general, to protect investors and the public interest.

The Commission believes that the proposed changes to the Collar Price Range definition are consistent with Section 6(b)(5) of the Act. The Exchange notes that (1) this proposed change provides greater transparency and certainty in Exchange Auctions by reducing the possibility that an auction would occur at a price that would qualify as clearly erroneous and cancelled under the Exchange's rules and (2) by narrowing the Collar Price Range, the proposed rule change will help limit the volatility in auction prices. The Commission notes that the proposed changes to the definition of the Collar Price Range are based on the numerical guidelines for clearly erroneous executions under BATS Rule 11.17(c)(1). For these reasons, the Commission believes that the proposed changes to the Collar Price Range definition are consistent with the Act.

The Commission believes that the proposed changes to how the Exchange determines the auction price are consistent with Section 6(b)(5) of the Act. The Exchanges notes that the proposed changes regarding when the Exchange will use a default price would aid in price discovery and help to prevent erroneous executions by ensuring that a single limit order on one side of an auction that might not participate in the Exchange Auction cannot on its own determine the auction price. In addition, the Exchange notes that revisions to the default price for Opening Auctions and Closing Auctions would also aid in price discovery and help to reduce the likelihood of executions in auctions occurring at prices out of line with existing market conditions. For these reasons, the Commission believes that these proposed changes are consistent with the Act.

The Commission also believes that the proposal to disseminate only the lesser of the Reference Buy Shares and the Reference Sell Shares in auction information messages for IPO and Halt Auctions is consistent with Section 6(b)(5) of the Act. The Exchange has represented that this proposal is designed to prevent market participants from possibly gaming an IPO or Halt Auction, as it would hinder a market participant from being able to discern the exact amount of liquidity available at a given price level on both sides of the IPO or Halt Auction Book. In this way, the Exchange believes that the proposal should make it more difficult for a market participant to use auction information to manipulate an IPO or Halt auction. For this reason, the Commission believes that the proposed rule change is consistent with the Act.

Finally, the Commission believes that the proposed change to provide that any unexecuted portion of a market RHO order is immediately cancelled following any Exchange Auction in which it was eligible to participate should clarify the operation of market RHO Auction Orders, as noted by the Exchange. As such, the Commission believes this proposed change is also consistent with the Exchange Act.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[25] that the proposed rule change (SR–BATS–2012–046) be, and hereby is, approved.

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

Kevin M. O'Neil,

Deputy Secretary.

[FR Doc. 2013–02556 Filed 2–5–13; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–68776; File No. SR–NYSEArca–2013–05]

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

January 31, 2013.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the ''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on January 22, 2013, NYSE Arca, Inc. (the ''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange proposes to amend the NYSE Arca Options Fee Schedule (''Fee Schedule'') to change the monthly cost for Option Trading Permits (''OTPs''). The text of the proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

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

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

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

1. Purpose

The Exchange proposes to amend its Fee Schedule to change the monthly cost for OTPs. The Exchange proposes to make the change operative on February 1, 2013.

The Exchange requires that a Market Maker have an OTP in order to operate on the Exchange. For electronic Market Making, a Market Maker must have four OTPs in order to submit electronic quotations in every class on the Exchange. These four Market Maker OTPs also permit the firm to have at least one trader on the Floor of the Exchange as a Floor-based open outcry Market Maker. However, the manner in which those OTPs are assigned to individual traders may reduce the permissible number of issues in which electronic quotes are assigned. For instance, two associated Market Makers may assign OTP 1, 2, and 3 to trader A, while the fourth is assigned to trader B. Trader A may now only stream quotes electronically in 750 issues, while trader B may submit quotes electronically in 100 issues. To retain the appointment in more than 750 issues, all four OTPs must be in the same name, and to have an additional individual Market Maker on the Floor, a fifth OTP must be acquired.

To remain competitive in fixed fees among exchanges with trading floors, the Exchange is proposing to reduce the cost of additional Market Maker OTPs beyond the minimum of four that are required to submit electronic quotations

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

[26] 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.

in all issues listed on the Exchange. Accordingly, while the existing fee of $4,000 per OTP per month would continue to apply to a Market Maker firm that has between one and four Market Maker OTPs, the Exchange proposes that the monthly OTP fee for Market Maker firms with more than four OTPs be reduced from $2,000 per month to $1,000 per month for each additional Market Maker OTP. As described above, each additional Market Maker OTP would permit a Market Maker firm, which already has the ability to make electronic markets in every class on the Exchange, to have an additional trader on the Floor of the Exchange as an open outcry Market Maker.

The proposed changes are not otherwise intended to address any other problem, and the Exchange is not aware of any significant problem that the affected market participants would have in complying with the proposed changes.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[4] in general, and Section 6(b)(4) of the Act,[5] in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among its members and other persons using its facilities. The Exchange believes that the proposed rule change is reasonable because it will result in cost savings for members with more than four Market Marker OTPs. Lowering the cost for Market Maker firms to acquire additional OTPs related to their Market Maker activity may allow them to price their services at a level that will enable them to attract higher levels of volume to the Exchange, which will enhance liquidity and price discovery on the Exchange to the benefit of investors. The Exchange believes that the proposal constitutes an equitable allocation of fees, as all similarly situated member organizations will be subject to the same reduced fee structure and access to the Exchange's market is offered on fair and non-discriminatory terms. In addition, for the reasons stated above, the proposed changes are not designed to permit unfair discrimination between members because all members will be charged the same fee amount for each additional Market Maker OTP beyond the initial four OTPs.

Finally, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues. In such an environment, the Exchange must continually review, and consider adjusting, its fees and credits to remain competitive with other exchanges. For the reasons described above, the Exchange believes that the proposed rule change reflects this competitive environment.

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 rule change will reduce each additional Market Maker OTP to $1,000 from $2,000, resulting in a cost savings to members who already have more than four Market Marker OTPs. In addition, the proposal will reduce a potential cost-based barrier for firms that do not have more than four Market Maker OTPs as their costs for any additional Market Maker OTPs will be reduced by one-half. As a result, the Exchange does not believe that the proposed rule change will place an unreasonable burden on current or prospective members because fees for additional Market Maker OTPs beyond four will be uniformly reduced across all members (current and prospective) and apply in a non-discriminatory manner.

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)[6] of the Act and subparagraph (f)(2) of Rule 19b–4[7] thereunder, because it establishes a due, fee, or other charge imposed by NYSE Arca.

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)[8] 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–2013–05 on the subject line.

Paper Comments

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

All submissions should refer to File Number SR–NYSEArca–2013–05. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEArca–2013–05, and should be

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

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

[6] 15 U.S.C. 78s(b)(3)(A).

[7] 17 CFR 240.19b–4(f)(2).

[8] 15 U.S.C. 78s(b)(2)(B).

submitted on or before February 27, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[9]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–02555 Filed 2–5–13; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–68781; File No. SR–BOX–2013–03]

Self-Regulatory Organizations; BOX Options Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposal To Amend Rule 5050(c) to Permit the Exchange to List Additional Strike Prices Until the Close of Trading on the Second Business Day Prior to Monthly Expiration in Unusual Market Conditions

January 31, 2013.

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 January 18, 2013, BOX Options Exchange LLC (the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II 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 BOX Rule 5050(c) to permit the Exchange to list additional strike prices until the close of trading on the second business day prior to monthly expiration in the event of unusual market conditions. The text of the proposed rule change is available from the principal office of the Exchange, at the Commission's Public Reference Room and also on the Exchange's Internet Web site at *http://boxexchange.com.*

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.

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 BOX Rule 5050(c) to permit the Exchange to list additional strike prices until the close of trading on the second business day prior to monthly expiration in the event of unusual market conditions. This is a competitive filing that is based on proposals recently submitted by NYSE MKT LLC (''MKT''),[3] NYSE Arca, Inc. (''Arca''),[4] the International Securities Exchange, LLC (''ISE''),[5] and the Chicago Board Options Exchange, Inc. (''CBOE'').[6]

BOX Rule 5050 currently permits the Exchange to open additional series of options on individual stocks and exchange-traded funds (ETFs) until the beginning of the month in which the option expires or until five business days prior to expiration if unusual market conditions exist.[7] Options market participants generally prefer to focus their trading in strike prices that immediately surround the price of the underlying security. However, if the price of the underlying stock moves significantly, there may be a market need for additional strike prices to adequately account for market participants risk management needs in a stock. In these situations, the Exchange has the ability to add additional series at strike prices that are better tailored to the risk management needs of market participants.[8] The Exchange may make the determination to open additional series for trading when the Exchange deems it necessary to maintain an orderly market, to meet customer demand, or when certain price movements take place in the underlying market.[9] If the market need occurs prior to five business days prior to expiration, then the market participants may have access to an option contract that is more tailored to the movement in the underlying stock.[10] However, if the market need to manage risk due to unusual market conditions comes to light anytime from five to two days prior to expiration, then market participants are left without a contract that is tailored to manage their risk.[11]

The Exchange proposes to permit the listing of additional strikes until the close of trading on the second business day prior to expiration in unusual market conditions. Since expiration of the monthly contract is on a Saturday, the close of trading on the second business day will typically fall on a Thursday. However, in the cases where Friday is a holiday during which the Exchange is closed, the close of trading on the second business day will occur on a Wednesday. The Exchange will continue to make the determination to open additional series for trading when the Exchange deems it necessary to maintain an orderly market, to meet customer demand, or when certain price movements take place in the underlying market. The proposed change will provide an additional four days to the Exchange to gauge market impact of the underlying stock and to react to any market conditions that would render additional series prior to expiration beneficial to market participants. The Exchange believes that the impact on the market from the proposed change will be very minimal for market participants, however it will be extremely beneficial in that minority of situations where unusual market conditions dictate immediately prior to expiration. The proposal would simply allow participants to adjust their risk exposure in narrow situations when an unusual market event occurred on trading days 2, 3, 4, 5 prior to expiration.

This proposal does not raise any capacity concerns on the Exchange, because the changes have no material

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[9] 17 CFR 200.30–3(a)(12).

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

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 68460 (December 18, 2012), 77 FR 76145 (December 26, 2012) (Order Approving SR- NYSEMKT–2012–41).

[4] *See* Securities Exchange Act Release No. 68461 (December 18, 2012), 77 FR 76155 (December 26, 2012) (Order Approving SR- NYSEARCA–2012–94).

[5] *See* Securities Exchange Act Release No.68491 (December 20, 2012), 77 FR 76334 (December 27, 2012) (SR–ISE–2012–101) (Notice of Filing and Immediate Effectiveness).

[6] *See* Securities Exchange Act Release No.68606 (January 9, 2013) (SR–CBOE–2012–131), 78 FR 3065 (January 15, 2013) (Notice of Filing and Immediate Effectiveness).

[7] *See* BOX Rule 5050(c). 'Until the fifth business day prior' generally means up through the end of the day on the Friday of the week prior to expiration week.

[8] *See* BOX Rule 5050.

[9] *See* BOX Rule 5050(c).

[10] *Id.*

[11] While these situations are relatively rare, the Exchange represents that approximately two times a month there is a legitimate need to add additional strikes closer to expiration than the five business day limitation permits, due to it being necessary to maintain an orderly market, to meet customer demand, or when certain price movements take place in the underlying market.