attract additional order flow to the Exchange, including both liquidity removing interest and posting interest. The Exchange believes that the proposed change would incent OTP Holders to continue to direct their liquidity removing order flow to the Exchange. Greater liquidity benefits all market participants on the Exchange and increased liquidity removing order flow would increase opportunities for execution of other trading interest. The proposed modifications would be available to all similarly-situated market participants and, as such, the proposed change would not impose a disparate burden on competition among market participants on the Exchange.

Intermarket Competition. The Exchange operates in a highly competitive market in which market participants can readily favor one of the 16 competing option exchanges if they deem fee levels at a particular venue to be excessive. In such an environment, the Exchange must continually adjust its fees to remain competitive with other exchanges and to attract order flow to the Exchange. Based on publicly-available information, and excluding index-based options, no single exchange has more than 16% of the market share of executed volume of multiply-listed

[16] *See, e.g.,* Nasdaq Stock Market, Options 7, Pricing Schedule, available at: *https://listingcenter.nasdaq.com/rulebook/nasdaq/rules/nasdaq-options-7* (providing for rates of $0.49 for Customer liquidity removing interest in Penny issues and rate of $0.85 for Customer liquidity removing interest in non-Penny issues); MEMX Options Fee Schedule, Transaction Fees, available here: *https://info.memxtrading.com/us-options-trading-resources/us-options-fee-schedule/* (providing for rates of $0.46 for Customer liquidity removing interest in Penny issues and rate of $0.85 for Customer liquidity removing interest in non-Penny issues); and Cboe BZX Options, Fee Schedule, Standard Rates, available at: *https://www.cboe.com/us/options/membership/fee_schedule/bzx/* (providing for rates of $0.45 for Customer liquidity removing interest in Penny issues and rate of $0.85 for Customer liquidity removing interest in non-Penny issues). Currently, Customer executions in Penny and non-Penny issues are subject to per contract Take Fees of $0.49 and $0.85, respectively. As proposed, an OTP Holder that achieves Tier 1 or Tier 2 would pay $0.48 or $0.47, respectively, for Penny issues and $0.84 or $0.83, respectively, for non-Penny issues, which is comparable to rates available on other options exchanges.

[17] *See id.*

[18] *See* note 10, *supra.*

[19] *See* Reg NMS Adopting Release, *supra* note 5, at 37499.

equity and ETF options trades.[20] Therefore, currently no exchange possesses significant pricing power in the execution of multiply-listed equity and ETF options order flow. More specifically, in April 2024, the Exchange had 13.71% market share of executed volume of multiply-listed equity and ETF options trades.[21]

The Exchange believes that the proposed rule change reflects this competitive environment because it modifies the Exchange's fees in a manner designed to incent OTP Holders to direct trading to the Exchange, to provide liquidity and to attract order flow. To the extent that this purpose is achieved, all the Exchange's market participants should benefit from the improved market quality and increased opportunities for price improvement.

The Exchange believes that the proposed change could promote competition between the Exchange and other execution venues, including options exchanges that offer comparable rates for Customer liquidity removing interest,[22] 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 is effective upon filing pursuant to Section 19(b)(3)(A) [23] of the Act and subparagraph (f)(2) of Rule 19b–4 [24] thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) [25] 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 (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include file number SR–NYSEARCA–2024–57 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–2024–57. 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 (*https://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 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–NYSEARCA–2024–57 and should be submitted on or before July 30, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[26]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2024–14972 Filed 7–8–24; 8:45 am]

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[20] The OCC publishes options and futures volume in a variety of formats, including daily and monthly volume by exchange, available here: *https://www.theocc.com/Market-Data/Market-Data-Reports/Volume-and-Open-Interest/Monthly-Weekly-Volume-Statistics.*

[21] Based on a compilation of OCC data for monthly volume of equity-based options and monthly volume of equity-based ETF options, see id., the Exchanges market share in equity-based options increased from 12.54% for the month of April 2023 to 13.71% for the month of April 2024.

[22] *See* notes 16–17, *supra.*

[23] 15 U.S.C. 78s(b)(3)(A).

[24] 17 CFR 240.19b–4(f)(2).

[25] 15 U.S.C. 78s(b)(2)(B).

[26] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–100455; File No. SR–OCC–2024–006]

Self-Regulatory Organizations; The Options Clearing Corporation; Order Approving Proposed Rule Change by The Options Clearing Corporation Concerning Amendments to Its Rules and Comprehensive Stress Testing & Clearing Fund Methodology, and Liquidity Risk Management Description

July 2, 2024.

I. Introduction

On May 2, 2024, The Options Clearing Corporation (''OCC'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] a proposed rule change (the ''Proposed Rule Change'') to amend its Comprehensive Stress Testing & Clearing Fund Methodology, and Liquidity Risk Management Description (''Methodology Description'') to incorporate additional stress scenarios into OCC's financial resource sufficiency monitoring and its Rules to clarify OCC's practice of collecting additional collateral from its members based on such monitoring. The Proposed Rule Change was published for comment in the **Federal Register** on May 21, 2024.[3] The Commission has not received any comments on the Proposed Rule Change. For the reasons discussed below, the Commission is approving the Proposed Rule Change.

II. Description of the Proposed Rule Change

As a clearing agency, OCC faces a number of risks including credit and

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

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 100147 (May 15, 2024), 89 FR 44752 (May 21, 2024) (File No. SR–OCC–2024–006) (''Notice'').