

*Comment deadlines.* Comments by interested persons are due on or before February 2, 2017. Reply comments are due on or before February 13, 2017. The Commission, upon completion of its review of the FY 2016 ACR, comments, and other data and information submitted in this proceeding, will issue its ACD.

*Public Representative.* James Waclawski is designated to serve as the Public Representative to represent the interests of the general public in this proceeding. Neither the Public Representative nor any additional persons assigned to assist him shall participate in or advise as to any Commission decision in this proceeding other than in their designated capacity.

#### IV. Ordering Paragraphs

*It is ordered:*

1. The Commission establishes Docket No. ACR2016 to consider matters raised by the United States Postal Service's FY 2016 Annual Compliance Report.

2. Pursuant to 39 U.S.C. 505, the Commission appoints James Waclawski as an officer of the Commission (Public Representative) in this proceeding to represent the interests of the general public.

3. Comments on the United States Postal Service's FY 2016 Annual Compliance Report to the Commission are due on or before February 2, 2017.

4. Reply comments are due on or before February 13, 2017.

5. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Stacy L. Ruble,  
Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-79714; File No. SR-NYSEArca-2016-136]

### Self-Regulatory Organizations; NYSE Arca, Inc.; Order Approving a Proposed Rule Change, as Modified by Amendment No. 1, Amending NYSE Arca Equities Rule 7.35 To Provide for Widened Auction Collars for the Core Open Auction on Volatile Trading Days

December 30, 2016.

#### I. Introduction

On September 28, 2016, NYSE Arca, Inc. ("Exchange" or "NYSE Arca") filed with the Securities and Exchange Commission ("Commission"), 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> a proposed rule change to widen Auction Collars for the Core Open Auction on volatile trading days. The proposed rule change was published for comment in the **Federal Register** on October 14, 2016.<sup>3</sup> On November 23, 2016, the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change.<sup>4</sup> On December 12, 2016, the Exchange filed Amendment No. 1 to its proposed rule change.<sup>5</sup> The Commission received no comment letters on the proposed rule change. This order approves the proposed rule change, as modified by Amendment No. 1.

#### II. Description of the Proposed Rule Change

The Exchange proposes to amend NYSE Arca Equities Rule 7.35 to widen Auction Collars<sup>6</sup> for the Core Open Auction on volatile trading days. Currently, Rule 7.35(a)(10)(A) provides that the price collar threshold for the Core Open Auction is 10% for securities with an Auction Reference Price<sup>7</sup> of

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

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

<sup>3</sup> See Securities Exchange Act Release No. 79068 (October 7, 2016), 81 FR 71127 ("Notice").

<sup>4</sup> See Securities Exchange Act Release No. 79388, 81 FR 86368 (November 30, 2016). The Commission designated January 12, 2017, as the date by which it shall approve, disapprove, or institute proceedings to determine whether to disapprove the proposed rule change.

<sup>5</sup> In Amendment No. 1, the Exchange replaced all references in the filing to Rule 7.35P with Rule 7.35, as the Exchange recently amended its rules to eliminate the "P" modifier. See Securities Exchange Act Release No. 79078 (October 11, 2016), 81 FR 71559 (October 17, 2016) (SR-NYSEArca-2016-135). The Exchange also corrected a typographical error in the proposed text in Rule 7.35(a)(10)(A). Finally, the Exchange provided additional details regarding its authority under the proposal to widen Auction Collars when it determines that it is necessary or appropriate for the maintenance of a fair and orderly market, and represented that if it were to widen Auction Collars under this authority, it would announce by Trader Update such widened collars before the Core Open Auction. Because Amendment No. 1 does not materially alter the substance of the proposed rule change or raise unique or novel regulatory issues, Amendment No. 1 is not subject to notice and comment (Amendment No. 1 is available at: <https://www.sec.gov/comments/sr-nysearca-2016-136/nysearca2016136-1.pdf>).

<sup>6</sup> See NYSE Arca Equities Rule 7.35(a)(10) (defining "Auction Collar" to mean the price collar thresholds for the Indicative Match Price for the Core Open Auction, Trading Halt Auction, or Closing Auction).

<sup>7</sup> See NYSE Arca Equities Rule 7.35(a)(8)(A) (defining "Auction Reference Price" for the Core Open Auction to mean the midpoint of the Auction NBBO or, if the Auction NBBO is locked, the locked

\$25.00 or less, 5% for securities with an Auction Reference Price greater than \$25.00 but less than or equal to \$50.00, and 3% for securities with an Auction Reference Price greater than \$50.00.

Under the proposal, if as of 9:00 a.m. Eastern Time, the E-mini S&P 500 Futures are +/- 2% from the prior day's closing price of the E-mini S&P 500 Futures, or if the Exchange determines that it is necessary or appropriate for the maintenance of a fair and orderly market, the Auction Collar for the Core Open Auction would be 10%, regardless of the Auction Reference Price. If the Exchange determines to widen Auction Collars under the "fair and orderly" provision, the Exchange would announce by Trader Update the widened collars before the Core Open Auction.<sup>8</sup>

#### III. Discussion and Commission Findings

The Commission finds that the proposed rule change, as modified by Amendment No. 1, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.<sup>9</sup> In particular, the Commission finds that the proposed rule change, as modified by Amendment No. 1, is consistent with Section 6(b)(5) of the Act,<sup>10</sup> which requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Commission notes that, according to the Exchange, the proposed Auction Collars would allow for additional price movement during periods of market-wide volatility, and at the same time continue to prevent auctions from occurring at prices significantly away from the Auction Reference Price.<sup>11</sup> The Exchange also states its belief that widening the Auction Collars could reduce the possibility of securities triggering multiple trading pauses under

price, and if there is no Auction NBBO, the prior trading day's Official Closing Price).

<sup>8</sup> See Amendment No. 1, *supra* note 5.

<sup>9</sup> In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

<sup>10</sup> 15 U.S.C. 78f(b)(5).

<sup>11</sup> See Notice, *supra* note 3, at 71127.

the Regulation NMS Plan to Address Extraordinary Market Volatility.<sup>12</sup>

Moreover, according to the Exchange, the proposal would permit it to widen Auction Collars under the “fair and orderly” provision when the E-Mini S&P 500 Futures are not +/-2% from the prior day’s closing price as of 9:00 a.m. Eastern Time, but widening the Auction Collars would otherwise be warranted.<sup>13</sup> The Exchange also states that the “fair and orderly” provision would be invoked for unusual circumstances.<sup>14</sup> According to the Exchange, using 2016 as an example, if the proposed rule had been in place, the Exchange would have widened Auction Collars on only two days (*i.e.*, June 24, 2016, the day after the “Brexit” vote, and November 9, 2016, the day after the U.S. Presidential election).<sup>15</sup> Of these two days, the Exchange would have invoked the “fair and orderly” provision only for November 9 because, by 9:00 a.m., the futures markets had returned to within 2% of the prior day’s closing price.<sup>16</sup> However, because of the overall volume of trading and uncertainty in the market that day, the Exchange believed it was appropriate to widen the Auction Collars.<sup>17</sup>

Based on the Exchange’s representations, the Commission believes that the proposed rule change, as modified by Amendment No. 1, would help to promote orderly and efficient Core Open Auctions on volatile days and would provide transparency on such days regarding the Core Open Auction parameters. Based on the foregoing, the Commission finds that the proposed rule change, as modified by Amendment No. 1, is consistent with Section 6(b)(5) of the Act<sup>18</sup> and the rules and regulations thereunder applicable to a national securities exchange.

#### IV. Conclusion

*It Is Therefore Ordered*, pursuant to Section 19(b)(2) of the Act,<sup>19</sup> that the proposed rule change (SR-NYSEArca-2016-136), as modified by Amendment No. 1, be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>20</sup>

**Eduardo A. Aleman,**  
*Assistant Secretary.*

[FR Doc. 2016-32037 Filed 1-5-17; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-79717; File No. SR-NYSEMKT-2016-123]

### Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the NYSE MKT Equities Price List and the NYSE Amex Options Fee Schedule To Modify the Fees Related to Four Bundles of Co-Location Services in Connection With the Exchange’s Co-Location Services

December 30, 2016.

Pursuant to Section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934 (the “Act”)<sup>2</sup> and Rule 19b-4 thereunder,<sup>3</sup> notice is hereby given that, on December 19, 2016, NYSE MKT LLC (the “Exchange” or “NYSE MKT”) 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 MKT Equities Price List (“Price List”) and the NYSE Amex Options Fee Schedule (“Fee Schedule”) to modify the fees related to four bundles of co-location services (“Partial Cabinet Solution bundles”) in connection with the Exchange’s co-location services. The Exchange proposes to implement the fee changes effective January 1, 2017. The proposed change is available on the Exchange’s Web site 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 Exchange’s Price List and Fee Schedule to modify the fees related to Partial Cabinet Solution bundles in connection with the Exchange’s co-location services.<sup>4</sup> Currently, the Exchange offers Users<sup>5</sup> that purchase a Partial Cabinet Solution bundle on or before December 31, 2016 a 50% reduction in the monthly recurring charges (“MRC”) for the first 12 months.<sup>6</sup> The Exchange now proposes to extend that 50% reduction until December 31, 2017. The Exchange proposes to implement the fee changes effective January 1, 2017.

The Exchange offers the four Partial Cabinet Solution bundles in order to attract smaller Users, including those with minimal power or cabinet space demands or those for which the costs attendant with having a dedicated

<sup>4</sup> The Exchange initially filed rule changes relating to its co-location services with the Securities and Exchange Commission (“Commission”) in 2010. *See* Securities Exchange Act Release No. 62961 (September 21, 2010), 75 FR 59299 (September 27, 2010) (SR-NYSEAmex-2010-80) (the “Original Co-location Filing”). The Exchange operates a data center in Mahwah, New Jersey (the “data center”) from which it provides co-location services to Users.

<sup>5</sup> For purposes of the Exchange’s co-location services, a “User” means any market participant that requests to receive co-location services directly from the Exchange. *See* Securities Exchange Act Release No. 76009 (September 29, 2015), 80 FR 60213 (October 5, 2015) (SR-NYSEMKT-2015-67). As specified in the Price List and Fee Schedule, a User that incurs co-location fees for a particular co-location service pursuant thereto would not be subject to co-location fees for the same co-location service charged by the Exchange’s affiliates New York Stock Exchange LLC (“NYSE LLC”) and NYSE Arca, Inc. (“NYSE Arca” and, together with NYSE LLC, the “Affiliate SROs”). *See* Securities Exchange Act Release No. 70176 (August 13, 2013), 78 FR 50471 (August 19, 2013) (SR-NYSEMKT-2013-67).

<sup>6</sup> *See* Securities Exchange Act Release No. 77071 (Feb. 5, 2016), 81 FR 7382 (Feb. 11, 2016) (SR-NYSEMKT-2015-89).

<sup>12</sup> *See id.* at 71128.

<sup>13</sup> *See* Amendment No. 1, *supra* note 5.

<sup>14</sup> *See id.*

<sup>15</sup> *See id.* The Exchange filed proposed rule changes to temporarily widen Auction Collars for the Core Open Auction on these two days. *See* Securities Exchange Act Release Nos. 78152 (June 24, 2016), 81 FR 42781 (June 30, 2016) (SR-NYSEArca-2016-90) and 79275 (November 9, 2016), 81 FR 80703 (November 16, 2016) (SR-NYSEArca-2016-146).

<sup>16</sup> *See* Amendment No. 1, *supra* note 5.

<sup>17</sup> *See id.*

<sup>18</sup> 15 U.S.C. 78f(b)(5).

<sup>19</sup> 15 U.S.C. 78s(b)(2).

<sup>20</sup> 17 CFR 200.30-3(a)(12).

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

<sup>2</sup> 15 U.S.C. 78a.

<sup>3</sup> 17 CFR 240.19b-4.